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Metropolitan Transit System

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Agenda

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

July 19, 2007

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 28, 2007
3. Public Comments - Limited to five speakers with three minutes per speaker. Others will be heard after Board Discussion items. If you have a report to present, please give your copies to the Clerk of the Board.

Approve

Please turn off cell phones and pagers
during the meeting



Metropolitan Transit System (MTS) is a California public agency and is comprised of San Diego Transit Corporation and San Diego Trolley, Inc., nonprofit public benefit corporations, in cooperation with Chula Vista Transit and National City Transit. MTS is the taxicab administrator for eight cities and the owner of the San Diego and Arizona Eastern Railway Company.

MTS member agencies include: City of Chula Vista, City of Coronado, City of El Cajon, City of Imperial Beach, City of La Mesa, City of Lemon Grove, City of National City, City of Poway, City of San Diego, City of Santee, and the County of San Diego.

CONSENT ITEMS

- | | | |
|-----|--|---------|
| 6. | <u>MTS: Proposed 2007/2008 Internal Audit Plan</u>
Action would approve the Proposed 2007/2008 Internal Audit Plan. | Approve |
| 7. | This number not used. | |
| 8. | <u>MTS: Proposed Amendments to Board Policy No. 22 (Rules of Procedure for the Metropolitan Transit System)</u>
Action would approve the proposed revisions to Board Policy No. 22. | Approve |
| 9. | <u>MTS: Memorandum of Understanding with SANDAG for Construction Management Services on the Mission Valley East Landscape Maintenance Project</u>
Action would authorize the CEO to execute a Memorandum of Understanding (MOU) for San Diego Association of Governments (SANDAG) construction management consultant support services on the Mission Valley East (MVE) Landscape Maintenance Project. | Approve |
| 10. | <u>MTS: Adopt Proposed Policy No. 57 - Records Retention</u>
Action would adopt proposed Policy No. 57 - Records Retention. | Adopt |
| 11. | <u>MTS: Proposed Revisions to Policy No. 44 - MTS Travel Expense Policy</u>
Action would approve the proposed revisions to MTS Policy No. 44 - Travel Expense Policy. | Approve |
| 12. | <u>MTS: Audit Report - SDTI Training Process</u>
Action would receive an audit report on San Diego Trolley, Inc.'s (SDTI's) training process for information. | Receive |
| 13. | <u>MTS: Annual Anticipated Disadvantaged Business Enterprise Participation Level (AADPL) Methodology for Federal Fiscal Year 2007/08</u>
Action would receive the Annual Anticipated Disadvantaged Business Enterprise (DBE) Participation Level (AADPL) Methodology for Federal Fiscal Year 2007/08 for information. | Receive |
| 14. | <u>MTS: Investment Report</u>
Action would receive a report for information. | Receive |
| 15. | <u>MTS: Authorization for Chief Executive Officer to Execute Competitively Bid Revenue Contract with Transit Television Network (TTN) and North County Transit District (NCTD)</u>
Action would authorize the CEO to execute a revenue contract with TTN and NCTD. | Approve |

CLOSED SESSION

- | | | |
|-----|--|-----------------|
| 24. | a. MTS: CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to California Government Code section 54956.9(a): <u>Balfour Beatty/Ortiz v. MTS</u> , Superior Court Case No. GIC 868963 | Possible Action |
| | b. MTS: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant Exposure to Litigation Pursuant To California Government Code section 54956.9(b): (<u>One Potential Case</u>) | Possible Action |

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS

None.

REPORT ITEMS

- | | | |
|-----|---|-----------------|
| 45. | <u>MTS: Fare Structure Overview</u>
Action would receive a report on the MTS fare structure. | Receive |
| 60. | <u>Chairman's Report</u> | Possible Action |
| 61. | <u>Chief Executive Officer's Report</u> | Information |
| 62. | <u>Board Member Communications</u> | |
| 63. | <u>Additional Public Comments Not on the Agenda</u>
If the limit of 5 speakers is exceeded under No. 3 (Public Comments) on this agenda, additional speakers will be taken at this time. If you have a report to present, please furnish a copy to the Clerk of the Board. Subjects of previous hearings or agenda items may not again be addressed under Public Comments. | Possible Action |
| 64. | <u>Next Meeting Date:</u> August 16, 2007 | |
| 65. | <u>Adjournment</u> | |

Submitted by: _____
Remove On _____
Return to Submitter: _____
OR (Pick One)
Retain in Posting File: _____

Submitted by: Gael Williams

Remove On: 7/19/07

Return to Submitter: ☒

OR (Pick One)

Retain in Posting File:

METROPOLITAN TRANSIT DEVELOPMENT BOARD
ROLL CALL

MEETING OF (DATE): 7/19/07

CALL TO ORDER (TIME): 9:00 a.m.

RECESS: _____

RECONVENE: _____

CLOSED SESSION: 9:01 a.m.

RECONVENE: 10:19 a.m.

ORDINANCES ADOPTED: _____

ADJOURN: 11:05 a.m.

BOARD MEMBER (Alternate)				PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
ATKINS	<input checked="" type="checkbox"/>	(Hueso)	<input type="checkbox"/>		
CLABBY	<input checked="" type="checkbox"/>	(Selby)	<input type="checkbox"/>		
EMERY	<input checked="" type="checkbox"/>	(Cafagna)	<input type="checkbox"/>		
EWIN	<input type="checkbox"/>	(Allan)	<input checked="" type="checkbox"/>		
FAULCONER	<input checked="" type="checkbox"/>	(Hueso)	<input type="checkbox"/>	9:26 a.m. during AI 24	
HANSON-COX	<input type="checkbox"/>	(Lewis)	<input checked="" type="checkbox"/>		
MAIENSCHIN	<input type="checkbox"/>	(Hueso)	<input type="checkbox"/>		<input checked="" type="checkbox"/>
MATHIS	<input checked="" type="checkbox"/>	(Vacant)	<input type="checkbox"/>		
MCLEAN	<input checked="" type="checkbox"/>	(Janney)	<input type="checkbox"/>		
MONROE	<input checked="" type="checkbox"/>	(Downey)	<input type="checkbox"/>		
RINDONE	<input type="checkbox"/>	(McCann)	<input type="checkbox"/>		<input checked="" type="checkbox"/>
ROBERTS	<input checked="" type="checkbox"/>	(Cox)	<input type="checkbox"/>		
RYAN	<input type="checkbox"/>	(B. Jones)	<input checked="" type="checkbox"/>	9:04 a.m. during AI 24	
YOUNG	<input checked="" type="checkbox"/>	(Hueso)	<input type="checkbox"/>	9:20 a.m. during AI 24	
ZARATE	<input type="checkbox"/>	(Parra)	<input type="checkbox"/>		<input checked="" type="checkbox"/>

SIGNED BY THE OFFICE OF THE CLERK OF THE BOARD

Gail Williams

CONFIRMED BY OFFICE OF THE GENERAL COUNSEL

Dip of [Signature]

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

June 28, 2007

MTS
1255 Imperial Avenue, Suite 1000, San Diego

MINUTES

1. Roll Call

Vice Chairman Rindone called the meeting to order at 9:05 a.m. A roll call sheet listing Board member attendance is attached.

2. Approval of Minutes

Mr. Emery moved to approve the minutes of the June 14, 2007, Board of Directors meeting. Mr. McLean seconded the motion, and the vote was 9 to 0 in favor.

3. Public Comment

Virginia Conway: Ms. Conway thanked MTS for the map of routes serving Chula Vista and for the attendants at Old Town who are directing patrons to the tunnel. She asked if there would be any future expansion of the trolley system. She also stated that having Route Nos. 30 and 150 so separated at Old Town causes a problem. She added that Route Nos. 11, 14, and 15 at SDSU are not stopping where the signage indicates. She stated that an operator who was parked away from his route's stop refused to let her board the bus. She also reported that the elderly like to have bus stops as close to their homes and businesses as possible in order to prevent robberies and muggings, not just for the sake of convenience.

Vice Chairman Rindone stated that there are plans for a trolley line to UCSD and for the purchase of additional trolley cars. He stated that there will not be an additional Morena Line. Mr. Rindone further pointed out that Bus Rapid Transit would be the most viable option in Chula Vista. Mr. Monroe stated that there have been recent discussions regarding trolley services at the airport.

Mr. Paul Jablonski, MTS CEO, reported that the buses at Old Town are arranged so that those with the highest ridership are positioned closest to the tunnel. He stated that this is an arrangement that was worked out with the California Public Utilities Commission (CPUC) in order to encourage patrons to use the tunnel instead of Taylor Street to get to the other side of the tracks at this location. He stated that MTS continues to work with the CPUC toward an efficient solution for Old Town.

In response to a question from Mr. Young, Ms. Tiffany Lorenzen, MTS General Counsel, clarified that, according to the Brown Act, the Board may make brief comments in response to public comments or direct staff to follow up.

Clive Richard: Mr. Richard reported that he was very pleased with how well trolley and bus staff handled the recent catenary accident downtown.

Don Stillwell: Mr. Stillwell reported that following problems: Ticket vending machines return dollar coins but won't accept them (at Mission Station); Route No. 13 should have its terminal at Grantville Trolley Station, not Kaiser Hospital; when two Route No. 13 buses are stopped at the Kaiser Hospital terminal, Route No. 14 can't make its stop there; and Route No. 14 should stop at Grantville in order to connect with Route No. 18.

CONSENT ITEMS

6. MTS: Rebuilt Transmissions – Contract Award (OPS 900, PC 53810)

Recommend that the Board of Directors authorize the CEO to execute a contract (in substantially the same form as Attachment A of the agenda item – MTS Do. No. B0480.0-07) with HD Industries, Inc. for rebuilt ZF transmissions.

7. SDTI: Light Rail Vehicle Vandalism and Accident Repair Services – Contract Amendment (OPS 970.6, PC 50356)

Recommend that the Board of Directors authorize the President to exercise the first of two single-year contract extensions with Carlos Guzman, Inc. (in substantially the same format as Attachment A of the agenda item, SDTI Doc. No. C.O.011.0-05) for light rail vehicle accident and vandalism repair services.

8. MTS: Payroll and Human Resources Information System – Contract Award (CIP 11192)

Recommend that the Board of Directors authorize the President to execute a contract (SDTI Doc. No. C.O.106.0-07) for a three-year base period with 2 one-year options (in substantially the same form as Attachment A of the agenda item) with San Diego Sweeping for parking lot sweeping services for SDTI and SDTC.

9. MTS: Transportation Development Act Claim (FIN 310, PC 50601)

Recommend that the Board of Directors adopt Resolution Nos. 07-7, 07-8, and 07-9 (Attachments A through C of the agenda item) approving the Fiscal Year 2008 Transportation Development Act Claim.

10. MTS: Light Rail Vehicle Rehabilitation Services – Contract Amendment (CIP 11165)

Recommend that the Board of Directors authorize the CEO to exercise the first of two single-year contract extensions with Carlos Guzman, Inc. (MTS Doc. No. L0744.1-06 – Attachment A of the agenda item) to continue to provide light rail vehicle paint and body rehabilitation services for a total cost not to exceed \$480,000.

11. MTS: Policy No. 55 – Requests for Quiet Zones (ADM 110.1, PC 50101)

Recommend that the Board of Directors enact Policy No. 55 (Attachment A of the agenda item) regarding requests for the establishment of Quiet Zones.

12. MTS: Increase Authorization for Legal Services (LEG 491, PC 50633)

Recommend that the Board of Directors authorize the CEO to enter into contract amendments with the law firm of Hecht Solberg Robinson Goldberg & Bagley, LLP (MTS Doc. No. M6655.1-07) for legal services (in substantially the same form as Attachment A of the agenda item) and ratify prior amendments entered into under the CEO's authority.

13. MTS: An Ordinance Amending Ordinance No. 5, an Ordinance Relating to the Enforcement Authorities of Code Compliance Inspectors, Assistant Code Compliance supervisors, the Code Compliance Inspection Supervisor, and Taxicab Inspectors I & II (ADM 110.3, PC 50121)

MTS: An Ordinance Amending Ordinance No. 13, an Ordinance Regarding Prohibited Conduct Onboard Transit Vehicles and Prohibited Actions On or About a Transit Facility or a Bus Stop

Recommend that the Board of Directors adopt the attached (Attachments A and B of the agenda item) ordinances entitled: "Ordinance No. 5, an Ordinance Relating to the Enforcement Authorities of Code Compliance Inspectors, Assistant Code Compliance Supervisors, the Code Compliance Inspection Supervisor, and Taxicab Inspectors I & II;" and "Ordinance No. 13, an Ordinance Regarding Prohibited Conduct Onboard Transit Vehicles and Prohibited Actions on or About a Transit Facility or a Bus Stop." The ordinances would take effect 30 days after enactment on July 28, 2007.

Recommended Consent Items

Ms. Lorenzen confirmed for Mr. Emery that Policy No. 55 – Requests for Quiet Zones states that MTS will incur no expense connected with the installation or maintenance of Quiet Zones.

Mr. Emery moved to approve Consent Agenda Items No. 6, 7, 8, 9, 10, 11, 12 and 13. Mr. Hueso seconded the motion, and the vote was 12 to 0 in favor.

CLOSED SESSION:

24. Closed Session Items (ADM 122)

The Board convened to Closed Session at 9:19 a.m.

- a. MTS: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to California Government Code Section 54956.9(a) City of National City v. Metropolitan Transit System (Superior Court Case No. GIC 880322)

The Board reconvened to Open Session at 9:29 a.m.

Oral Report of Final Actions Taken in Closed Session

Ms. Lorenzen reported the following:

- a. The Board received a report from General Counsel.

NOTICED PUBLIC HEARINGS

There were no noticed public hearings.

DISCUSSION ITEMS

There were no discussion items.

REPORT ITEMS

45. MTS: Revenue-Generating Real Estate Assets (ADM 160.2, PC 50121)

Mr. Jablonski reported that staff has identified opportunities for generating revenues using its real estate assets and has divided these opportunities into two categories – the larger parcels that can generate higher revenues on a long-term basis and smaller parcels that can be used to generate revenues more quickly. He stated that MTS is proceeding with the identification of lease opportunities for the smaller properties already.

Mr. Tim Allison, MTS Right-of-Way Manager, referred to the detailed list at each Board member's place that identifies all of MTS's properties. He then reviewed the parcels categorized in the second group mentioned by Mr. Jablonski. He estimated that a minimum of \$170,000 could be realized in the FY 2008 budget from the lease of these smaller parcels if all of them are leased out this year.

In response to a question from Mr. Monroe, Mr. Allison stated that MTS will attempt to lease each of the properties. He stated that staff would report back to the Board on any properties that cannot be leased, at which time the Board could consider approving the property for sale. He stated that leasing properties is preferable because it generates recurring revenues. Mr. Allison reported that MTS is using the Web, newspapers, and signage to advertise these properties as available for lease, and that MTS has a right of way agent to handle this process. Mr. Jones stated that the City uses a marketing professional for these types of transactions and that MTS might benefit from taking this approach. Mr. Emery reminded the Board that the direction that was given to staff was to assess and determine the best use for each property; i.e. lease out or sale. Mr. Roberts stated that the approach being used by staff will reveal what the property might be worth. Mr. Jablonski stated that each property will be analyzed to determine if it should be leased out, made part of a joint development, or sold. He stated that the information being presented today includes only properties that could be leased out on a short-term basis in the very near future to quickly start generating revenue to help MTS address its \$9.2 million budget deficit for FY 2008. Mr. Roberts pointed out that entering into a short-term lease on a property would not preclude MTS from using it in the future for a different purpose. He added that during a recent visit to see Los Angeles Metropolitan Transit Authority joint developments it was learned that they don't sell any of their properties.

In response to a comment from Mr. Young about the possibilities of leasing properties with no structures on them, staff pointed out that these properties could be used as lay-down yards or for the storage of cars or other items. In response to a question from Mr. Ewin, Mr. Allison reported that the Prospect and Cuyamaca properties are going to end up being at the I-52 interchange when it is completed, which would have a positive impact on the value of these properties. Mr. Roberts felt that the current lease rate for the Prospect Square property was rather meager and should be adjusted. In response to a question from Mr. Roberts, staff reported that no response had been received to MTS's inquiry about purchasing the privately

owned property between the two MTS-owned Grantville parcels. Mr. Monroe suggested using the Palomar parcel to expand MTS's parking availability at Palomar Station.

Mr. Clabby suggested pursuing cell phone companies to determine interest in erecting cell phone towers on these properties. He stated that Lemon Grove is repeatedly being contacted regarding these opportunities and pointed out that these towers can be very effectively camouflaged. Mr. Allison reported that MTS has contacted cell phone companies regarding cell phone towers but has been unsuccessful to date in attracting additional business. He stated that MTS staff members have been told by these companies that they are not expanding their infrastructure. He stated that staff would continue to pursue these opportunities.

Mr. Heuso asked if any of these properties were purchased using state or federal dollars. He stated that MTS is in the business of providing transportation resources, and he stated the Board should strongly consider selling those properties that have no future use for transit. He stated that MTS is robbing local jurisdictions of property taxes revenues and neighborhoods of neighborhood resources. He also stated that some of these properties contribute to blight. He also suggested that staff contact redevelopment agencies for the areas where these properties are located.

Mr. Hueso moved to direct staff to (1) contact local jurisdictions to explore the possibilities of working together to develop, put to productive use, or sell parcels within their jurisdictions; and (2) pursue lease opportunities for those parcels with the potential to be used for transit purposes. Mr. Jones seconded the motion.

Mr. Roberts stated that the intention of the Board's direction to staff on this item was to focus on short-term opportunities for increasing revenues by leasing MTS-owned properties. He felt that Mr. Hueso's direction to staff had lost focus on that objective. He stated that MTS Board members should be focused more on transit and getting the best return for transit and less on their roles within their respective cities. He stated that MTS should continue to hold and attempt to lease out properties whether they have potential transit use or not. He stated that the Board's top priority should be increasing recurring revenues in order to avoid future budgetary problems. He added that if it becomes clear as a result of staff analysis that the best option is to sell the property, then the Board would consider taking that action. Mr. Roberts felt that Mr. Hueso's motion was not in step with that approach.

Mr. Jones stated that he agreed with Mr. Hueso. It was pointed out that MTS could put the proceeds from the sale of properties into annuities or certificates of deposit in order to generate recurring revenues.

Mr. Emery stated the Mr. Hueso's motion appears to be a change in policy direction. He stated that the Board should put these properties to the best use on behalf of MTS. He did not feel that properties should be divested and given back to the communities. He stated that the properties should be used to generate income on a short-range basis where no long-term development opportunities exist. He agreed that properties that cannot be leased could be sold.

Ms. Atkins did not see Mr. Hueso's motion as a change in policy direction. She stated that she agreed with Mr. Roberts that MTS should identify properties that could be used for long-range transit purposes and agreed with Mr. Jones that this process of analysis should be started. She stated that staff should identify the properties that are needed for transit use and then breakdown whether that use is short or long term. She also suggested that the Board discuss

this topic more regularly. She added that Mr. Jablonski and MTS staff have done a good job or reviewing MTS's issues.

Mr. Monroe felt that Mr. Hueso's motion went beyond what the Board should do. He stated that the Board should be focused on short-term revenues from the properties it owns and added that he would be against any change in policy direction. He also felt that there was a change of policy direction that was inherent in Mr. Hueso's motion. Mr. Hueso stated that his motion was being mischaracterized. He stated that is intention was to continue moving forward but with the involvement of local agencies.

Mr. Roberts clarified that the properties being presented to the Board have already been identified as having no transit use. Ms. Lorenzen provided a brief history of how the properties were acquired and stated that no federal or state funding was used – that only local monies were used. Mr. Allison pointed out that federal money was only used for Grantville.

Mr. Hueso stated that he would be willing to support staff's recommendation in this matter and made a motion to that effect. Mr. Jones would not second this motion because he did not feel that the original motion was a change in policy direction. He felt that staff should bring options back to the Board for those properties with no potential use for transit purposes. Mr. Hueso then reverted back to his original motion.

Mr. Ewin stated that, as stewards of public assets, the Board has a responsibility to see that they are used in an appropriate and best fashion. He stated that the Board's end goal revolves around its fiduciary responsibility to maximize the return to the transit agency and, in the end, to the benefit of the transit user.

Action Taken

Mr. Roberts made a substitute motion to (1) receive a report on the status of MTS real estate that generates revenue and the opportunities for increased income from underutilized or vacant property; (2) direct staff to work with local agencies while moving forward with this action; and (3) bring back to the Board the policy issue with respect to holding or selling MTS-owned properties. Mr. Emery seconded the motion, and the vote was 13 to 0 in favor.

46. MTS: Marketing Update (MKPC 605, PC 50551)

Mr. Rob Schupp, MTS Director of Marketing and Communications, provided an overview of marketing and communications results for FY 2007 and advertising and promotional programs for FY 2008. He presented the names of the marketing team and reported that marketing has three major initiatives underway for FY 2008 – advertising, the launching of a new web site, and a new major strategic partnership with the Dead Sea Scrolls exhibit.

Mr. Schupp then reviewed MTS's marketing goals and primary audiences and provided detail on the types of marketing activities that were completed in FY 2007 and will be extended into FY 2008. He reviewed various print media being used, community relations activities, and marketing efforts tailored to students, visitors, and new riders. He also briefly discussed marketing for sporting and special events. Ms. Judy Leitner, who is in charge of strategic partnerships, reviewed arts programs in which MTS has been involved. Mr. Schupp then reviewed media-related marketing activities that took place in FY 2007.

Mr. Schupp also provided the Board with a visual tour of MTS's soon-to-be-launched web site, which was developed in house. He reported that MTS will continue to work on and upgrade the site.

Mr. Monroe stated that timetables are very confusing because all stops are not listed. Mr. Schupp stated that there is an initiative underway to provide more detail. He pointed out that there are 7,000 bus stops and 53 trolley stops. Mr. Monroe also suggested that staff use the term climate change instead of global warming because it is less polarizing.

In response to a question from Mr. Young, Mr. Schupp stated that MTS's primary goal is to attract new ridership from the household income demographic of \$35,000 to \$65,000. He stated that this group is MTS's primary target for its television ads. He stated that print and outdoor marketing targets all demographics. Mr. Young stated that marketing should increase the types of ridership that MTS already has and stated that he wanted to see examples of how MTS is doing that through its marketing program. Ms. Leitner stated that a large part of Balboa Park's customers live and work around the park and briefly discussed the new marketing program and coupon book for Balboa Park attractions. She stated that the coupon book provides a more cost effective way for people on a limited budget to go to these places, and MTS is therefore encouraging people to use transit for leisure activities. She stated that this increases ridership during off-peak periods when MTS has more capacity for increased ridership.

Mr. Ewin stated that it is critical for MTS to target the choice rider and agreed that the income demographic that is being targeted is appropriate. Mr. Young stated that he did not disagree but felt that marketing should also encourage people who are already using transit to use it more.

Mr. Monroe stated that MTS will lose its new riders if they are unable to understand how to use ticket vending machines. He briefly discussed how difficult it is to purchase a ticket. Mr. Clabby related an incident where he had difficulty using the ticket vending machine.

In response to a question from Mr. Jones, Mr. Schupp stated that one of the goals of special event service is to attract new riders to the system along with an emphasis on getting existing riders to use transit to get to these events. Mr. Jones suggested that another San Diego Union-Tribune wrapper and coupon be done now that the Comprehensive Operations Analysis has been completed and that staff try to measure the results in terms of ridership increases.

Public Comment

Clive Richard: Mr. Richard expressed his support.

Action Taken

This report was received by the Board. No formal action was taken.

47. MTS: Fare Structure Overview (SRTP 875, PC 50451)

This item was trailed to the July 19, 2007, Board meeting.

60. Chairman's Report

Smart Corner: Vice Chairman Rindone stated that he, along with other dignitaries, attended the recent opening of Smart Corner. He thanked Marketing personnel for staging such an excellent event and stated that Smart Corner will serve the community and enhance MTS ridership.

61. Chief Executive Officer's Report

Urban Partnership Program: Mr. Jablonski reported that he was in Washington, D.C. on Monday and Tuesday to take part in presentations made to the Department of Transportation (DOT) as part of the Urban Partnership Agreement program. He stated that MTS, SANDAG, the City of San Diego, Caltrans, and North County Transit District made a presentation on San Diego's behalf. He added that San Diego was one of nine cities chosen to make presentations under this program. He stated that these presentations are part of the process the DOT is using to award a total of \$1.2 billion in funding for new projects. He stated that he should be able to provide an update to the Board by August.

62. Board Member Communications

There were no communications from other Board members.

63. Additional Public Comments on Items Not on the Agenda

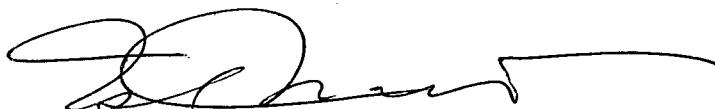
There were no additional public comments.

64. Next Meeting Date

The next regularly scheduled Board meeting is Thursday, July 19, 2007, at 9:00 a.m. in the same location.

65. Adjournment

Chairman Mathis adjourned the meeting at 11:50 a.m.

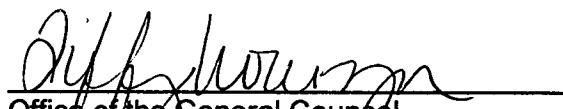


Chairperson
San Diego Metropolitan Transit System
Filed by:



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): 6/28/07

CALL TO ORDER (TIME): 9:05 a.m.

RECESS: _____

RECONVENE: _____

CLOSED SESSION: 9:19 a.m.

RECONVENE: 9:29 a.m.

ORDINANCES ADOPTED: _____

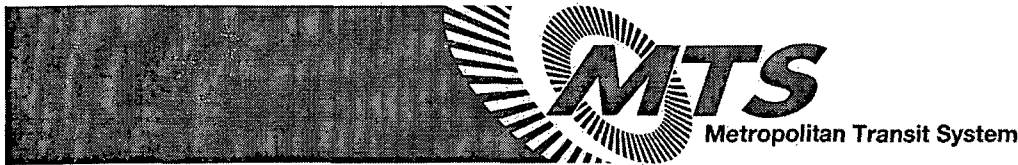
ADJOURN: 11:50 a.m.

BOARD MEMBER	(Alternate)	PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
ATKINS	<input checked="" type="checkbox"/> (Hueso) <input type="checkbox"/>	9:14 a.m. during AI 3	11:26 a.m. during AI 46
CLABBY	<input checked="" type="checkbox"/> (Selby) <input type="checkbox"/>		
EMERY	<input checked="" type="checkbox"/> (Cafagna) <input type="checkbox"/>		
EWIN	<input checked="" type="checkbox"/> (Allan) <input type="checkbox"/>		
FAULCONER	<input checked="" type="checkbox"/> (Hueso) <input type="checkbox"/>	9:12 a.m. during AI 3	11:36 a.m. during AI 46
HANSON-COX	<input type="checkbox"/> (Lewis) <input checked="" type="checkbox"/>		
MAIENSCHIN	<input type="checkbox"/> (Hueso) <input checked="" type="checkbox"/>		11:25 a.m. during AI 46
MATHIS	<input type="checkbox"/> (Vacant) <input type="checkbox"/>		<input checked="" type="checkbox"/>
MCLEAN	<input checked="" type="checkbox"/> (Janney) <input type="checkbox"/>		
MONROE	<input checked="" type="checkbox"/> (Downey) <input type="checkbox"/>		
RINDONE	<input checked="" type="checkbox"/> (McCann) <input type="checkbox"/>		
ROBERTS	<input checked="" type="checkbox"/> (Cox) <input type="checkbox"/>	9:09 a.m. during AI 3	11:01 a.m. during AI 46
RYAN	<input type="checkbox"/> (B. Jones) <input checked="" type="checkbox"/>	9:30 a.m. during AI 45	
YOUNG	<input checked="" type="checkbox"/> (Hueso) <input type="checkbox"/>		11:41 a.m. during AI 46
ZARATE	<input type="checkbox"/> (Parra) <input type="checkbox"/>		<input checked="" type="checkbox"/>

SIGNED BY THE OFFICE OF THE CLERK OF THE BOARD

CONFIRMED BY OFFICE OF THE GENERAL COUNSEL

Gail Williams
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Agenda

Item No. 6

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

LEG 492

July 19, 2007

SUBJECT:

MTS: PROPOSED 2007/2008 INTERNAL AUDIT PLAN

RECOMMENDATION:

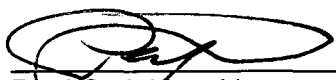
That the Board of Directors approve the Proposed 2007/2008 Internal Audit Plan (Attachment A).

Budget Impact

None.

DISCUSSION:

The MTS Internal Auditor has proposed a 2007/2008 audit plan consisting of 10 internal audit projects plus an allowance of 320 hours for completion of various management and Board requests. The estimated time required to complete each project is shown on the attached audit plan (Attachment A). Each agency process to be reviewed is listed as well as the estimated business risks associated with each process.



Paul C. Jablonski
Chief Executive Officer

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

JULY19-07.6.07 08 AUDIT PLAN.MABBEY.doc

Attachment: A. Proposed 2007/2008 Internal Audit Plan **(Board Only)**



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.



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Agenda

Item No. 7

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

July 19, 2007

This number not used.



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.



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Agenda

Item No. 8

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

LEG 405

July 19, 2007

SUBJECT:

MTS: PROPOSED AMENDMENTS TO BOARD POLICY NO. 22 (RULES OF
PROCEDURE FOR THE METROPOLITAN TRANSIT SYSTEM [MTS])

RECOMMENDATION:

That the Board approve the proposed revisions (Attachment A) to Board Policy No. 22.

Budget Impact

Nominal if the elected Chair Pro Tem is not appointed to serve on the Executive
Committee in some capacity.

DISCUSSION:

At a recent Executive Committee meeting, members had a difficult time maintaining a quorum. At the suggestion of Board member Emery, General Counsel is proposing a minor change to Policy No. 22 to allow the Chair Pro Tem to serve as an additional alternate at large to the Executive Committee in the event that appointed alternates are unable to attend the meetings so that the Executive Committee can make or maintain a quorum. Proposed changes to the policy are outlined on page 9 of Attachment A.

A handwritten signature in black ink, appearing to read 'Paul C. Jablonski', is written over a horizontal line.

Paul C. Jablonski
Chief Executive Officer

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

JULY19-07.8.POLICY22RULESPROCEDURES.TLOREN.doc

Attachment: A. Proposed Revisions to Policy No. 22



Metropolitan Transit System (MTS) is comprised of the Metropolitan Transit Development Board (MTDB) a California public agency, San Diego Transit Corp., and San Diego Trolley, Inc., in cooperation with Chula Vista Transit and National City Transit. MTS is Taxicab Administrator for eight cities. MTDB is owner of the San Diego and Arizona Eastern Railway Company. MTDB Member Agencies include: City of Chula Vista, City of Coronado, City of El Cajon, City of Imperial Beach, City of La Mesa, City of Lemon Grove, City of National City, City of Poway, City of San Diego, City of Santee, and the County of San Diego.



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Att. A, AI 8, 7/19/07

Policies and Procedures

DRAFT

No. 22

Board Approval: 6/14/07

SUBJECT:

RULES OF PROCEDURE FOR THE METROPOLITAN TRANSIT SYSTEM (MTS)

PURPOSE:

To define and clarify Board Rules of Procedure and incorporate them in Board Policy.

BACKGROUND:

In 1977, the Board adopted Rules of Procedure by resolution and from time to time amendments have been adopted. The Rules shall be contained in Board Policy for ease of reference and periodic updating.

22.1 Membership and Organization

- 22.1.1 Membership in this Board is established by Division 11, Chapter 1, Section 120050 through 120051.6 of the California Public Utilities Code.
- 22.1.2 The Board consists of 15 members selected as follows:
 - a. One member of the County of San Diego Board of Supervisors appointed by the Board of Supervisors.
 - b. Four members of the City Council of the City of San Diego, one of whom may be the mayor, appointed by the City Council.
 - c. One member of each city council appointed individually by the City Councils of the Cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, and Santee.



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.

- d. One person, a resident of San Diego County, elected by a two-thirds vote of the Board, a quorum being present, who shall serve as chairperson of the Board.
- 22.1.3 Any person who is a member of the Board may be appointed by his or her appointing authority to continue to serve as a member of the Board after the termination of his or her term of office for a period not to exceed four years after the date of termination of his or her term of elected office.
- 22.1.4 Alternate members of the Board shall be appointed as follows:
 - a. The County of San Diego Board of Supervisors shall appoint any other county supervisor who qualifies for appointment to serve as an alternate member.
 - b. The City Council of the City of San Diego shall appoint a member of the City Council not already appointed to serve as an alternate member.
 - c. The City Councils of the Cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, and Santee shall each individually appoint a member of their respective city councils not already appointed to serve as an alternate member.
- 22.1.5 This Board shall exercise all powers authorized by the laws of the State of California.
- 22.1.6 Only the duly selected official representative, or in his or her absence his or her duly selected alternate, shall be entitled to represent a member agency in the deliberations of the Board.
- 22.1.7 Names of the official representatives and alternates shall be communicated in writing to the Board by each participating member agency and shall thereafter be annually communicated or reaffirmed prior to the February meeting of the Board and at such other times as changes in representation are made by member agencies.
- 22.1.8 The Board shall have the authority to appoint committees or subcommittees and may provide for the appointment of alternates to these committees or subcommittees.
- 22.1.9 Standing committees shall be appointed by the Board as may be required to carry out general and continuing functions and shall be abolished only upon specific action by the Board.
- 22.1.10 Ad hoc specialized subcommittees may be appointed by the Board as the need arises to accomplish specific tasks. Upon

completion of its assignment, each ad hoc subcommittee shall disband.

- 22.1.11 Board members serving on such subcommittees shall be compensated as provided by Board ordinance. The Chief Executive Officer is authorized to enter into agreements to compensate individuals who were Board members at the time of their appointments to such subcommittees and who continue to serve on such subcommittees after their terms of office as Board members, subject to the same limitations as exist for compensation of Board members, and subject to replacement by the Board.

22.2 Meetings

- 22.2.1 On or before the first regular meeting of the Board in December of each year, the Board shall adopt a schedule of its meetings by date, time, and location for the coming year. The Board shall conduct at least one regular meeting in each of the subsequent twelve months. The schedule of the meetings shall be published in the local newspaper of general circulation prior to the next regular meeting.
- 22.2.2 The Board may, when necessary, change the time and place of regular meetings. Notice of such change shall be posted pursuant to the Ralph M. Brown Act.
- 22.2.3 The Clerk of the Board shall forward written notice of the annual schedule of regular meetings and any changes thereto stating the dates, times, and locations to each member's agency and to the respective members and alternates of the Board and the standing committees.
- 22.2.4 Special meetings may be called and noticed under the provisions of the Ralph M. Brown Act as applicable and, specifically, Section 54956 of the California Government Code. The call and notice shall be posted in an area accessible to the public at least 24 hours prior to the meeting.

Special meetings normally shall be called by a majority of the Board or Executive Committee only upon a finding that extraordinary circumstances require Board action prior to the next scheduled Board meeting, such as to discuss a work stoppage or significant litigation, or that a special meeting is necessary to hold a workshop, a joint meeting with another agency, or for other special purposes at a future date beyond the next Board meeting. The Chair may call such meetings only when such extraordinary circumstances arise after the last Board or Executive Committee meeting and Board action is required prior to the next regularly scheduled Board or Executive Committee meeting.

- 22.2.5 A majority of the members of the Board shall constitute a quorum for the transaction of business, and all official acts of the Board shall require the affirmative vote of a majority of the members of the Board.
- 22.2.6 Parliamentary procedure at all meetings shall be governed by Robert's Rules of Order Newly Revised except as otherwise modified herein.
- 22.2.7 Prior to each regular meeting, the Clerk of the Board shall forward a copy of the agenda to each member in accordance with the schedule adopted by the Board. The agendas shall also be mailed to each person or entity previously requesting such in writing. The Clerk shall post the agenda in an area accessible to the public at least 72 hours before the meeting in accordance with the Ralph M. Brown Act. Agenda materials shall be available as public record in accordance with the Ralph M. Brown Act and, specifically, Section 54957.5 of the California Government Code.
- 22.2.8 The Board may take action on items of business not appearing on the posted agenda in accordance with the Ralph M. Brown Act.
- 22.2.9 Requests for Board action may be initiated by any member of the Board or any staff officer.
- 22.2.10 Communication requests may be initiated by an individual and submitted to the Clerk by letter or on forms provided by the Clerk and must state the subject matter and the action which the writer wishes the Board to take. The Clerk shall review all communication requests so received and shall list them on the Board's docket under those items which the Clerk deems to be proper areas of discussion or action by the Board. When a Communications item is listed on the docket, it is not debatable and must be referred to an appropriate committee, other public agency, or to staff to prepare a report or response.
- 22.2.11 Any permanent rule of the Board as set forth herein and unless otherwise established by law may be suspended temporarily by a two-thirds vote of the members present.
- 22.3 Amendments
- 22.3.1 The Board shall be responsible for making all amendments to these rules.
- 22.3.2 Proposed amendments may be originated by the Board, or any member of such, or by the Chief Executive Officer.
- 22.3.3 Each proposed amendment shall be considered by the Board and a copy thereof forwarded by the Clerk of the Board to the official representative of each member agency.

22.4 Ordinances

- 22.4.1 Every ordinance shall be signed by the Chairman of the Board and attested by the Clerk of the Board.
- 22.4.2 On the passage of all ordinances, the votes of the several members of the Board shall be entered on the minutes.
- 22.4.3 Ordinances shall not be passed within five days of their introduction nor at other than a regular meeting or at an adjourned regular meeting. However, an urgency ordinance may be passed immediately upon introduction either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by unanimous vote of the Board members present, all ordinances shall be read in full either at the time of introduction or passage. When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or at an adjourned regular meeting held at least five days after alteration. Corrections of typographical or clerical errors are not alterations within the meaning of this section.
- 22.4.4 The Clerk of the Board shall cause a proposed ordinance or proposed amendment to an ordinance, and any ordinance adopted by the Board, to be published at least once, in a newspaper of general circulation published and circulated in the Board's area of jurisdiction.
- 22.4.5 The publication of an ordinance, as required by subdivision, may be satisfied by either of the following actions:
- a. The Board may publish a summary of a proposed ordinance or proposed amendment to an ordinance. The summary shall be prepared by the Clerk of the Board and General Counsel. The summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the Clerk of the Board at least five (5) days prior to the Board meeting at which the proposed ordinance or amendment is to be adopted. Within 15 days after adoption of the ordinance or amendment, the Board shall publish a summary of the ordinance or amendment with the names of those Board members voting for and against the ordinance or amendment, and the Clerk of the Board shall post in the office of the clerk a certified copy of the full text of the adopted ordinance or amendment along with the names of those Board members voting for and against the ordinance or amendment.

- b. If the person designated by the Board determines that it is not feasible to prepare a fair and adequate summary of the proposed ordinance or amendment, and if the Board so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the Board's area of jurisdiction shall be published at least five (5) days prior to the Board meeting at which the proposed ordinance or amendment is to be adopted. Within 15 days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and provide information regarding, the adopted ordinance or amendment, including information sufficient to enable the public to obtain copy of the complete text of the ordinance or amendment and the name of those Board members voting for and against the ordinance amendment.

22.4.6 Ordinances shall take effect thirty days after their final passage. An ordinance takes effect immediately, if it is an ordinance for the immediate preservation of the public peace, health, or safety, containing a declaration of the facts constituting the urgency and is passed by a four-fifths vote of the Board.

22.5 Public Comment

22.5.1 At a public hearing of the Board, persons wishing to provide comment and testimony shall be permitted to address the Board after submitting a written request to speak to the Clerk identifying the person and the subject agenda item. The Chairman may limit the time for each presentation and may permit additional time to speakers representing a group of individuals or organizations to avoid duplicative testimony. Ordinarily, each speaker will be allowed no more than three minutes.

22.5.2 Persons wishing to comment on agenda items other than a public hearing must submit a written request to speak in advance to the Clerk identifying the person and the subject agenda item. Comments must be limited to issues relevant to the particular agenda item. The Chairman may limit the time for each presentation and may permit additional time to speakers representing a group of individuals or organizations to avoid duplicative testimony. Ordinarily, each speaker will be allowed no more than three minutes.

22.5.3 Public comment on matters not on the agenda will be permitted on items of interest to the public that are within the subject matter jurisdiction of the Board. Persons wishing to comment must submit a written request in advance to the Clerk identifying the person and subject matter. The Chairman may limit the time for each speaker. Ordinarily, each speaker will be allowed no more than three minutes.

22.6 Chairperson

Prior to the expiration of a Chairperson's term, the Executive Committee shall make a recommendation to the Board on whether to reelect the current Chairperson. In the event that the Board does not reelect a chairperson, or in the event of a vacancy in the position of Chairperson, the Executive Committee shall create an ad hoc nominating committee that shall, by whatever means it deems appropriate, recommend to the Board a candidate or candidates for the position of Chairperson. The Board shall then vote to elect a Chairperson.

22.7 Election of Board Officers and Appointments to Committees

- 22.7.1 On or before the Board's first meeting in November, the Board shall appoint less than a quorum of members to an Ad Hoc Nominating Committee. The Ad Hoc Nominating Committee shall review the list of MTS committees and make recommendations to the Board with respect to the appointment of members of the Board to serve on each committee.
- 22.7.2 The Ad Hoc Nominating Committee shall also review the list of outside boards and/or committees and make recommendations to the Board with respect to the appointment of members of the Board to represent MTS on each outside board or committee, except for the Board representative appointed to the San Diego Association of Governments (SANDAG) Transportation Committee, which shall be appointed by the Executive Committee.
- 22.7.3 The Ad Hoc Nominating Committee shall also make a recommendation to the Board with respect to the appointment of the Vice Chairman and the Chair Pro Tem and any other board officers.
- 22.7.4 The Ad Hoc Nominating Committee shall forward its recommendations for appointments of officers and committee members on or before the first Board meeting in January.
- 22.7.5 At its first meeting in January, the Board shall elect a Vice Chairman and a Chair Pro Tem from amongst its members. The Vice Chairman shall preside in the absence of the Chairman. In the event of the absence or inability to act by the Chairman and Vice Chairman, the Chair Pro Tem shall preside.
- 22.7.6 The Board shall then vote on the recommendations made by the Ad Hoc Nominating Committee with respect to all other committee appointments.
- 22.7.7 In the event that a Board member vacates his or her position on the Board, at the next meeting, the Chairperson shall take nominations from the floor to fill any opening in any Committee positions vacated by that Board member.

22.8 Executive Committee

22.8.1 The Executive Committee of the Board shall consist of the Chairman, a member from the County of San Diego, a member from the City of San Diego, one member who represents the cities of Chula Vista, National City, Coronado, and Imperial Beach (the "South Bay representative"), and one member who represents the cities of Lemon Grove, La Mesa, El Cajon, Poway, and Santee (the "East County representative"). The South Bay representative and the East County representative shall serve as members of the Executive Committee for a term of two years each. The terms of these two members shall be staggered so as to avoid replacement of both members at the same time.

22.8.2 The East County and South Bay representatives shall serve in the following order:

East County: El Cajon, La Mesa, Lemon Grove, Santee, Poway—each serving a two year term.

South Bay: Chula Vista, Coronado, Imperial Beach, National City—each serving a two year term; however, the representative must have been the primary Board member for two years in order to serve as the Executive Committee representative. In the event that the South Bay representative has not been the primary Board member for two years, the rotation schedule shall be adjusted so that the next city in the rotation serves as the representative, and the city whose member has not yet served two years as the primary Board member would serve the term immediately thereafter; i.e., if Imperial Beach lacked two years of experience, National City would serve first, then Imperial Beach and then the rotation would continue on as set forth above. The requirement for two years of service as the primary Board member shall only apply to the South Bay representative.

After each member has served as either the East County or South Bay representative, the rotation schedule shall repeat.

22.8.3 The alternates to the Executive Committee members shall be the alternate appointed by the particular city or agency to serve as the alternate for the Board. The second alternate at large shall be the Vice Chairman. Alternates shall be appointed for a term of two years or such lesser term as necessary to coincide with the term of the member for whom the alternate is appointed.

22.8.4 The Vice Chairman shall attend each Executive Committee meeting as a nonvoting member. The Vice Chairman shall serve as the alternate to the Chairman and as a second alternate at large for any of the Executive Committee representatives and shall be a voting member when serving in this capacity. The Vice Chairman shall be entitled to compensation for attendance at all

Executive Committee meetings whether serving as a voting or nonvoting member. The Chair Pro Tem may also serve as an alternate at large for any of the Executive Committee representatives if necessary for the Executive Committee to establish or maintain a quorum at any meeting. The Chair Pro Tem shall be a voting member when serving in this capacity. The Chair Pro Tem shall be entitled to compensation when serving in this capacity.

22.8.5 On or before its first meeting in January, the Executive Committee shall appoint one of its members to serve as the representative and one of its members to serve as the alternate to the San Diego Association of Governments (SANDAG) Transportation Committee to serve for a term of one year. In the event that the Executive Committee feels a member of the Board who does not serve on the Executive Committee is their preferred representative or alternate for the SANDAG Transportation Committee, the Executive Committee shall have the ability to select the representative or alternate from the full Board. In that instance, the SANDAG Transportation Committee representative, or the alternate in his or her absence, shall attend the Executive Committee meetings as a nonvoting member. The SANDAG Transportation Committee representative, or the alternate in his or her absence, shall be entitled to compensation for attendance at all Executive Committee meetings.

22.8.6 The primary purposes of the Executive Committee shall be to review and recommend consent items for the agenda of the next MTS Board of Directors meeting; add or delete items as appropriate; and provide input and direction on emerging policies, plans, and issues, in advance, for Board consideration. The Executive Committee shall have the authority to create ad hoc subcommittees for purposes of carrying out its duties and responsibilities.

22.8.7 Three members shall constitute a quorum of the Executive Committee, and a majority vote of the members present shall be required to approve any item. In the absence of a quorum, the Chairman may review and recommend consent items for the agenda, establish the order of items, and add or delete items.

22.8.8 The Executive Committee shall adopt operating procedures as are necessary for the conduct of its business.

22.9 Audit Oversight Committee

22.9.1 The Audit Oversight Committee shall be comprised of the same members that make up the Executive Committee. The Chairman of the Audit Oversight Committee shall be appointed from amongst its members at the first meeting held during each calendar year. The Chairman of the Audit Oversight Committee

shall be another member other than the member who serves as the Executive Committee Chairman. Additional members of the MTS Board may be appointed on an annual basis at the first MTS Board meeting in January at the discretion of the MTS Board. The Board may appoint individuals who are not members of the Board to serve as non-voting advisory members to the Audit Oversight Committee.

- 22.9.2 No additional compensation shall be paid to the members of the Audit Oversight Committee unless a meeting takes place on a day other than a regularly scheduled MTS Board meeting or MTS Executive Committee meeting. Compensation shall be paid to any additional members of the MTS Board who are appointed to serve on the Audit Oversight Committee meeting. No compensation shall be paid to any non-voting advisory member appointed by the MTS Board.
- 22.9.3 The primary duties and responsibilities of the Audit Oversight Committee shall be to ensure that management is maintaining a comprehensive framework of internal control, to ensure that management's financial reporting practices are assessed objectively, and to determine to its own satisfaction that the financial statements are properly audited and that any problems disclosed in the course of the audit are properly resolved.
- 22.9.4 The tasks to be performed by the Audit Oversight Committee shall be as follows:
- a. Review the appropriate scope of the annual independent audit and any other audit the committee feels is appropriate.
 - b. Review the appropriate scope of nonaudit services to be performed by the independent auditor.
 - c. Oversee the procurement of outside auditor services with final approval by the Board.
 - d. Review and oversee the preparation of annual financial statements, the annual financial reporting process, internal controls, and independent auditors using an appropriate degree of professional skepticism.
 - e. Assess the performance of any independent auditors.
 - f. Provide a forum for MTS internal auditors to report findings.

- g. Provide at least an annual written and oral report to the Board on how the committee discharged its duties and responsibilities.
- h. Establish a procedure for receipt, retention, and treatment of complaints regarding accounting, internal controls, or auditing matters.

22.9.5 The annual scheduled functions to be performed by the Audit Oversight Committee shall be as follows:

- a. In June of each year or as soon as reasonably practicable, review the independent audit engagement letter.
- b. In March or April of each year or as soon as reasonably practicable, establish a plan for review of the audits with independent auditor.
- c. In September of each year or as soon as reasonably practicable, receive report on the status of any audit(s).
- d. In October of each year or as soon as reasonably practicable, receive a report on the preliminary audit findings.
- e. In December of each year or as soon as reasonably practicable, receive a report and provide feedback on financial and compliance statements to Board, and provide the annual report to the Board on the committee's activities.
- f. In March of each year or as soon as reasonably practicable, review the management letter and management's response to the letter.

22.9.6 On a periodic basis the Audit Oversight Committee shall perform the following functions:

- a. Establish procedure for handling complaints.
- b. Receive reports from MTS internal auditor.
- c. Report to Board in addition to annual report.
- d. Review the appropriate scope of any nonaudit services recommended for performance by the independent auditor.
- e. Review the procurement of independent auditor services and make a recommendation to the Board.

- f. Request procurement of outside independent advisor(s) with Board concurrence.
- g. Meet with the independent auditor without MTS management present.

22.9.7

At a minimum, the Audit Oversight Committee shall ask the following questions of MTS Staff, the Internal Auditor and/or the independent auditors:

- a. What is the name of the audit firm performing the audit, and how long has such firm been under contract to perform such audits?
- b. Was the audit performed in accordance with generally accepted auditing standards (AICPA GAAS standards) or generally accepted government-auditing standards (GAO GAGAS)? If not, why?
- c. Has the independent auditor(s) prepared an unqualified opinion regarding the financial statements? If not, what type of opinion was issued and why?
- d. Was the audit performed independently? The Audit Oversight Committee should ask how the audit firm maintained its independence during the course of the audit.
- e. The Audit Oversight Committee should have the independent auditor(s) describe, in general, the audit procedures performed.
- f. The Audit Oversight Committee should have the independent auditor(s) discuss whether any new accounting principles were adopted, whether any changes were made, or whether the independent auditor(s) recommends any changes in the accounting policies used or their application. In particular, the relevant issue is whether the audit applied best or merely permissible principles.
- g. The Audit Oversight Committee should have the independent auditor(s) describe any significant accounting adjustments affecting the financial statements (prior year as well as current year).
- h. Did the independent auditor(s) encounter any difficulties in dealing with management in performing the audit, including whether there were any disagreements with management regarding any accruals, estimates, reserves,

or accounting principles? Did the independent auditor(s) have the full cooperation of MIS management and staff?

- i. The Audit Oversight Committee should ask the audit firm about the quality of the component unit's accounting, internal controls, and the competency of staff. Did the independent auditor(s) issue a management letter? What nonmaterial weaknesses or reportable conditions has the independent auditor(s) noted?
- j. Were there any accounting issues on which the audit firm sought the advice of other audit firms or regulatory bodies?
- k. The Audit Oversight Committee should ask the audit firm whether there are new pronouncements and/or areas of potential financial risk affecting future financial statements of which the Audit Oversight Committee should be aware.

22.9.8 Three members shall constitute a quorum of the Audit Oversight Committee, and a majority vote of the members present shall be required to approve any item. In the absence of a quorum, the Chairman may review and recommend consent items for the agenda, establish the order of items, and add or delete items.

22.9.9 The Audit Oversight Committee shall adopt operating procedures as are necessary for the conduct of its business.

22.10 Board Member Standards of Conduct

22.10.1 The purpose of this policy is to emphasize that each Board member occupies a position of public trust that demands the highest moral and ethical standard of conduct.

22.10.2 This policy shall be supplemental and in addition to the Conflict of Interest Code of the Board and is not intended to supersede such Code or any provisions thereof.

22.10.3 Board members shall not engage in any business or transaction or have a financial or other personal interest, actual, potential, or apparent, which is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of such duties. Such business, transaction, or interest shall constitute a conflict of interest.

22.10.4 No Board member shall engage in any enterprise or activity that shall result in any of the following:

- a. Using the prestige or influence of the Board office for private gain or advantage of the member or another person.

- b. Using time, facilities, equipment, or supplies of the Board for the private gain or advantage of the member or another person.
- c. Using official information not available to the general public for private gain or advantage of the member or another person.
- d. Receiving or accepting money or other consideration from anyone other than the Board for the performance of acts done in the regular course of duty.
- e. Receiving or accepting, directly or indirectly, any gift or favor from any one doing business with the Board under circumstances from which it could reasonably be inferred that such was intended to influence such person in such person's duties or as a reward for official action.
- f. Soliciting any gift or favor in such person's official capacity, either directly or indirectly, when such solicitation might reasonably be inferred as to have a potential effect on such person's duties or decision, or when the individual's position as a Board member would in any way influence the decision of the person being solicited.
- g. Engaging in or accepting private employment or rendering services for private interest, direct or indirect, which may conflict with such person's responsibility or duty, or which, because of that person's position, may influence a decision to the benefit of the organization in which such person has an interest.

22.10.5 If a Board member has an actual, potential, or apparent conflict of interest in the subject of an agenda item, and the Board will make a decision regarding this agenda item during an open session meeting, the Board member must recuse himself or herself or, in the case of uncertainty, request a binding determination from the Board's General Counsel. If the Board member has a conflict, he or she may observe, but not participate, in the decision-making process.

22.10.6 If a Board member has an actual, potential, or apparent conflict of interest in the subject of an agenda item to be discussed during a closed session meeting, the Board member shall be disqualified and not present during such discussion so as not to make, participate in making, or in any way attempt to use his or her official position to influence the discussion or decision. In such case, the Board member must recuse himself or herself or, in the case of uncertainty, request a binding determination from the Board's General Counsel. In accordance with the Brown Act, the

Board member would be entitled to any information that is publicly reported. The Board member would not, however, be privy to any confidential or privileged information or communications pertaining to the closed session agenda item.

- 22.10.7 No Board member shall disclose to any person, other than members of the Board and other Board staff designated to handle such confidential matters, the content or substance of any information presented or discussed during a closed session meeting unless the Board authorizes such disclosure by the affirmative vote by a majority of the Board.
- 22.10.8 No Board member may disclose confidential or privileged information or communications to any person other than a Board member, General Counsel to the Board, or other Board staff designated to handle such matters, unless disclosure is mandated by law or the Board authorizes such disclosure by the affirmative vote of a majority of the Board.
- 22.10.9 A Board member shall not be privy to confidential or privileged information or communications concerning threatened, anticipated, or actual litigation affecting the Board where the Board member has an actual, potential, or apparent conflict of interest. In the case of uncertainty as to whether a conflict of interest exists, the Board's General Counsel shall issue a binding determination.
- 22.10.10 No Board member shall represent a position on an issue to be the Board's unless the Board has formally adopted such position at a public meeting.
- 22.10.11 Any violation of this policy shall constitute official misconduct if determined by an affirmative vote of the majority of the Board in an open and public meeting. The Board may elect to censure the Board member and the violation may be subject to criminal and/or civil penalties as provided for by applicable law.

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6/22/07

Original Policy approved on
4/5/84.

Policy revised on 1/12/84.

Policy revised on 7/11/85.

Policy revised on 1/8/87.

Policy revised on 1/11/90.

Policy revised on 8/23/90.

Policy revised on 1/10/91.

Policy revised on 3/24/94.

Policy revised on 1/14/99.

Policy revised on 6/14/01.

Policy revised on 1/10/02.

Policy revised on 1/24/02.

Policy revised on 5/8/03.

Policy revised 2/26/04.

Policy revised 1/12/06.

Policy revised 3/9/06.

Policy revised 3/23/06.

Policy revised 6/14/07.

Policy revised 7/19/07



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Agenda

Item No. 9

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

CIP 10426

July 19, 2007

SUBJECT:

MTS: MEMORANDUM OF UNDERSTANDING WITH SANDAG FOR CONSTRUCTION
MANAGEMENT SERVICES ON THE MISSION VALLEY EAST LANDSCAPE
MAINTENANCE PROJECT

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute a Memorandum of Understanding (MOU), as shown in Attachment A, for San Diego Association of Governments (SANDAG) construction management consultant support services on the Mission Valley East (MVE) Landscape Maintenance Project.

Budget Impact

A total of \$125,000 would come from MVE Construction Management line item WBS No. 104260-700 leaving a balance of \$7,827.

DISCUSSION:

The last remaining section of the MVE Project is the landscape maintenance, which entails initial site work, corrective actions on landscaping, and landscape establishment services for a 2½-year period. Landscape services would include maintenance of landscaping and irrigation within the California Department of Transportation's (Caltrans') right-of-way (within the project's boundaries) in accordance with the Operations and Maintenance Agreement between MTS and Caltrans.



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

In general, the MVE Landscape Maintenance Project (LRT-426.6) consists of:

- watering plants;
- repairing damage;
- controlling litter and weeds; and
- planting, irrigating, and testing backflow.

Routine landscape maintenance work would follow the initial site work and consist of:

- inspecting, checking, adjusting, and repairing or replacing damaged or malfunctioning irrigation facilities;
- testing backflow preventers;
- inspecting, watering, pruning, and replacing plants;
- repairing plant basins;
- removing litter;
- controlling weeds, rodents, and other pests;
- furnishing and applying mulches, pesticides, and fertilizer; and
- incidental-related work.

Currently this project has an executed contract with Aztec Landscaping, Inc., and Aztec is ready to begin work as soon as a Notice to Proceed is issued.

In order to oversee the contractor, construction management services for the project through one of SANDAG's existing on-call construction management service contracts is necessary. SANDAG's Construction Management contract allows MTS to use to its on-call construction management service contract via an MOU with SANDAG. Construction Management services would be provided in accordance with the requirements of MTS Construction Manual and Caltrans' Standard Specifications and Special Provisions utilizing LAN Engineering Corporation.

LAN Engineering Corporation would provide the following construction services:

- contract administration for work performed;
- preparing and processing progress pay estimates;
- responding to requests for information and preparing project correspondence;
- reviewing and responding to project submittals;
- preparing contract change orders;
- monitoring inspection work performed by others;
- performing inspections and reports;
- preparing monthly construction status reports;
- performing quality assurance audits;
- Storm Water Pollution Prevention Plan compliance reviews;
- completing as-built plans; and
- ensuring that all work in accordance with the Project LRT-10426.6 plans and special provisions are complete.

All contract work including the maintenance period shall be completed within 30 months. The construction management team would average 26 hours per month on this contract with a majority of the hours used during the initial period of the contract.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Jim Linthicum, 619.699.1970, jl@sandag.org

JULY19-07.9.MOU SANDAG MVE LANDSCAPE PROJ.PDABLAING.doc

Attachment: A. Draft MOU

DRAFT

**MEMORANDUM OF UNDERSTANDING
NUMBER 5000861
BETWEEN THE SAN DIEGO ASSOCIATION OF GOVERNMENTS
AND THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
REGARDING FUNDING FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE
MISSION VALLEY EAST LANDSCAPE MAINTENANCE PROJECT**

This Memorandum of Understanding ("MOU") is made and entered into effective as of this 30th day of May 2007, by and between the San Diego Association of Governments ("SANDAG") and the San Diego Metropolitan Transit System ("MTS").

RECITALS

The following recitals are a substantive part of this Agreement:

WHEREAS, MTS desires to complete the construction for the Mission Valley East Landscape Maintenance Project, which will provide initial site work for corrective actions to landscaping and provide landscape establishment services for a period of three years, including maintenance of landscaping and irrigation within the Caltrans Right-of-Way, within the Mission Valley East Project boundaries in accordance with the Operations and Maintenance Agreement between MTS and Caltrans. (collectively referred to herein as the "Project"); and

WHEREAS, MTS's contractor shall be the responsible entity for the completion of the Project, including initial clean up, plant replacement, repairs to the irrigation systems, and three years of maintenance; and

WHEREAS, MTS has requested that SANDAG provide construction management services for the Project through one of SANDAG's existing on-call construction management service contracts; and

WHEREAS, SANDAG specifically provided for third party access to its on-call construction management services contracts and such an agreement would allow for construction management services on the Project in the most time effective manner; and

WHEREAS, the parties wish to memorialize their agreement in this MOU to carry out the purposes set forth above;

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

SANDAG AGREES:

1. To provide the Project with Construction Management Services in accordance with the requirements of MTS Construction Manual, Caltrans Standard Specifications and Special Provisions, through its on-call construction management consultant contract with LAN Engineering Corporation, as follows:
 - Contract Administration for work performed
 - Prepare and process progress pay estimates
 - Respond to RFI and prepare project correspondence
 - Review and respond to project submittals
 - Prepare Contract Change Orders
 - Monitor inspection work performed by others
 - Perform inspection and reports
 - Prepare Monthly Construction Status Report
 - Perform quality assurance audits
 - SWPPP compliance reviews
 - Complete As-Built plans
2. That the not-to-exceed amount referenced below in this MOU consists of the current estimate by SANDAG for the Project, with an aggregate total of \$125,000. In the event SANDAG believes this amount will be exceeded, it will notify MTS, and the parties will meet to discuss whether an amendment to this MOU is appropriate.
3. To use any funds provided by MTS under this MOU exclusively for the Project and to return any remaining Project funds to MTS upon completion of the Project.
4. Neither MTS nor any director, officer, agent, or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by SANDAG or LAN Engineering Corporation under or in connection with any work, authority, or jurisdiction delegated to SANDAG or LAN Engineering Corporation pursuant to this MOU. It is further understood and agreed that, pursuant to Government Code Section 895.4, SANDAG shall fully defend, indemnify, and save harmless MTS, its officers, directors, agents, and employees from all claims, suits, or actions of every name, kind, and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by SANDAG under or in connection with any work, authority, or jurisdiction delegated to SANDAG under this MOU.

MTS AGREES:

1. To fund the full and actual cost for the construction management services on the Project up to the maximum amount of \$125,000 out of the Mission Valley East Project including, but not limited to: construction management administration; document research; site investigations, review of record drawings; drafting; reproduction, addressing MTS, Caltrans, City of San Diego, and City of La Mesa comments; and filing. In the event SANDAG notifies MTS that this amount will be exceeded, MTS will meet with SANDAG to discuss whether an amendment to this MOU is appropriate. In no event shall SANDAG have responsibility to move forward with the Project until the parties are able to identify sufficient funds to complete the work. In no event shall MTS be required to expend any funds other than those originating from the Mission Valley East Project.
2. To pay SANDAG invoiced amounts up to \$125,000 within 30 days of invoice submittals by SANDAG.
3. To SANDAG's use of LAN Engineering Corporation and their sub-consultants for Construction Management services on the Project.
4. To provide staff support on the Project at no cost to SANDAG to be billed against the Mission Valley East project budget.
5. Neither SANDAG nor any director, officer, agent, or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by MTS under or in connection with any work, authority, or jurisdiction delegated to MTS pursuant to this MOU. It is further understood and agreed that, pursuant to Government Code Section 895.4, MTS shall fully defend, indemnify, and save harmless SANDAG, its officers, directors, agents, and employees from all claims, suits, or actions of every name, kind, and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by MTS under or in connection with any work, authority, or jurisdiction delegated to MTS under this MOU.

THE PARTIES MUTUALLY AGREE:

1. That although SANDAG may advance sums to LAN Engineering Corporation for work on the Project on behalf of MTS, it is MTS, not SANDAG that shall be responsible to pay for all services performed by LAN Engineering Corporation on the Project.
2. Any notice required or permitted under this MOU may be personally served on the other party, by the party giving notice, or may be served by certified mail, return receipt requested, to the following addresses:

For SANDAG

401 B Street, Suite 800
San Diego, CA 92101
Attn: Office of General Counsel

For MTS

1255 Imperial Avenue Suite 1000
San Diego, CA 92101
Attn: Office of General Counsel

3. That unless it is amended by the parties in writing, this MOU shall terminate on April 30, 2010, or on such earlier or later date as the parties may agree to in writing. This MOU shall continue in effect unless and until a party to the MOU gives 60 (sixty) days' written notice of its desire to withdraw from the MOU. If such notice is given, the MOU shall continue to be binding on those parties who have not formally withdrawn.
4. The indemnification provisions of this MOU shall survive termination of the MOU.
5. This MOU shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this MOU, the action shall be brought in a state or federal court situated in the County of San Diego, State of California.
6. All terms, conditions, and provisions hereof shall inure to and shall bind each of the parties hereto, and each of their respective heirs, executors, administrators, successors, and assigns.
7. For purposes of this MOU, the relationship of the parties is that of independent entities and not as agents of each other or as joint ventures or partners. The parties shall maintain sole and exclusive control over their personnel, agents, consultants, and operations.
8. No alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
9. Nothing in the provisions of this MOU is intended to create duties or obligations to or rights in third parties to this MOU or affect the legal liability of the parties to this MOU.
10. This MOU may be executed in any number of identical counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument when each party has signed one such counterpart.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU effective on the day and year first above written.

SAN DIEGO ASSOCIATION OF
GOVERNMENTS

METROPOLITAN TRANSIT SYSTEM

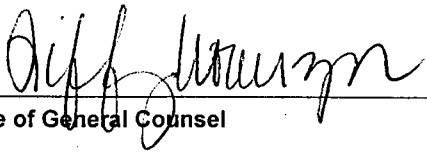
JACK BODA
DIRECTOR MOBILITY MANAGEMENT AND
PROJECT IMPLEMENTATION

PAUL JABLONSKI
CHIEF EXECUTIVE OFFICER

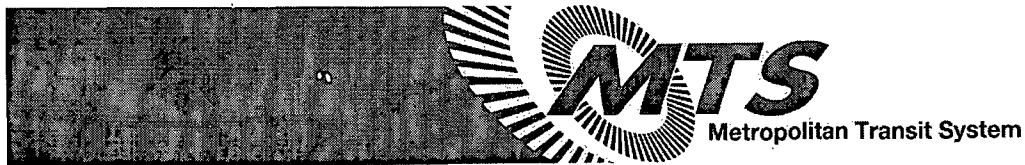
APPROVED AS TO FORM:

APPROVED AS TO FORM:

Office of General Counsel



Office of General Counsel



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.

ADM 110.2

July 19, 2007

SUBJECT:

MTS: ADOPT PROPOSED POLICY NO. 57 – RECORDS RETENTION

RECOMMENDATION:

That the Board of Directors adopt proposed Policy No. 57 - Records Retention (Attachment A).

Budget Impact

None.

DISCUSSION:

The State of California Legislature and California Government Codes suggest that each public agency adopt and maintain a records retention policy and schedule. This would allow public agencies to better serve the public and quickly reestablish themselves in the case of natural disasters. MTS has not yet created or adopted a retention policy addressing the retention periods and destruction protocols for MTS records.

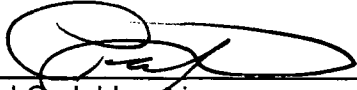
Adoption of proposed Policy No. 57 would allow MTS to track records from their creation to their ultimate disposal. An adopted schedule would provide MTS with minimum time requirements on the retention of records and the manner in which they are to be kept. A solid retention policy would also eliminate any confusion on the length of time that records are to be maintained.



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.

The proposed Policy No. 57 would help MTS to better serve its community and employees with prompt and efficient records management without the clutter of unnecessary retention.

Therefore, staff is requesting Board adoption of proposed Policy No. 57 – Records Retention.



Paul C. Jablonski
Chief Executive Officer

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

JULY19-07.10.POLICY57 RECORDS RETENT.SEDWARDS.doc

Attachment: A. Proposed Policy No. 57 – Records Retention

Policies and Procedures

No. 57

SUBJECT:

Board Approval: 7/19/07

RECORDS RETENTION

PURPOSE:

To establish a procedure for the retention of all MTS records from creation through processing, distribution, maintenance, and retrieval to their ultimate disposition.

BACKGROUND:

California Government Code section 60200 et seq. authorizes the legislative body of a district to destroy or dispose of certain types of records, papers, or documents that are more than two years old. In 2004, California State Assembly Bill 474 extended this power to include any category of records upon adoption of a resolution or a records retention schedule. The term "district" is defined as a tax or assessment district. Although not mandatory, General Counsel believes that a document retention policy will reduce agency risk and storage costs.

Section 60201 controls the destruction of records of "districts" and "special districts" by providing the procedures by which a legislative body may dispose of records and limiting what records may be destroyed by the provided procedures. According to the section 60201, The legislative body of a district may destroy or dispose of any record that is not expressly required by law to be filed and preserved through either of the following procedures:

- (1) Adopting a resolution finding that destruction or disposition of this category of records will not adversely affect any interest of the district or of the public; or
- (2) Maintaining a list, by category, of the types of records destroyed or disposed of that reasonably identifies the information contained in the records in each category.

The legislative body may, by resolution, adopt and comply with a record retention schedule that is consistent with guidelines provided by the California Secretary of State, pursuant to Government Code section 12236, that classifies all of the district's records by category and that establishes a standard protocol for destruction or disposition of records.

In compliance with Government Code section 12236, the Secretary of State has consolidated, in addition to legal requirements, information regarding auditing, taxation,



contractual obligations, possible litigation, and public records requirements to provide local governments with a single source for archival and records management guidance. This policy complies with the guidelines provided by the Secretary of State pursuant to section 12236.

This policy applies to MTS, San Diego Transit Corporation (SDTC), and San Diego Trolley, Inc. (SDTI) (collectively the "Agencies").

POLICY:

57.1 Records Retention

57.1.1 MTS shall maintain and preserve records according to the provisions of this policy in one or more centralized recordkeeping offices as designated by the Chief Executive Officer.

57.1.2 Record is to be understood, but not limited to, the following:

- a. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses made at or near the time by, or from information transmitted by a person with knowledge if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation;
- b. All maps, exhibits, magnetic or paper tapes, photographic films and prints, punched cards, and other documents produced, received, owned or used by an agency, regardless of physical form or characteristics, as defined by California Government Code section 14741;
- c. Files, electronic logs, hard drives, and other repositories;
- d. "Controlled" documents requiring a history of all changes, such as policies and procedures; and
- e. Any other document requiring preservation or retention as specified by MTS policies and procedures.

57.1.3 Generally all documents shall be retained in their original form for two years unless a shorter duration is specifically authorized by state or federal regulation. Only specifically designated e-mails will be retained for the specified duration since they are not centrally maintained.

57.1.4 Changes/Additions:

- a. Changes and additions may be attached only to an original record with a log detailing who made it and authorized it, the reason, and the date of the change or addition.
- b. Changes or additions must be authorized by the Chief Executive Officer.
- c. Deletions in an original record are prohibited.

57.1.5 Duplications of original records are authorized. The Chief Executive Officer may authorize the destruction of any duplicate records, including duplicates less than two years old if no longer needed.

57.1.6 Except where a longer retention period is required, after five years, MTS, with the Chief Executive Officer's approval, may destroy any original document without retaining a record or copy of the document.

57.2 Method of Retention

57.2.1 Records will be maintained at one or more on or off-site recordkeeping offices with proper security measures as to ensure that they are restricted from unauthorized access.

57.2.2 Records maintained in an off-site recordkeeping location must be made available within 72 hours following notice from MTS.

57.2.3 The inspection, removal, or duplication of a record must be properly documented by a log indicating the person retrieving the record, the purpose for its retrieval, and the time and date of securing and returning the record.

57.2.4 Records may be kept in electronic format instead of hard-copy form if the following conditions are met:

- a. The media on which the electronic form is kept does not permit additions, changes, or deletions of the information or image in or on the original record.
- b. The media selected for storing records in electronic form is considered permanent and reliable.
- c. The media selected for storing records in electronic form does not prevent records from being easily accessible.
- d. The copy must be kept in a safe and separate place for security purposes or network backup must be provided.

57.3 Disposition Dates

57.3.1 Records must be maintained in accordance with MTS Records Retention Schedule until their retention period expires after which records should be disposed of promptly and appropriately. The periods shown in the Retention Schedule are minimum time periods and do not start until the document/project is complete. Records can be maintained in excess of the retention period in the schedule if still needed for reference.

- a. The disposition date of a record will be determined by the nature of the record;
- b. Disposition dates of records specifically indicated by other MTS policies and procedures will control if longer than the time specified by these policies; and
- c. Reasonable dates may include dates past the statute of limitations or the close of pending legal action.

57.3.2 An appropriate retention schedule shall be attached to this policy addressing types of records and the required periods of retention. The schedule shall be reviewed and updated periodically.

57.3.3 The schedule may be modified from time to time by the General Counsel.

57.4 Destruction Policy

57.4.1 Twice a year, a list of the records eligible for destruction will be provided to the General Counsel. Upon request by MTS staff with approval of the General Counsel, any record of interest may be spared from destruction.

57.4.2 Twice a year, all eligible records will be destroyed in the manner applicable to the medium of the record unless suspension of destruction is necessary.

57.4.3 Records will be disposed by shredding of paper records and destruction in the best means possible for any records in other mediums.

57.5 Suspension of Records Destruction

57.5.1 In some cases, records that have reached their destruction date must be preserved for an extended period of time.

57.5.2 "Some cases" include, but are not limited to, the following:

- a. Imminent or current litigation;

- b. Receipt of subpoena(s);
- c. Government inquiries, audits, or investigations; and
- d. Any such event that would warrant the suspension of records destruction.

57.6 Records Exempt from Destruction or Disposition

57.6.1 Notwithstanding any other provisions in MTS policies and procedures or any relevant provision of law, MTS may not destroy or dispose of any of the following records:

- a. Records that relate to the formation of MTS;
- b. Adopted ordinances;
- c. Minutes of any meeting of the legislative body of MTS;
- d. Records that relate to any pending claim or litigation;
- e. Records that are the subject of any request pursuant to California Public Records Act (Chapter 3.5, commencing with Section 6250, of Division VII of Title I);
- f. Records that relate to any pending construction that MTS has not accepted or to which a stop notice claim legally may be presented;
- g. Records that relate to any debt of MTS;
- h. Records that relate to the title of real property in which MTS has an interest or any liens thereon;
- i. Records that relate to any uncompleted contract to which the district is a party; and/or
- j. Records that have not fulfilled the administrative, fiscal, or legal purpose for which they were created or received.

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Attachment: Records Retention Timetable

RECORDS RETENTION TIMETABLE

In accordance with Board Policy No. 57, MTS records are to be kept for the duration proscribed in the following timetable.

RECORD TYPE	RECORD DESCRIPTION	DURATION OF RETENTION
Administration	Board & EC Agenda items	Indefinitely
	Board & EC audio tapes	2 years
	SD&AE Railway Co. agenda items	Indefinitely
	SD&AE Railway Co. minutes	Indefinitely
	SD&AE Railway Co. audio tapes	2 years
	Conflict of Interest Form 700	10 years
	MTS Resolutions	Indefinitely
	MTS Policies & Procedures	Indefinitely
Contracts	Original contracts	7 years after end of contract
Contracts	With any person or entity that develops real property or furnishes the design, specifications, surveying, planning, supervision, testing or observation of construction or improvement to real property	10 years after completion of the project
Contracts	Public works project - contractor	10 years
Contracts	Public works project - subcontractor	10 years
Finance	Audit reports	5 years; originals may be destroyed after this if comply with Cal. Gov. Code 26909
Finance	Capital stocks and bonds records	Permanent
Finance	Capital stocks and bonds records (ledgers, transfer registers, etc.) – retain with related papers	Permanent
Finance	Depreciation schedules	Permanent
Finance	General ledgers	Permanent
Finance	Investments (after disposal)	7 years
Finance	Original accounting reports	5 years
Finance	Property appraisals by outside appraisers	Permanent
Finance	Tax returns	Permanent
Finance	Year-end financial statements	Permanent
Human Resources	Age work certification records (minors)	3 years after termination
Human Resources	Applications (nonhires)	3 years
Human Resources	Collective bargaining agreements	3 years
Human Resources	Contractor or subcontractor records containing name, address, Social Security number, work classification, straight time, overtime, and actual per diem wages paid to each journeyman, apprentice, worker, or employee on public works project	3 years
Human Resources	Employee medical records and analyses	7 years after termination
Human Resources	Employee personnel records after termination	7 years
Human Resources	Employee W-4 (withholding exemption certification)	Keep as long as in effect + 4 years
Human Resources	Payroll records	4 years
Human Resources	Personnel file records	6 years after termination
Human Resources	Retirement, pension, and insurance plans	3 years
Human Resources	Workers' compensation accident reports	7 years or settlement plus 4 years
Human Resources	Workers' compensation injury claims	11 years
Human Resources	Workers' compensation relevant correspondence	7 years or settlement plus 4 years
Legal	Records pertaining to enforcement investigations and actions	5 years from date matter closed

RECORD TYPE	RECORD DESCRIPTION	DURATION OF RETENTION
Legal	Records pertaining to litigation	5 years from date matter closed
Maintenance	Bus inspection, maintenance, lubrication, repair records	5 years
Property	Original property records	Indefinite or until property transferred or no longer owned
Recordings	Evidence in claim	Until pending litigation resolved
Recordings	Routine video monitoring	1 year
Recordings	Telephone and radio communications	210 days
Risk	Accident reports and claims for settled cases	7 years or settlement plus 4 years
Risk	Accident reports and injury claims	10 years
Tax & Assessing Records	Assessing records	6 years, destroyed with CEO's approval
Tax & Assessing Records	Delinquency abstract	Indefinite
Tax & Assessing Records	Secured delinquencies	May be destroyed after transferred to delinquency abstract
Tax & Assessing Records	Tax rolls	12 years, destroyed with CEO's approval

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619.231.1466, FAX: 619.234.3407

Agenda

Item No. 11

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

ADM 110.2

July 19, 2007

SUBJECT:

MTS: PROPOSED REVISIONS TO MTS POLICY NO. 44 - TRAVEL EXPENSE
POLICY

RECOMMENDATION:

That the Board of Directors approve the proposed revisions to MTS Policy No. 44 –
Travel Expense Policy (Attachment A).

Budget Impact

None.

DISCUSSION:

California Government Code § 53232.4 outlines a set of penalties for the misuse of public funds or fraudulent documentation in violation of a public agency's reporting policies and procedure. MTS has an established travel expense and reimbursement policy outlining the proper procedures and guidelines for MTS employees' travel expenses, but this policy does not contain any provisions regarding penalties for misuse or fraudulent reporting.

A set of penalties comparative to those established by the California Government Code as well as similar organizations (such as the San Diego Association of Governments) are necessary for consistent enforcement of MTS policies and procedures. The proposed revisions in Attachment A are drawn from such appropriate sources. Staff recommends adoption of the proposed revisions to provide notice to employees of the consequences of any abuse of the travel expense policy.

Paul G. Jablonski
Chief Executive Officer

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

JULY19-07.11.POLICY 44.TRAVEL EXPENSE.SEDWARDS.doc

Attachment: A. Proposed Revisions to MTS Policy No. 44



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.

Policies and Procedures

No. 44

SUBJECT:

Board Approval: 1/26/06

MTS TRAVEL EXPENSE POLICY

PURPOSE:

To establish guidelines for MTS employees and Board members who have been approved to travel on behalf of MTS.

POLICY:

- 44.1 Agencies. This policy applies to all MTS agencies including MTS, San Diego Transit, San Diego Trolley, Inc., and San Diego Vintage Trolley, Inc.
- 44.2 Travel Request. Persons requesting that MTS pay for travel must request advance approval. This is done via a "Travel Request Form" (attached). The form ~~must~~ should be completed and approved at least two weeks prior to the trip. The department manager or director can approve requests up to \$500. Travel requests from \$500 to \$1,500 can be approved by the Chief Operating Officer(s), Chief Financial Officer, or General Counsel. All amounts over \$1,500 must be approved by the Chief Executive Officer. The top-level approver will route the form back to the Finance Department for payment of advances and/or matching with expense reports upon return. All Board member and employee travel shall be consistent with Policy No. 29, "Attendance at Transit-Related Conferences." The approved form will be returned to the traveler prior to departure. Travel reservations will be made by the individual traveler, the Clerk of the Board for Board of Director travel, or such person as designated by the Chief Operating Officers or Chief Executive Officer.
- 44.3 Expense Report. The Expense Report portion of the form will be used to record actual trip expenses. The Expense Report must be completed within one week from the return date. The department manager or director must indicate approval of the submitted expenses (Chief Executive Officer approval for director travel, Chief Financial Officer approval for Board of Director travel, and General Counsel approval of Chief Executive Officer travel). The form should then be forwarded to the Finance Department for processing, with a personal check attached for any funds due to MTS. Failure to submit expense reports within this time frame may result in not being reimbursed or collection actions taken if



money is owed to MTS. Extensions may be granted by the Chief Executive Officer.

All expenses should be itemized, including items MTS may have paid for in advance (e.g., airfare, conference registration) so that the report provides a complete record of all expenses. It is the traveler's responsibility to submit a completed report in order to receive prompt reimbursement.

- 44.4 Receipts. Itemized receipts for expenditures must be attached to the Expense Report for all expenses where a receipt is practically attainable (mandatory, unless a written satisfactory explanation is provided for expenses in excess of \$10). Such written explanations may be subjected to approval by the Chief Executive Officer. Hotel charges must be evidenced by an itemized hotel bill. A credit card receipt is not sufficient.
- 44.5 Travel Advances. The Travel Request Form will serve as the basis for travel advances. Travel advances will be distributed one week prior to the departure date. Costs incurred prior to departure may be reimbursed immediately; i.e., conference registration or airfare. Any travel advance shall not exceed the total estimated amount of per diem meal expenses less any items paid by MTS.
- 44.6 The following expenditure guidelines should be observed as upper limits unless particular circumstances reasonably dictate otherwise:
- a. Upper Limits. Upper limits for meals, hotels, and similar costs will be updated, approved by the Chief Executive Officer, and published annually.
 - b. Air Travel. Air travel is to be coach class for the most direct route. Travelers are encouraged to take advantage of the minimum 14-day advance ticket pricing. MTS will also cover the cost if it is more cost effective (i.e., difference in airfare as compared to the additional cost for hotel and meals) to include a Saturday stay; travelers should consider this option when practical.
 - c. Personal Auto Use. In the event that a private auto is used for the trip, mileage will be paid in accordance with the current IRS Mileage Reimbursement Rates (see attachment). Maximum reimbursement shall not exceed the cost of a comparable coach airfare to the same location.
 - d. Ground Transportation. In using surface transportation, the most practical alternative must be utilized. Such transportation would be used for travel to the airport and reasonable business-related trips at the location. Employees and Board members are encouraged to utilize public transportation where available.
 - e. Parking. MTS will reimburse the lesser of the parking cost for a personal auto left at the airport or the cost of a shuttle service or cab to and from the airport.

- f. Personal Travel. A traveler may wish to combine MTS-related travel with personal travel or with family members provided it does not exceed the cost equivalent to a single-person trip. Under no circumstances will MTS advance payments to cover such personal travel.
- g. Rental Car. Use of rental cars must be preapproved. In the event a rental car is required, MTS will only reimburse for the least expensive compact-size vehicle. MTS will not reimburse for rental car insurance coverage due to the fact that employees are included under MTS's General Automobile insurance coverage.
- h. Meals (While in Travel Status). Meals, including tip, shall generally average no more than the maximum rate approved and published annually. Alcohol consumed with a meal is not reimbursable. The amount per day applies to each 24-hour day of travel. Partial days would be prorated accordingly. Exceptions to the maximum rates must be approved by the Chief Executive Officer or General Counsel.
- i. Business Meal. Reasonable business (involving outside persons or when necessary to conduct MTS-related business) meals are permitted. All such meals must be itemized with justification on the Expense Report to determine eligibility for reimbursement.
- j. Hotel. Travelers will be reimbursed for the cost of a moderate and reasonably priced single-occupancy hotel room. Travelers should request the "government rate" when making hotel reservations. The maximum reimbursement is limited to the rate approved and published annually. Hotel stays in high-cost cities shall be approved by the Chief Executive Officer. These maximum limits may be waived if the traveler is staying at a hotel where a conference is being held. Baggage-handling service fees are reimbursable at standard rates.
- k. Other Business-Related Expenses. Other business-related expenses while traveling, such as supplies, equipment rental, reprographics, facsimiles, and other documented business-related expenses may be reimbursed when traveling on MTS business and used for MTS purposes.
- l. Travel Outside of the U.S. Reimbursement for travel to a foreign country will be calculated at the average exchange rate during the trip. All reimbursement for any Value Added Taxes charged for hotel accommodations must be returned to MTS.
- m. Telephone Calls (While in Travel Status). Reimbursements for telephone calls are permitted provided that such calls are directly related to MTS business. Travelers are required to provide an itemized list of all calls detailing the person(s) called and the reason for the call(s) for which reimbursement is requested. Personal calls are permitted up to a maximum of \$10 per day. Calls charged to personal calling cards may be submitted for reimbursement no later than 30 days from the time that the Travel Expense Report has been submitted.

- n. Registration. Travelers requesting to attend a conference or training that requires registration should do so in sufficient time to take advantage of any discounts.
- o. Conferences. Conference luncheons, special banquets, or other set-price official affairs that exceed the actual cost listed under meals may be reimbursed if they are necessary to the attendance of the conference and must be authorized in advance with the submission of the Travel Request Form. Conference luncheons hosted by vendors doing business with MTS may not be attended by employees if the value of the luncheon or banquet exceeds \$50.00.
- p. Cancellation Penalties. In the event that registration, airfare, hotel deposit, or any other such items that require prepayment are paid and the traveler is unable to attend and the prepayment is nonrefundable, then the traveler would be responsible for reimbursing MTS for the full cost unless the inability to attend is for valid business reasons, medical conditions, or personal emergencies, as approved by the Chief Executive Officer for employees or by the Executive Committee for Board members.
- q. Nonallowable Expenses. MTS will not provide any reimbursement for personal entertainment expenses, alcoholic beverages, travel expenses for family members, movies in hotels, personal items, charitable contributions, air travel insurance, or any other expenses not deemed necessary for business purposes.

MTS will not provide reimbursement for expenses incurred for the purpose of attending political events. An event shall be considered "political" if it is held for the purpose of supporting, opposing, or raising money to support or oppose any candidate, ballot measure, or political party.

MTS will not provide any reimbursement for expenses incurred with any private club that discriminates on the basis of race, gender, religion, sexual orientation, or other invidious criteria in its membership policy.

Exceptions to these guidelines must be approved by the Chief Executive Officer for employees and by the Executive Committee for Board members.

- 44.7 Within-Area Expenses. The form entitled "Expense Report (Within Area Expenses)" (see attachment) must be used to record any potential eligible expenses.

- a. Submittal of Form. Travelers must submit this form together with receipts on a monthly basis when (a) requesting reimbursement, or (b) reporting MTS credit card charges. This report applies to expenses incurred within the San Diego County area only.
- b. Eligible Expenses. Eligible expenses must be related to and necessary for carrying out MTS business. They may include, but not be limited to, phone calls on warrant checks, business meals or meetings, mileage, parking, or other miscellaneous out-of-pocket expenses related to MTS business. The Director of Finance or Chief Executive Officer may, in

their judgment, disallow any extraordinary or inappropriate expenses. Whenever possible, travel should be by public transportation. If it is impractical to use public transit, an MTS vehicle or private auto should be used.

- c. Description and Purpose. The report should describe the item or the destination (if mileage) and the purpose. The traveler should indicate to which project code each item should be charged.
- d. Approvals. All necessary approvals must be obtained in advance and the form submitted to the Finance and Administration Department.

44.8 Overtime. No overtime pay shall be earned while an employee is in an out-of-town travel status. Travel status is defined as the time an employee begins and completes the authorized business-related travel.

44.9 Penalties. California Government Code § 53232.4 institutes penalties for misuse of public resources, falsifying expense reports, or presenting fraudulent information in violation of expense reporting policies. The penalties for violating this policy may include, but are not limited to, the following:

- a. The loss of reimbursement privileges.
- b. Restitution to the local agency.
- c. Civil penalties for misuse of public resources pursuant to § 8314 of the California Government Code¹.
- d. Prosecution for misuse of public resources, pursuant to § 424 of the Penal Code².
- e. Disciplinary action for employees of MTS.

WCassi/JGarde
POLICY.44.TRAVEL EXPENSE POLICY
4/5/067/19/06

Attachments: A.—Travel Request and Expense Report Form
Expense Report
B.Expense Report - Within Area Expenses Form
C.2006 Reimbursement Rates

Original Policy approved on 8/12/93.
Policy amended on 10/27/94.
Policy revised on 4/29/04.
Policy revised on 1/26/06.
Policy revised on 7/19/07.

¹ Any person who intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. Cal Gov. Code § 8314

² Punishable by imprisonment in the state prison for two, three, or four years and is disqualified from holding any office in this state. Cal Pen. Code § 424

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

TRAVEL REQUEST FORM

MTS <input type="checkbox"/> SDTC <input type="checkbox"/> SDTI <input type="checkbox"/>			Request Date _____	
Name _____			Title _____	
Department _____			Dept Number _____	Costs to be Charged To (Cost Center/Project #) _____
Meeting Name/Purpose _____				
Destination _____		Mode of Travel _____	Date of Departure _____	Date of Return _____
Estimated Expenses				Amount
Transportation (Air/Train/Car)				_____
Shuttles/Taxis/Parking				_____
Lodging	Days	Rate	_____	
Meals	Days	Rate	_____	
Other - List _____				_____
Other - List _____				_____
Total Estimated Expenses				_____
Less Amount To be Paid Directly by MTS				_____
Maximum Amount to be Paid by Traveler				_____
Total Advance Requested				_____
Accounting Use Only _____ _____ _____		Approvals Department Manager/Director _____ Finance _____ CEO/COO/CFO/COUNSEL _____		

Revised August 2003

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

EXPENSE REPORT

MTS <input style="width: 40px;" type="text"/>	SDTC <input style="width: 40px;" type="text"/>	SDTI <input style="width: 40px;" type="text"/>	Report Date _____
Name _____			Title _____
Department _____		Dept Number _____	Costs to be Charged To (Cost Center/Project #) _____
Meeting Name/Purpose _____			

		DAY #1	DAY #2	DAY #3	DAY #4	DAY #5	Total
Dates							
Location (City, State)							
Transportation							
Shuttles/Taxis/Parking							
Lodging							
Meals	Breakfast						
	Lunch						
	Dinner						
Other _____							
Other _____							

- 1 Must be filed within one week after completing trip
- 2 Attach Receipts for all purchases over \$10.
Explain all items over \$10 not having receipts.
- 3 Include related trip items paid separately by MTS; mark with an Asterisk

I certify that the above report is correct

Signed _____

Approved _____

Total Expenses _____

Less MTS Paid Items _____

Subtotal _____

Less Cash Advanced _____

Amount Due Traveler (MTS) _____

Revised August 2005

[illegible]

Instructions:

1. Employees must submit this form when requesting reimbursement. This report applies to expenses incurred within the San Diego Metropolitan Area.
2. Eligible expenses must be related to and necessary for carrying out MTDB business. They may include, but not be limited to, phone calls on warrant checks, business meals or meetings, parking, or other miscellaneous out-of-pocket expenses related to MTDB business. The Director of Finance or General Manager may, in their judgment, disallow any extraordinary or inappropriate expenses. Attach receipts for all out-of-pocket expenses.
3. Briefly describe the item or the destination, if mileage, the purpose, and the project code. For example:

2. Briefly describe the item or the destination, if mileage, the purpose, and the project code. For example:

Date	Project Code	Description	Purpose	Telephone	Mileage/ Parking	Meals/ Mlgs.	Other
1/1/00	100	City of La Mesa-20 miles	Metg. with Mayor		\$5.00	-	-
1/1/00	20428-0101	APTA Luncheon	Hear FTA Adm. speak		\$ -	\$10.00	-

5. Obtain all necessary approvals and submit form to Finance & Administration department at least once a month.

*Attach receipts for all out-of-pocket expenses.



1255 Imperial Ave, Ste 1000
 San Diego, CA 92101-7490
 619/231-1466
 FAX 619/234-3407

ANNUAL TRAVEL COST RATES

CALENDAR YEAR 20076

Hotel Maximum

Small/Medium US Cities	\$	150.00 155.00
Large US Cities/International	\$	200.00 205.00

Average Daily Meal Maximum

Small/Medium US Cities	\$	45.00 60.00
Large US Cities/International	\$	55.00 75.00

Mileage Reimbursement Rate

As set by the IRS, effective January 1, 2006- <u>2007</u> – per mile	\$	44.5 <u>48.5</u> Cents
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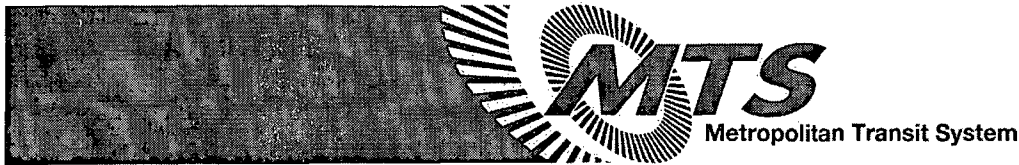
Notes

1. These are maximum rates. Rates must be reasonable and necessary under the circumstances and will customarily be lower.
2. Small/Medium US Cities are defined for this rate structure as those with less than 1 million persons in the metropolitan area.

Large US Cities are defined for this rate structure as those with more than 1 million persons in the metropolitan area.
3. The Mileage Rate is directly tied to the rate set by the IRS and will be revised more frequently than annually if done so by the IRS.



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Agenda

Item No. 12

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

LEG 492

July 19, 2007

SUBJECT:

MTS: AUDIT REPORT - SDTI TRAINING PROCESS

RECOMMENDATION:

That the Board of Directors receive an audit report on San Diego Trolley, Inc.'s (SDTI's) training process for information.

Budget Impact

None.

DISCUSSION:

During May 2007, the MTS Internal Auditor performed a review of SDTI's training procedures to assess the adequacy of SDTI training processes. As a result of the review, two recommendations were made for management's consideration. Management has accepted the recommendations and is taking action to address the issues noted.

A handwritten signature in black ink, appearing to read 'Paul C. Jablonski', is written over a horizontal line.

Paul C. Jablonski
Chief Executive Officer

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

JULY19-07.12.AUDIT RPT SDTI TRAINING.MABBEY.doc

Attachment: A. Audit Report on SDTI Training Procedures **(Board Only)**



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



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

Agenda

Item No. 13

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

LEG 430 (PC 50101)

**Draft for
Executive Committee
Review Date: 7/12/07**

July 19, 2007

SUBJECT:

MTS: ANNUAL ANTICIPATED DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION LEVEL (AADPL) METHODOLOGY FOR FEDERAL FISCAL YEAR
2007/08

RECOMMENDATION:

That the Board of Directors receive the Annual Anticipated Disadvantaged Business Enterprise (DBE) Participation Level (AADPL) Methodology for Federal Fiscal Year 2007/08 for information.

Budget Impact

None.

DISCUSSION:

MTS has established an AADPL of 3% for FY 2007/08 for its Department of Transportation-assisted contracts. MTS's AADPL was developed in conformance with the federally prescribed two-step methodology process.

History

The DBE Program was originally created to ensure nondiscrimination in the award and administration of Department of Transportation (DOT)-assisted contracts by providing a level playing field on which DBEs could compete fairly. The DBE Program required that on all federally funded contracts, a contract-specific DBE goal be established and met by the successful bidder. In order to qualify as a DBE, a company has to be certified by the grantee or designated state agency. Award of all federally funded contracts was



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conditioned upon meeting the DBE goal. If a firm was unable to meet the DBE goal, the firm was required to demonstrate that it made a good-faith effort to find a DBE subcontractor.

In 2005, the Ninth Circuit Court of Appeals published an opinion specifying that the State of Washington's contract-specific goal for a paving contract was unconstitutional. In that case, a bidder had submitted the lowest bid for the project but failed to meet the DBE goal. The state awarded the contract to a minority-owned company whose bid was higher. The low bidder then sued the FTA, the State of Washington, and the City of Vancouver claiming its constitutional rights had been violated. After several years of litigation and appeals, the federal Ninth Circuit Court of Appeals ruled that on its face, the premise behind the FTA's DBE Program was constitutional, but as it was applied to this particular bidder, its constitutional rights had been violated. The court based its decision on the fact that the State of Washington had not conducted a disparity study to determine whether any discrimination was occurring in the award of its contracts; the state had simply ordered all contracts to have a DBE goal.

On December 21, 2005, in response to the Ninth Circuit's ruling, the nine states affected by the decision (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington) were required by DOT to submit proof of discrimination in their respective contracting opportunities. The California Department of Transportation (Caltrans) took the lead for gathering this evidence for all transportation agencies within California. Caltrans considered past disparity studies, comments, and written evidence received during a 90-day public comment period ending on March 20, 2006. While there was some indirect evidence of discrimination contained in the information received, Caltrans concluded that the data lacked sufficient evidence to continue with a race-conscious DBE Program. In order to comply with the Ninth Circuit ruling, Caltrans then issued a directive that all federal transportation assistance subrecipients would implement a DBE Race-Neutral Program until a comprehensive state-wide disparity study was completed. That study is currently underway and scheduled to be finished in July 2007.

In summary, the DBE Program has changed from a race-conscious program (where goals are set for each federally funded contract) to a race-neutral program (DBE participation is monitored but not required) until DOT can complete the disparity study to determine if there is discrimination in the contracting community. During this time, MTS will continue to comply with all DBE requirements.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Melissa Fernandez, 619.557.4540, melissa.fernandez@sdmts.com

JULY19-07.13.DBE FY 07 08.MFERNANDEZ.doc

Attachments: A. AADPL Annual Anticipated DBE Participation Level

**SAN DIEGO METROPOLITAN TRANSIT SYSTEM
ANNUAL ANTICIPATED DBE PARTICIPATION LEVEL (AADPL)
METHODOLOGY FOR
FEDERAL FISCAL YEAR 2007/08**

(Covering the period of October 1, 2007 through September 30, 2008)

I. INTRODUCTION

On May 1, 2006, the San Diego Metropolitan Transit System (hereinafter referred to as MTS) implemented a wholly race-neutral Disadvantaged Business Enterprise (DBE) program in accordance with directives issued by the California Department of Transportation (Caltrans/Department). The directive was issued as a result of a recent decision from the Ninth Circuit Court of Appeals and guidelines promulgated by the Federal Highway Administration (FHWA) in response to that decision. The decision mandated that evidence of discrimination in the transportation contracting industry must be documented in order to implement a DBE race-conscious program. After careful analysis, the Department and FHWA concluded that the Department lacked sufficient evidence to satisfy the strict scrutiny and newly established evidentiary standards established by the Ninth Circuit to request a waiver from US DOT to continue its use of race-conscious measures to meet the State's Overall DBE Goal.

Hence,

- Effective May 1, 2006, the Department and its subrecipients (Local Agencies) of DOT-assisted funding may no longer advertise and award contracts with Federal-aid funds containing Race-Conscious DBE goals.
- Local Agencies are required to submit a "Disadvantaged Business Enterprise Race-Neutral Agreement (Exhibit 9-A)" in accordance with Section 9.6 of Chapter 9 of the Caltrans Local Assistance Procedures Manual (LAPM) by June 1, 2006.
- Local Agencies are required to submit an "Annual Anticipated DBE Participation Level" (AADPL) by June of every year for its Federal-aid contracts, including following the Step I and Step II prescribed methodology.
- Local Agencies will be required to collect and report participation and utilization by DBEs on Federal-aid contracts (no change).
- Local Agencies are required to actively participate in the Department's statewide Availability and Disparity Study which commenced on June 2006 and is scheduled to be completed by the end of June 2007 to fulfill the requirements of the law as identified by the Ninth Court of Appeals ruling.

In response to these policy directives, MTS hereby sets forth its AADPL methodology for FFY 2007/08.

II. DOT-ASSISTED CONTRACTING PROGRAM FOR FFY 2007/08

Table 1 serves to identify MTS's DOT-assisted contracting program for FFY 2007/08 considered in preparing its *Annual Anticipated DBE Participation Level (AADPL)* in accordance with Chapter 9, Section 9.7 of the Local Assistance Procedures Manual (LAPM). The following projects were considered in the federally prescribed AADPL analysis based on DOT-assisted funding and the anticipated award date. These projects have viable contracting and subcontracting possibilities and corresponding relative availability of DBEs, a criterion for AADPL consideration¹.

Table 1

MTS Project Number	PROJECT	Estimated Project Budget for FY08	Estimated Federal Dollar Share
MINOR CONSTRUCTION			
11146	CVT ADA Bus Stop Improvements	\$ 40,000.00	\$ 32,000.00
11191	IAD/KMD Vacuum Replacement	\$ 497,800.00	\$ 398,240.00
11194	KMD Steam Rack Retrofitting	\$ 292,500.00	\$ 234,000.00
	TOTAL	\$ 830,300.00	\$ 664,240.00
PROFESSIONAL SERVICES			
11192	IT Ellipse Financial Systems	\$ 350,000.00	\$ 280,000.00
11185	Bus Video Cameras	\$ 399.50	\$ 319.60
11212	Transit Store Security Improvements	\$ 69,500.00	\$ 55,600.00
	TOTAL	\$ 419,899.50	\$ 335,919.60
MATERIAL, EQUIPMENT & SUPPLIES			
11184	Bus Video Cameras	\$ 1,489,300.00	\$ 1,191,440.00
11162	Organizational Desktops	\$ 300,000.00	\$ 240,000.00
11163	Network Servers	\$ 75,000.00	\$ 60,000.00
11204	Office Equipment	\$ 52,800.00	\$ 42,240.00
11187	CVT Bus Stop Security Improvements	\$ 50,000.00	\$ 40,000.00
11190	IAD Main Entrance Security Project	\$ 80,000.00	\$ 64,000.00
11198	MCS South Bay Main. Misc. Equipment	\$ 100,000.00	\$ 80,000.00
11208	SDTC Forklift Replacement	\$ 43,200.00	\$ 34,560.00
11195	MCS ADA Paratransit Computer Equipment	\$ 50,000.00	\$ 40,000.00
10940	Regional Transit Management System Phase I (Debt Service)	\$ 3,828,000.00	\$ 3,062,400.00
11199	Misc. Capital (All Divisions) with Federal	\$ 600,000.00	\$ 480,000.00
11183	Blue Line Tie Replacement	\$ 350,000.00	\$ 280,000.00
11182	Blue Line Station Improvements	\$ 426,600.00	\$ 341,280.00
11200	Misc. Capital (All Divisions) no Federal	\$ 725,000.00	\$ 580,000.00
11210	SDTI Yard Fence and Other Security Measures	\$ 964,400.00	\$ 771,520.00

¹ While MTS is receiving additional DOT-funding assistance during FFY 07/08 for contracting opportunities not listed in Table 1, these contracting opportunities did not have corresponding demonstrable evidence of ready, willing and able DBE availability, therefore, were excluded from the AADPL process (refer to Attachment I).

11205	SDTI Radio Receiver Replacement	\$ 59,800.00	\$ 47,840.00
11209	SDTC Utility Vehicles	\$ 45,000.00	\$ 36,000.00
11188	CVT Supervisor Vans (3)	\$ 77,000.00	\$ 61,600.00
11197	MCS Service Trucks - Maintenance - East County	\$ 165,000.00	\$ 132,000.00
11211	Service Trucks	\$ 77,000.00	\$ 61,600.00
11164	Rehab Traction motors Phase II	\$ 1,693,500.00	\$ 1,354,800.00
New	Preventive Maintenance - 5307	\$ 29,000,000.00	\$ 23,200,000.00
TOTAL		\$ 40,251,600.00	\$ 32,201,280.00

Table 2 provides a summary of work grouped into three primary categories: *Construction, Professional Services and Material, Equipment & Supplies* utilizing the CUCP 2005 North American Industry Classification System (NAICS) work categories and comparable 2005 Census County Business Patterns NAICS. *Table 2* also serves to identify the estimated Federal Dollar Share and the Percent of Federal Funding as follows:

Table 2

CONTRACT TYPE	COMPARABLE PRIMARY 2005 NAICS CENSUS DATA ²	ESTIMATED FEDERAL DOLLAR SHARE	WEIGHTED %
Construction Services	236220	\$664,240.00	2%
Professional Services	541511	\$335,919.60	1%
Material, Equipment & Supplies	332618	\$32,201,280.00	97%
TOTAL		\$33,201,439.60	100%

III. AADPL - METHODOLOGY

Step 1: Determination of a Base Figure (26.45)³

To establish MTS's Base Figure of the- relative availability of DBEs to all comparable firms (DBEs and Non-DBEs) available to bid or propose on MTS's FFY 2007/08 DOT-assisted contracting opportunities projected to be solicited, MTS followed one of the five prescribed federal methodologies to determine availability. This was accomplished by accessing the *California Unified Certification Program (CUCP) DBE Database of Certified Firms* and the *2005 U.S. Census Bureau County Business Patterns (CBP) Database*. Comparisons were made by corresponding zip codes within MTS's market area (defined as the counties of San Diego, Imperial and Riverside) and by the specified industries and types of businesses identified in Table 2. MTS's local market area represents where the substantial majority of MTS's dollars are expended and/or where the substantial majority of contractor bids or quotes are received.

² Refer to Attachments II and III for corresponding detail of all work trades grouped under the primary NAICS Codes.

³ 26.45 represents Title 49 CFR Part 26 regulatory reference.

MTS made a concerted effort to ensure that the scope of businesses included in the numerator was as close as possible to the scope included in the denominator. For corresponding detail of all work category classifications grouped, refer to Attachments II and III.

- ⇒ **For the numerator:** *California UCP DBE Database of Certified Firms*
 ⇒ **For the denominator:** *Census County Bureau's Business Pattern Database (CBP)*

To determine the relative availability of DBEs, MTS divided the numerator representing the ratio of ready, willing and able DBE firms within MTS's defined market area, by the denominator representing all firms (DBEs and Non-DBEs) available by each work category within the defined market area. Application of this formula yielded the following baseline information:

$$\frac{\text{Number of Ready, Willing, and Able DBEs}}{\text{Number of All Available Firms (Including DBEs and Non-DBEs)}} = \text{BASE FIGURE}$$

The Base Figure was further weighted by contract type and corresponding value. The Base Figure resulting from this weighted calculation is as follows:

Step 1: Base Figure (weighted)

	<u>Construction</u>	<u>Professional</u>	<u>Material, Equipment & Supply</u>
Base Figure =	$\frac{2\% \text{ (DBEs in 236220*)}}{\text{CBPs in NAICS 236220**}}$	$+$ $\frac{1\% \text{ (DBEs in 541511*)}}{\text{CBPs in NAICS 541511**}}$	$+$ $\frac{97\% \text{ (DBEs in 332618*)}}{\text{CBPs in NAICS 332618**}}$
Base Figure =	$\left[\frac{.02 \text{ (46)}}{1924} + \frac{.01 \text{ (169)}}{2639} + \frac{.97 \text{ (80)}}{1725} \right]$		
Base Figure =	$\left[.02 \text{ (.023909)} + .01 \text{ (.064039)} + .97 \text{ (.046377)} \right]$		
Base Figure =	$\left[.000478 + .064039 + .046377 \right]$		
Base Figure =	$(.046107) 100 = 4.6 = 5\%^{***}$		

* For additional NAICS codes from the CUCP DBE Directory, refer to Attachments II.
 ** For additional NAICS codes, refer to Attachment III.
 *** Rounded to the nearest whole number.

Step 2: Adjusting the Base Figure

Upon establishing the Base Figure, MTS reviewed and assessed other known evidence potentially impacting the relative availability of DBEs within the MTS's market area, in accordance with prescribed narrow tailoring provisions set forth under 49 CFR Part 26.45 Step II DBE Goal Adjustment guidelines.

Evidence considered in making an adjustment to the Base Figure included the MTS's *Past DBE Goal Attainments, Bidders List, Disparity Studies and Other Relevant Evidence*, as follows:

A. Past DBE Goal Attainments

The following table reflects MTS's DBE goal attainments within the past four fiscal years:

FISCAL YEAR	A. CONSTRUCTION SERVICES	B. PROFESSIONAL SERVICES	C. MATERIAL, EQUIPMENT & SUPPLY	AVERAGE DBE GOAL PARTICIPATION
2003	0.0%	4.0%	0%	1%*
2004	0.0%	2.0%	0%	1%*
2005	1.0%	4.6%	0%	2%*
2006	0.3%	4.0%	0%	1%*

* Rounded to the nearest whole number.

Adjusting the Base Figure with the Historical Median DBE Participation

As historical participation attainments provide demonstrable evidence of DBE availability and capacity to perform, MTS proceeded to calculate the past DBE participation attainments for the last four fiscal years, for which MTS has DBE attainment data. The *Historical Median DBE Participation* and the *Step One Base Figure* were added and divided by two (average) to assess whether the Base Figure would require further adjustment; the results of this formula follows:

$$\frac{\text{Historical Median} + \text{Step 1 Base Figure}}{2}$$

ADJUSTED BASE FIGURE

Step 1 Base Figure + Historical DBE Median Participation Formula

Past Participation Attainments =	1% 1% 1% 2%
Median Past Participation =	1% + 1% = 2%
Median Past Participation =	$\frac{2\%}{2}$
Median Past Participation =	1%
Median + Step 1 Base Figure =	1% + 5% = 6%
Base Figure Adjusted =	$\frac{6\%}{2}$
Adjusted Base Figure =	3%

The figure resulting from the application of this formula resulted in a downward adjustment from MTS's Base Figure of 5% to 3%.

B. MTS's Bidders List

While MTS's Bidders List was assessed and utilized to verify MTS's market area, the Bidders List did not contain all required information necessary for use as an adjustment factor. Accordingly, MTS will not make an adjustment to the Step 1 Base Figure based on the Bidders List. MTS will continue to capture the required information from all bidders/proposers at the time of bid/proposal submission and will utilize such information in future AADPL methodology.

C. Evidence from Disparity Studies

MTS is not aware of any current disparity studies within MTS's jurisdiction and/or market area. However, in conformance with directives issued by DOT (FTA and FHWA) Operating Administrations, which requires direct recipients to submit an Approach and Plan to meet Disparity and Availability requirements to determine if specific and sufficient evidence of discrimination exist within MTS's contracting program and jurisdiction. MTS is currently participating in Caltrans' Availability and Disparity Study to determine the existence of discrimination or its effects in MTS's marketplace specific to its FHWA-assisted projects. MTS will accordingly implement results impacting its FHWA contracting program and market area availability. The Study is scheduled to be complete by the end of June 2007.

MTS has recently joined the Metropolitan Transportation Authority (Metro) consortium formed for the purposes of releasing a Request for Proposal (RFP) to conduct a Disparity/Availability Study. The RFP is intended to be released by July 2007, with an anticipated Study completion date of April 2009. MTS will actively participate as a participant in this Study and utilize all relevant results in its application of AADPL process.

Absent the availability of Disparity and Availability Study conducted in conformance with the Ninth Circuit Court decision, MTS did not consider an adjustment under this factor at this time.

D. Other Evidence

MTS did not receive any anecdotal evidence nor is aware of any other factors or adverse considerations that would have had a material affect on DBEs availability within MTS's marketplace, or on DBEs ability to participate (meeting bonding, insurance and financial requirements) in MTS's FHWA-assisted contracting programs. Therefore, no goal adjustment was made in consideration of this factor. However, MTS will continue to explore and consider all available evidence that materially would affect the opportunities for DBEs to form, grow, and compete in MTS's FWHA-assisted contracting programs.

Overall Resultant AADPL Adjustment

Based on MTS's review and consideration of the above factors, a downward adjustment from the 5% Base Figure of DBE availability to 3% as determined by the calculation above (Refer to Section A).

As such, MTS has determined its AADPL to be 3% for FFY 2007/08. The AADPL is expressed as a percentage of all DOT-assisted funds that the MTS will expend in the forthcoming fiscal year.

IV. RACE-NEUTRAL MEASURES

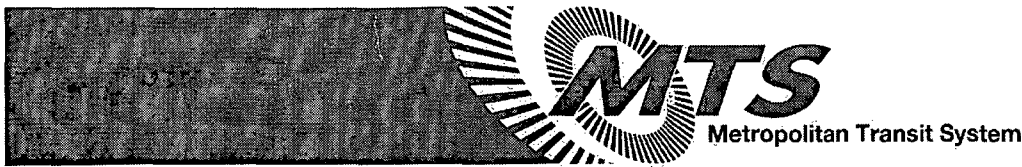
In conformance with Title 49 CFR Part 26; "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs" and in further response to Caltrans' DBE Race-Neutral Policy Directives issued to Local Agencies regarding DOT's DBE Program and new Race Neutral Policy Implementation Guidance, MTS is hereby submitting a wholly Race Neutral Overall Annual DBE Goal for 2007/08, due to the absence of readily available evidence of discrimination and its effects.

The Overall Annual DBE Goal for FFY 2007/08 for MTS's DOT-assisted contracts is 3%. MTS will implement race-neutral measures to meet its AADPL objectives in accordance with 49 CFR Part 26.51, including but not limited to:

- Arranging timely solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBEs and other small business firms' participation.
- Unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own work forces.
- Providing technical assistance and other services to small businesses, including DBE firms.
- Providing information and communications programs on contracting procedures and specific contract opportunities.
- Providing assistance to small businesses in overcoming limitations in obtaining bonding, lines of credit and building financing capital.

V. PUBLIC PARTICIPATION

Public Participation is not a required component in determining an AADPL; however, MTS will exercise discretion in facilitating the public participation process.



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

Agenda

Item No. 14

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 19, 2007

SUBJECT:

MTS: INVESTMENT REPORT

RECOMMENDATION:

That the Board of Directors receive a report for information.

Budget Impact

None.

DISCUSSION:

The attached schedule (Attachment A) is a report of MTS investments as of May 2007. It is broken into two columns—the first column relates to investments restricted either for capital support or debt service, and the second column is the unrestricted portion.

As the schedule shows, the overwhelming bulk of investments are restricted for debt service. These are primarily set to serve the payments on the 1989/1990 and 1995 lease and leaseback transactions.

The second column (unrestricted assets) provides the working capital for MTS operations for employee payroll and to vendors for goods and services.

A handwritten signature in black ink, appearing to read 'Paul C. Jablonski', is written over a horizontal line.

Paul C. Jablonski
Chief Executive Officer

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

JULY19-07.14.INVESTMT RPT.LMUSENGO.doc

Attachment: A. Investment Report



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

**San Diego Metropolitan Transit System
Investment Report
5/31/2007**

	<u>Restricted</u>	<u>Unrestricted</u>	<u>Avg. Rate of Return</u>
<u>Cash and Cash Equivalents</u>	\$ 5,073,508	7,765,036	4.57%
<u>Investments - Working Capital</u>		40,436,605	5.04%
<u>Cash - Restricted for Capital Support</u>	5,764,306		N/A
<u>Investments - Restricted for Debt Service</u>	141,427,039	-	4.56%
Total Cash and Investments	\$ 152,264,853	\$ 48,201,640	

Controller: _____

Date: _____



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Agenda

Item No. 15

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

LEG 405

July 19, 2007

SUBJECT:

MTS: AUTHORIZATION FOR CHIEF EXECUTIVE OFFICER TO EXECUTE
COMPETITIVELY BID REVENUE CONTRACT WITH TRANSIT TELEVISION
NETWORK (TTN) AND NORTH COUNTY TRANSIT DISTRICT (NCTD)

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute a revenue contract with Transit Television Network (TTN) and North County Transit District (NCTD) in substantially the same form as attached (Attachment A).

Budget Impact

Minimum revenue generation of \$30,000 annually; additional revenue is expected.

DISCUSSION:

On October 29, 2004, the San Diego Association of Governments (SANDAG) issued a request for proposals for a regional customer information system (CIS) that would provide next-stop announcements for bus and trolley patrons. The selected proposer for the CIS project was Transit Television Network (TTN). TTN currently serves transit operators throughout the United States, including the Los Angeles Metropolitan Transit Authority. TTN's proposal included real-time stop announcements, next-stop information, and MTS public service announcements coupled with news clips and targeted advertising.

After several months of negotiating, SANDAG and MTS both agreed that it would be in the best interest of the regional transit operators to transfer the negotiations and subsequent final contract to MTS for completion and administration. In November of 2006, staff began negotiations with TTN regarding contract duration, minimum revenue generation, and other key contract terms. MTS's targeted return was based on a market analysis that staff performed relative to other similarly situated transit operators.



Metropolitan Transit System (MTS) is comprised of the Metropolitan Transit Development Board (MTDB) a California public agency, San Diego Transit Corp., and San Diego Trolley, Inc., in cooperation with Chula Vista Transit and National City Transit. MTS is Taxicab Administrator for eight cities. MTDB is owner of the San Diego and Arizona Eastern Railway Company. MTDB Member Agencies include: City of Chula Vista, City of Coronado, City of El Cajon, City of Imperial Beach, City of La Mesa, City of Lemon Grove, City of National City, City of Poway, City of San Diego, City of Santee, and the County of San Diego.

The result of those negotiations was a hybrid service and procurement contract that included a detailed scope of work relative to fleet installation. A copy of the proposed final contract is attached to this agenda item. General Counsel is seeking Board authorization for the CEO to execute the final agreement pending approval from the NCTD and TTN's Boards.

Highlights include:

1. Americans with Disabilities Act-compliant automated next-stop announcements;
2. MTS public service announcement and marketing opportunities;
3. Revenue-sharing schedule (located on pages 34-35) that includes a percentage increase over 11 years;
4. Installation of television monitors and maintenance of those monitors at no cost to MTS; and
5. Regional consistency by utilizing one firm and one advertising policy for all MTS and NCTD vehicles (currently the Sprinter is not included in the contract but may be added at the discretion of NCTD).



Paul C. Jablonski
Chief Executive Officer

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

JULY19-07.15.TTNCONTRACT.TLOREN.doc

Attachment: A. Proposed Contract for Customer Information System **(Due to volume - Board Only)**

STANDARD PROCUREMENT AGREEMENT

G1032.1-07
 CONTRACT NUMBER
 LEG 405
 FILE NUMBER(S)

THIS AGREEMENT is entered into this _____ day of _____ 2007, in the state of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, North County Transit District ("NCTD"), a California public agency (MTS and NCTD are jointly referred to hereafter as the "Authority"), and the following contractor, hereinafter referred to as "Contractor":

Name: Transit Television Network California, LLC Address: 8544 Commodity Circle
 Form of Business: Limited Liability Company Orlando, Florida 32819
 (Corporation, partnership, sole proprietor, etc.)
 Telephone: 407.226.0204
 Authorized person to sign contracts: Marc Plogstedt Executive VP & Chief Operating Officer
 Name Title

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

Develop, install, and maintain a Regional Transit Multimedia Customer Information System (CIS) to provide in-vehicle automated audio (interior and exterior) and visual (interior), Americans with Disabilities Act (ADA) compliant, and stop announcements for MTS and the North County Transit District (NCTD) buses and rail vehicles (collectively "Vehicles"). This Agreement consists of the Standard Procurement Agreement, Standard Conditions Procurement, Scope of Work, Revenue Sharing Schedule, and the SANDAG Request for Proposals assigned to MTS (MTS Doc. No. G1032.0-07). This Agreement shall remain in effect for 11 years with no options to renew.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	CONTRACTOR AUTHORIZATION
By: _____ Chief Executive Officer	Firm: _____
Approved as to form:	By: _____ Signature
By: _____ Office of General Counsel	Title: _____
NORTH COUNTY TRANSIT DISTRICT	Approved as to form:
By: _____ Executive Director	By: _____ General Counsel
AMOUNT ENCUMBERED	BUDGET ITEM
\$ _____	FISCAL YEAR
By: _____ Chief Financial Officer	Date

(34 total pages, each bearing contract number)

JULY19-07.15.AttA.TTNCONTRACT.TLOREN.doc

STANDARD CONDITIONS SERVICES

1. COMPLETE AGREEMENT

This Agreement, including all applicable terms, conditions, and specifications, shall constitute the sole and exclusive agreement between the parties. This Agreement supersedes all other writings and is expressly conditional upon Contractor's agreement to the conditions hereof, and nothing shall be construed to be an acceptance of any terms of Contractor.

2. APPLICABLE LAW-DEFINITIONS

The definition of terms used, interpretation of this Agreement, and rights of all parties hereunder shall be construed under and governed by the law of the state of California, United States of America. "MTS" means the San Diego Metropolitan Transit System (MTS) or its designee. "NCTD" means the North County Transit District. "Authority" means, collectively, MTS and NCTD. "Contractor" means the person, firm, or corporation to which this Agreement is addressed. "Goods" means those articles, materials, supplies, drawings, data, and other property, and all services, including design, delivery, installation, inspection, testing, and expediting, specified or required to furnish the goods ordered by this Agreement. "Annual Guaranty Amount" has the meaning set forth in the attached Revenue Sharing Schedule which sets forth the financial terms and arrangements under this Agreement. "Agreement Year" has the meaning set forth in the attached Revenue Sharing Schedule. "Affiliate" means with respect to Contractor any Person that is directly or indirectly controlling, controlled by, or under common control with the Contractor. "Control" (including correlative meanings, the term "controlling", "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or by contract or otherwise. "Person" is to be broadly interpreted and includes an individual, a corporation, a partnership, a limited partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity.

3. EXCUSABLE DELAY

Contractor will use its best efforts to perform its obligations under this Agreement in accordance with any schedules agreed upon by Contractor and Authority. However, Contractor will not be liable for delays in performing its obligations to the extent the delay is caused by an unforeseeable condition, which is beyond Contractor's reasonable control, without Contractor's fault or negligence. Acts of God, such as storms or floods, as well as government priorities, acts of civil or military authorities, fires, strikes, epidemics, war or riot, are examples of events which will be excusable for being beyond Contractor's reasonable control only upon fulfillment of the following conditions: (a) within seven (7) calendar days of the commencement of any excusable delay, Contractor shall provide Authority written notice of the cause and extent thereof, as well as request for a schedule extension for the estimated duration thereof; and (b) within seven (7) calendar days of the cessation of the event causing delay, Contractor shall provide Authority with written notice of the actual delay incurred, upon receipt of which the date of performance shall be extended for the time actually lost by reason of an excusable delay.

4. NONWAIVER

Failure of any party to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights or remedies provided herein or by law, or to properly notify the other party in the event of breach, or the acceptance of payment for any goods hereunder, or review of design, shall not release the other party from any of the warranties or obligations of this Agreement and shall not be deemed a waiver of any right of a party to insist upon strict performance hereof, or any of its rights or remedies as to any such good, regardless when shipped, received, or accepted or as to any prior or subsequent default hereunder, nor shall any amendment of this Agreement operate as a waiver of any of the terms hereof unless otherwise set forth in the amendment. A requirement that a Contractor's document is to be submitted for or subject to "authorization to proceed," "approval," "acceptance," "review," "comments," or combinations of such words or words of like import shall mean, unless the context clearly indicates otherwise, that Contractor shall, before implementing the information in the document, submit the document, obtain resolution of any comments, and obtain written authorization from the Authority to proceed, and shall not mean that a complete check will be performed. Authorization to proceed shall not constitute acceptance or approval of design details, calculations, analyses, test methods, or materials developed or selected by Contractor and shall not relieve Contractor from full compliance with contractual obligations.

5. QUALITY STANDARDS

Except as otherwise expressly provided herein, Contractor shall be responsible for all inspection and testing, and agrees to strictly follow the standards of quality specified by Authority in addition to those customary in the industry. Contractor's failure to adhere to the standards of quality required under this Agreement shall be deemed to be reasonable grounds for insecurity justifying a written demand from MTS and/or NCTD that Contractor provide adequate assurance of Contractor's ability to meet said standards.

Goods shall not be deemed accepted until finally inspected and examined at final destination. The making or failure to make any surveillance inspection or examination of, payment for, or acceptance of the goods shall in no way impair MTS's and/or NCTD's right to reject nonconforming goods, or to avail itself of any other remedies to which they may be entitled, notwithstanding MTS's and/or NCTD's knowledge of the nonconformity, its substantiality, or the ease of its discovery.

6. WARRANTIES-GUARANTEES

Contractor warrants that it shall keep the CIS and all related Equipment in good operating order and repair during the term of this Agreement in order to ensure that CIS and all related Equipment does not interfere with the performance and safety of the Vehicles during standard operations.

Contractor shall at all times conduct its operations in such a manner as to avoid risk of bodily harm to persons and damage to property. Contractor shall promptly take all reasonable precautions to safeguard against such risks and shall make regular safety inspections of its operations. Contractor shall be solely responsible for the discovery, determination and correction of any unsafe conditions caused by Contractor's installation of the Equipment (as defined herein).

In addition, Contractor shall comply with all applicable safety laws, standards, codes, rules and regulations, including any safety program of general application established by Authority. Contractor shall cooperate and coordinate with Authority and with other Authority contractors on

safety matters and shall promptly comply with any specific safety instructions or directions given to Contractor by Authority.

Contractor shall comply with all applicable Federal, State, County and Local laws, ordinances, regulations, and codes in the performance of this Agreement, including the procurement of appropriate permits and licenses, as necessary.

Pursuant to the Scope of Work, Contractor shall replace any inoperable units with operable units and shall maintain all equipment in good operating order at all times during this Agreement. Neither MTS nor NCTD shall have any obligation to maintain the equipment installed by Contractor.

7. NOTIFICATION OF ADVERTISING LAWS

If Authority becomes aware of any restrictions that would prohibit Contractor from displaying any television programming, advertisements, weather or sports content on the Vehicles, including those resulting from laws, statutes, ordinances, regulations, policies or agreements, Authority shall promptly notify Contractor and the parties will in good faith negotiate any necessary amendments to this Agreement.

8. EXCLUSIVITY

Authority hereby warrants and agrees that during the term of this Agreement, Authority shall not allow, or enter to into any Agreements with any third parties related to the provision of similar or competitive services within the Vehicles to that provided by Contractor under this Agreement. For clarity, the foregoing shall not restrict Authority from displaying static print advertising on the exterior or interior of the Vehicles.

9. CONTENT

Contractor shall display its Content over the CIS installed on the Vehicles. "Content" shall consist primarily of traditional television programming, daily news and/or weather and advertisements, and is subject to change without prior notice to Authority. All Content shall conform to the MTS Advertising Policy. Contractor may, in its sole discretion, display its Content to other locations not owned by Authority, provided such Content does not include Authority's advertising, logo, announcements, or other information provided by Authority (the "Authority Information").

10. INTELLECTUAL PROPERTY

- (a) Acknowledgement. Except as otherwise provided herein, Authority acknowledges, covenants and agrees that all trade names, trademarks, logos or other marks used by Contractor or any Contractor affiliate are the exclusive property of Contractor and that such trade names, trademarks, logos and other marks shall not be used or displayed by Authority without Contractor's prior written consent.
- (b) Acknowledgement by Contractor. Contractor acknowledges that the MTS logo and name is copyright and trademark protected and may not be utilized for any other purpose other than as outlined in the Scope of Work and this Agreement without the express written consent of MTS. Contractor shall have limited permission to utilize the MTS trademark and logo for use within Contractor's sales and promotional material

only. Additionally, except as outlined in the scope of work and this Agreement, Contractor may not use the NCTD logo and name without the express written consent of NCTD. Contractor shall have limited permission to utilize the NCTD logo and name for use within Contractor's sales and promotional material only.

- (c) License and Ownership. Contractor grants Authority a fully paid, limited, personal, non-perpetual, non-transferable, non-assignable, non-exclusive, revocable license (without the right to sublicense) to use the CIS solely in accordance with the terms of this Agreement. Authority shall refrain from taking any steps to reverse assemble, reverse compile or otherwise derive a source code version of any software related to the CIS. All property and materials provided by Contractor, including the CIS and all hardware, software, computers, displays, cables, antennas, monitors, and all proprietary interest therein ("Equipment"), shall, at all times remain the sole and exclusive property of Contractor. All Content, other than Authority Information shall remain the sole and exclusive property of Contractor and/or its suppliers. Authority shall not copy or download the software or copy, download, edit, modify, broadcast or redisplay any Content other than Authority Information, except to the extent expressly authorized by Contractor, in writing, and then only to the extent necessary for Contractor's performance under the terms of this Agreement. Authority shall have no other license rights, except those expressly contained herein.

11. INFRINGEMENT

Contractor shall, at its own expense, hold harmless and defend Authority and its representatives under this Agreement against any claim, suit, or proceeding brought against Authority or their representatives, which is based upon a claim, whether rightful or otherwise, that any goods, process or material, or any part thereof, furnished by Contractor under this Agreement, constitutes an infringement and/or if the use of any such goods, process or material is enjoined, Contractor shall, at its sole expense, subject to the following provisions, either procure for Authority an irrevocable, royalty-free license to continue using such goods, process or material, or with Authority's prior written approval, replace same with substantially equal but noninfringing equipment or modify it so it becomes noninfringing, provided that no such replacement or modifications shall in any way amend or relieve Contractor of its warranties and guarantees set forth in this Agreement.

The preceding paragraph(s) shall not apply to any goods, or any part thereof, manufactured to Authority's detailed design. As to such goods or part, the Contractor assumes no liability whatsoever for patent infringement.

Contractor, as an indemnifying party, shall defend and settle at its sole expense all suits or proceedings arising out of the foregoing, provided that (a) Contractor has notice or is given prompt written notice of such claim or suit; (b) Contractor shall be given all necessary information, reasonable assistance from Authority and the authorization to defend any such claim or suit; and (c) no settlement shall be effective against Authority unless such settlement is approved by the Board of Directors and fully releases Authority from any and all liability in respect of the applicable claim.

12. AUDIT RIGHTS

Authority shall have the right to inspect Contractor's records, conduct an audit, review documents and otherwise take all actions necessary to verify the Contractor is making payment to Authority in conformity with the Revenue Sharing Schedule.

13. ASSIGNMENT

Any assignment of this Agreement or of any rights hereunder of hypothecation thereof in any manner, in whole or in part, without the prior written consent of Authority shall be null and void. Notwithstanding the foregoing, Contractor may assign its rights and obligations under this Agreement, without the prior consent of Authority, to any Affiliate of Contractor. In the event of such assignment, Contractor shall continue to remain liable under this Agreement unless otherwise released by Authority.

14. TERMINATION FOR CONVENIENCE BY MTS

At any time, this Agreement, as it relates to MTS Vehicles, may be terminated by MTS in accordance with this clause whenever MTS shall elect. Any such termination shall be effected by delivery to Contractor of a Notice of Termination specifying the extent to which performance under this Agreement is terminated, and the date upon which such termination becomes effective, such date not to be earlier than six months following the receipt of the notice of termination.

15. TERMINATION FOR CONVENIENCE BY NCTD

At any time, this Agreement, as it relates to NCTD Vehicles, may be terminated by NCTD in accordance with this clause whenever NCTD shall elect. Any such termination shall be effected by delivery to Contractor of a notice of termination specifying the extent to which performance under this Agreement is terminated, and the date upon which such termination becomes effective, such date not to be earlier than six months following the receipt of the notice of termination.

16. TERMINATION FOR DEFAULT

Either MTS or NCTD may terminate the whole or any part of Contractor's performance in any one of the following circumstances:

- (a) if Contractor materially fails to make delivery or materially fails to perform within the time specified herein or any extension thereof; or
- (b) if Contractor delivers nonconforming goods; or
- (c) if Contractor materially fails to perform in accordance with the provisions of this Agreement, or so fails to make progress as to endanger performance of this Agreement in a material respect in accordance with its terms.

In the event of any such failure, MTS and/or NCTD will provide Contractor with notice of the nature of the failure and MTS's and/or NCTD's intention to terminate for default. In the event Contractor does not cure such failure within ten (10) business days of such notice, MTS or NCTD will provide Contractor with written Notice of Termination for Default.

In the event MTS and/or NCTD terminates as provided herein, MTS and/or NCTD may procure, upon such terms, and in such manner as MTS and/or NCTD may deem appropriate, supplies or services similar to those so terminated; and Contractor shall continue the performance of this Agreement to the extent not terminated under the provisions of this clause.

17. TERMINATION BY CONTRACTOR IN SPECIAL CIRCUMSTANCES

Contractor shall have the right to terminate this Agreement at any time, without providing Authority with written notice, upon the occurrence of any of the following events:

- (a) the permanent abandonment of the MTS's or NCTD's Vehicles or transit system;
- (b) the lawful assumption by the United States Government, or any authorized agency thereof, of the operations, control, or use of Vehicles, in such a manner to substantially restrict Contractor from operating therefrom for a period in excess of ninety days; or
- (c) issuance by a court of competent jurisdiction of any injunction in any way preventing or restraining the use of the Vehicles, and the remaining in force of such injunction for a period in excess of ninety days.

In the event that Contractor terminates this Agreement in accordance with this section, Contractor agrees to pay to Authority, with respect to the year in which such termination occurs, the greater of the Annual Guaranty Amount or the applicable percentage of Adjusted Gross Revenues calculated in accordance with the Revenue Sharing Schedule. The aforementioned payment shall be Authority's sole and exclusive remedy and Contractor shall not have any other liability to Authority arising from such termination, regardless of the form of action, whether in contract, tort, strict liability or otherwise and Contractor shall be completely released from all of its obligations under this Agreement. MTS and NCTD shall divide the aforementioned payment in accordance with the terms of the Revenue Sharing Schedule.

18. ADDITIONAL TERMINATION RIGHTS

Notwithstanding the provisions of Section 17, Contractor may, without cause, terminate this Agreement in its sole discretion, at any time upon providing Authority with six months' prior written notice (the "Notice Period"). In the event that Contractor terminates this Agreement in accordance with this section, Contractor agrees to pay to Authority, with respect to the year in which such termination occurs, the greater of the Annual Guaranty Amount or the applicable percentage of Adjusted Gross Revenues calculated in accordance with the Revenue Sharing Schedule; provided however that if the Notice Period spans more than one Agreement Year, as defined in the attached Revenue Sharing Schedule (the second of such Agreement Years being referred to herein as the "Subsequent Agreement Year"), Contractor's liability with respect to such termination shall be limited to the applicable payment with respect to the Agreement Year in which Contractor issues a Notice of Termination to Authority and a payment equal to the Annual Guaranty Amount with respect to the Subsequent Agreement Year multiplied by a fraction, the numerator of which is the number of months of the Notice Period which occur in the Subsequent Contract Year and the denominator of which is 12.

Except as otherwise set forth in Section 19, the aforementioned payment shall be Authority's sole and exclusive remedy and Contractor shall not have any other liability to Authority arising from such termination, regardless of the form of action, whether in contract, tort, strict liability or otherwise and Contractor shall be completely released from all of its obligations under this Agreement. MTS and NCTD shall divide the aforementioned payment in accordance with the terms of the Revenue Sharing Schedule.

19. RETURN OF EQUIPMENT

Upon expiration, non-renewal or termination of this Agreement for any reason, the parties shall cooperate to achieve an orderly wind-down. Title to the CIS and all related Equipment shall remain solely with Contractor. Upon expiration, non-renewal or termination of this Agreement by Contractor, Authority shall have the exclusive right for a period of 30 days following such termination (the "Negotiation Period") to negotiate with Contractor for the purchase of the monitor and cable components of the Equipment. Following completion of the Negotiation Period, if the parties are not able to reach an agreement with respect to the purchase of the monitors and cables, Contractor shall have the right to remove the CIS and any or all of the Equipment at no cost to the Authority, and Authority shall allow Contractor reasonable access to the Vehicles for the purpose of such removal. Contractor shall have a reasonable time in which to remove the CIS and any or all Equipment. Authority shall make all Equipment available to Contractor in the same condition as it was installed on the Vehicles, except for normal wear and tear. Contractor shall return the Vehicles to the condition they were in prior to the installation of the CIS, normal wear and tear excepted.

20. SUCCESSORS AND ASSIGNS

All terms, conditions, and provisions hereof shall inure to and bind hereto their and each of their respective heirs, executors, administrators, successors, and assigns.

Except as provided above, Contractor shall not sublet, assign, or transfer its interest in this Agreement without the prior written consent of MTS.

21. HOLD HARMLESS/INDEMNITY

As between Authority and Contractor, Contractor is deemed to assume responsibility and liability for, and Contractor shall indemnify and hold harmless, MTS, SDTI, SDTC, SD&AE, SD&IV, NCTD and any and all of its directors, officers, agents or employees from and against any and all claims, loss, damage, charge, or expense, whether direct or indirect, which MTS, SDTI, SDTC, SD&AE, SD&IV, NCTD or such directors, officers, agents or employees may be put or subjected, by reason of any damage, loss, or injury of any kind or nature whatever to persons or property caused by or resulting from or in connection with any negligent act or action, or any neglect, omission, or failure to act when under a duty to act on the part of Contractor or any of its officers, agents, servants, employees or subcontractors in its or their performance under this Agreement.

Contractor shall defend and settle at its sole expense all suits or proceedings arising out of the foregoing, provided that (a) the Contractor has notice or is given prompt written notice of such claim or suit; (b) the Contractor shall be given all necessary information, reasonable assistance and the authorization to defend any such claim or suit; and (c) no settlement shall be effective against the Authority unless such settlement is approved by the Board of Directors of the Authority (either MTS or NCTD or both depending on which party(ies) is/are named in the lawsuit or claim) and fully releases the Authority from any and all liability in respect of the applicable claim.

22. LIMITATIONS OF LIABILITY

Each party acknowledges that the other party's entire liability for damages and its exclusive remedy against the other party relating in any way to this agreement shall be for direct

damages only. In no event shall either party be liable for any indirect, incidental, consequential, punitive, reliance or special damages, including without limitation, damages for lost profits, advantage, savings, or increased cost of operations, whether or not such party has been advised of the possibility of such damages. In addition, contractor shall not be liable for any damages arising out of or relating to problems with applications, hardware, content, data or networks provided by authority or any third party on its behalf. The limitations of liability set forth in this section shall apply regardless of the form of action, whether in contract, tort, strict liability or otherwise.

Except as expressly provided in this agreement, contractor makes no warranties, express or implied, and specifically disclaims any warranty of merchantability, fitness for a particular purpose, title or noninfringement or any warranty arising by usage of trade, course of dealing or course of performance. Contractor does not warrant that the services will prevent unauthorized access by third parties. Contractor does not authorize anyone to make a warranty of any kind on its behalf and authority should not rely on anyone making such statements.

23. ATTORNEYS' FEES

In the event any party hereto finds it necessary to retain an attorney in connection with the default by the other in any of the Agreements or covenants contained in this Agreement, or in the event of litigation regarding this Agreement, the losing party shall pay reasonable Attorneys' fees to the prevailing party.

24. EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

MTS's Equal Employment Opportunity Program for Contractors is part of this Agreement (a copy can be obtained from MTS's Clerk of the Board). A Certificate of Compliance and a Workforce Report form signed by the Contractor is a condition for the award of this Agreement.

25. NONDISCRIMINATION BY CONTRACTOR

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as MTS deems appropriate.

26. INDEPENDENT CONTRACTOR

Contractor hereby declares that it is engaged in an independent business and agrees that in the performance of this Agreement it shall act as an independent contractor and not as an employee of Authority. Contractor has and hereby retains full control of all the employment, compensation, and discharge of all employees of Contractor assisting in its performance hereunder. Contractor shall be fully responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding tax, and all other laws and regulations governing such matters. Contractor shall be responsible for its own acts and those of its agents and employees during the term of this Agreement. Authority shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

Except as otherwise specifically provided, as an independent contractor, Contractor will be solely responsible for determining means and methods for performing the services described in the scope of work. Contractor shall perform the work contemplated with resources available within its own organization.

27. INSURANCE

Contractor will include the Agreement number on all insurance-related correspondence, i.e., the insurance certificate itself.

All policies required shall be issued by companies who are licensed or approved to do business in the State of California and hold a current policyholder's alphabetic and financial-size category rating of not less than A-VI, in accordance with A.M. Best.

A. COVERAGE REQUIRED - ALL AGREEMENTS

(1) Liability

- (a) Commercial General Liability. At all times during this Agreement and, with respect to Products and Completed Operations Liability, for 12 months following the acceptance of the work by Authority, Contractor agrees to maintain Commercial General Liability Insurance for bodily injury and property damage in an occurrence form and with insurance companies acceptable to Authority. Commercial General Liability Insurance must include coverage for the following:

- Premises/Operations Liability
- ~~Aggregate Limits per Project~~
- Products/Completed Operations Liability
- No Explosion, Collapse, and Underground (XCU) exclusion
- Contractual Liability, with respect to this Agreement
- Personal Injury Liability
- Broad Form Property Damage
- Independent Contractors

All such policies shall name in the endorsement San Diego Metropolitan Transit System (MTS), San Diego Trolley, Inc. (SDTI), San Diego and Arizona Eastern Railway (SD&AE), San Diego and Imperial Valley Railroad (SD&IV), San Diego Transit Corporation (SDTC), North County Transit District (NCTD), and San Diego Northern Railroad (SDNR), their directors, officers, agents, and employees as additional insureds as their interests may appear.

- (b) Automobile Liability. At all times during this Agreement, Contractor agrees to maintain Automobile Liability Insurance for bodily injury and property damage including coverage for all owned, nonowned, and hired vehicles.
- (c) Workers' Compensation/Employer Liability. At all times during this Agreement, Contractor agrees to maintain Workers' Compensation and

Employers' Liability Insurance in compliance with the applicable statutory requirements. Contractor waives any rights of subrogation against MTS, SDTI, SD&AE, SD&IV, SDTC, NCTD and SDNR and the policy form must permit and accept such waiver.

B. ADDITIONAL COVERAGES REQUIRED (AS INDICATED)

☐ (1) Owner-Provided Builder's Risk
PROVIDED

MTS will provide Builder's Risk Insurance on a special form basis, excluding the perils of earthquake and flood, at a limit of not less than the full replacement value of the work and covering the work and all materials and equipment to be incorporated therein, including property in transit elsewhere, and insuring the interests of the Contractor, subcontractors, materialmen, and MTS, SDTI, SD&AE, SD&IV, SDTC, MTS's contractor for design, and MTS's contractor for construction management. However, Contractor is responsible for the portion of any loss that is within the deductible amount of this Builder's Risk Insurance, which is currently at \$50,000 but is subject to change.

☒ (2) Railroad Protective or Equivalent
REQUIRED

Any exclusions relating to performance of operations within the vicinity of any railroad, bridge, trestle, track, roadbed, tunnel, underpass, or crossing must be deleted. Option: purchase separate Railroad Protective Liability Policy as required.

☐ (3) Professional Liability
REQUIRED

At all times during this Agreement, and for 12 months following acceptance of work by owner, Contractor agrees to maintain Professional Liability Insurance with respect to services or operations under this Agreement.

☐ (4) Pollution Legal Liability
REQUIRED

At all times during this Agreement, and for 24 months following, Contractor agrees to maintain Pollution Legal Liability Insurance with respect to services or operations under this Agreement. The extended discovery period must be no less than 24 months.

☒ (5) Contractor Equipment
REQUIRED

At all times during this Agreement, Contractor agrees to maintain Contractor's Equipment Insurance on a special form basis covering equipment owned, leased, or used by Contractor. Contractor waives any rights of subrogation against MTS, SDTI, SD&AE, SD&IV, SDTC, NCTD, and SDNR, and the policy form must permit and accept such waiver. Contractor hereby releases and holds harmless Authority for any loss or damage to its equipment.

☐ (6) Installation Floater
REQUIRED

At all times during this Agreement, Contractor agrees to maintain Installation Floater Insurance on a special form basis covering property owned or provided by Contractor. Contractor waives any rights of subrogation against MTS, SDTI, SD&AE, SD&IV, and SDTC, and the policy form must permit and accept such waiver. Contractor hereby releases and holds harmless these entities for any loss or damage to its property.

☒ (7) Primary and Non-Contributory Insurance
REQUIRED

Contractor agrees that all general liability coverages required under this insurance section are PRIMARY and that any insurance of MTS, SDTI, SD&AE, SD&IV, SDTC, NCTD, and SDNR shall be excess and noncontributory (endorsement required).

C. MINIMUM POLICY LIMITS REQUIRED

	Combined Single Limit (CSL)
Commercial General Liability (Per Occurrence)	\$2,000,000
Automobile Liability	\$1,000,000
Worker's Compensation Employer's Liability	\$1,000,000
Additional Coverages (as indicated under Section B, Additional Coverages Required):	

<input type="checkbox"/> B (1) Builder's Risk	Replacement Cost
<input checked="" type="checkbox"/> B (2) Railroad Protective	\$2,000,000
<input type="checkbox"/> B (3) Professional Liability	\$
<input type="checkbox"/> B (4) Pollution Liability	\$
<input checked="" type="checkbox"/> B (5) Contractor Equipment	Replacement Cost
<input type="checkbox"/> B (6) Installation Floater	Replacement Cost

D. POLICY PROVISION REQUIRED

All policies and coverages shall contain a provision for 30 days written notice by the Insurer(s) to MTS Contracts Specialist of any cancellation or material reduction of coverage. A ten-day notice is required for non-payment of premium.

E. EVIDENCE REQUIRED

Within ten working days following receipt of notice that a contract has been awarded, Contractor shall have provided the MTS Contracts Specialist with satisfactory certification by a qualified representative of the Insurer(s) that Contractor's insurance complies with all provisions in this insurance section.

F. SPECIAL PROVISIONS

The foregoing requirements as to the types and limits of insurance coverage to be maintained by Contractor, and any approval of said insurance by MTS, SDTI, SD&AE, SD&IV, SDTC, NCTD, and SDNR or their insurance Contractor(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.

MTS reserves the right to withhold payments to Contractor in the event of material noncompliance with the insurance requirements outlined above.

28. NOTICES

All notices or other communications to either party by the other shall be deemed given when made in writing and deposited in the United States Post Office, addressed as follows:

To MTS:

San Diego Metropolitan Transit System (MTS)
Attention: Chief Executive Officer
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490

To NCTD:

North County Transit District
Attention: Tom Kelleher
810 Mission Avenue
Oceanside, CA 92054

To Contractor:

CFO
Transit Television Network
8544 Commodity Circle
Orlando, Florida 32819
Fax: 407-226-0205

With a Copy to:

General Counsel
Torstar Corporation
1 Yonge Street
6th Floor
Toronto, ON M5E 1P9
Fax: 416-869-4183

29. TIME

The Contractor acknowledges that timely performance is an important element of this Agreement. Accordingly, the Contractor shall put forth its best professional effort to complete its services in accordance with the agreed-upon schedule.

30. ENTIRE AGREEMENT

This Agreement is the entire Agreement of the parties and no attempted modification shall be binding unless in writing and signed by Authority and the Contractor. All questions pertaining to the validity and interpretation of this Agreement shall be determined in accordance with the laws of California applicable to contracts made to be performed within the state.

31. SEVERABILITY

If any provision or provisions of this Agreement or any portion of any provision hereof shall be deemed unenforceable or invalid pursuant to the final determination of any court of competent jurisdiction, the remainder, if constituting an enforceable contract, shall continue in full force and effect until amended, waived or modified pursuant to its terms.

TYPIST ID
SA-SERVICES REVISED (Rev 5-06)
DATE

Attachment: Scope of Work
Revenue-Sharing Schedule

SCOPE OF WORK

REGIONAL TRANSIT MULTIMEDIA CUSTOMER INFORMATION SYSTEM (CIS)

MTS DOC. NO. G1032.1-07

1.0 BACKGROUND

The Contractor shall develop, install, and maintain an electronic Regional Transit Multimedia Customer Information System (CIS) to provide in-vehicle automated audio (interior and exterior) and visual (interior), Americans with Disabilities Act (ADA) compliant, and stop announcements for MTS buses and light rail (trolley) vehicles, NCTD Breeze buses, and potentially Sprinter light rail vehicles, once the Sprinter begins revenue service (collectively "Vehicles"). The CIS shall include a video information display system that provides MTS and NCTD transit patrons with local and national news, informational programming and MTS and NCTD transit messages. The CIS will also be an effective means for displaying advertising, the sale of which advertising shall be a source of revenue for MTS and NCTD. All advertisements placed by Contractor shall be in compliance with MTS Policy No. 21 "MTS Revenue Generating Display Advertising, Concessions, and Merchandise" a copy of which is attached to this Scope of Work. The following specifications provide overall performance requirements and are not intended to limit potential solutions.

1.1 The Overall Mission of CIS

- a. Provide information to MTS and NCTD Vehicle passengers by means of a high-resolution audio and video electronic message system.
- b. Supply accurate real-time, next stop, and transfer audio and visual messages that comply with ADA regulations.
- c. Make available an electronic medium and means for selling advertising that generates positive impact on MTS's and NCTD's images and budgets without sacrificing safety and/or quality of service for transit customers.
- d. Present MTS and NCTD with an efficient method to provide specialized broadcast safety and system messages tailored to MTS's and NCTD's needs.

The proposed CIS may be fully independent or may be partially integrated with MTS's RTMS and trolley onboard digital announcement system as well as NCTD's RTMS and onboard digital announcement system for the Sprinter light rail vehicles (if those vehicles are added to this Agreement). CIS function shall be completely automatic and not require any MTS or NCTD operator or staff intervention or interface. A means of overriding or shutting down the CIS system in the event of an emergency shall be provided for the MTS and NCTD Vehicle operators. Normal CIS operations should not affect vehicle availability or MTS's and NCTD's maintenance and/or operational practices. CIS malfunctions or failures shall not impact or degrade bus or trolley operations in any way, or otherwise limit availability of MTS's or NCTD's revenue bus or light rail fleet. In addition, MTS and NCTD shall not be held responsible for the performance of the CIS system based on a failure of MTS or NCTD subsystems that may be supporting the CIS. Other than reviewing message content, MTS and NCTD

neither anticipate nor desire significant contribution of staff time for the long-term operation of the CIS.

1.2 Scope of Work

The Contractor shall design, furnish, install, test, make operational, maintain, and operate an electronic Regional Transit Multimedia Customer Information System (CIS) throughout the life of the Agreement. The Contractor shall provide all related maintenance and upgrades to sustain the CIS system. The Contractor shall be responsible for all tasks, equipment, system components, and information services required to provide MTS and NCTD with a turnkey CIS system. Further, the Contractor shall be responsible for the replacement of vandalized display screens at its sole cost and shall replace damaged screens within 2 business days of receiving a report of a damaged screen.

Authority shall be responsible for providing and maintaining exterior speakers for all MTS and NCTD Vehicles that will utilize exterior automated stop announcements. The three primary functional areas of CIS are:

Function	Functional Subsets
Onboard Information Displays	High-Resolution Audio and Visual Passenger Information Displays located to provide visibility to all passengers to the extent practical.
Automatic Next-Stop Announcements	CIS will integrate with MTS's and NCTD's RTMS, the MTS trolley digital onboard announcing system, and the Sprinter digital onboard announcing system, if the Sprinter vehicles are added to this Agreement, to provide the functions of the Automated Voice Annunciation (AVA) component in order to provide coordinated audio announcement and visual display of next-stop and transfer information.
Information and Message Content	Time of day, local and national news, entertainment programming, MTS and NCTD informational messages, and advertising produced and managed by the Contractor.

2.0 EXISTING MTS BUS AND LIGHT RAIL OPERATIONS OVERVIEW

Contractor is responsible for obtaining all relevant information regarding the MTS existing bus operations and light rail fleet and system. The following is provided for informational purposes only and does not relieve the Contractor's obligation of gathering its own information for purposes of this Agreement.

2.1 Bus Systems

2.1.1. MTS Bus System

CIS shall be installed in approximately 725 existing MTS buses. CIS shall be capable of supporting 800 buses in operation at one time, up to 150 routes, and

2,500 runs on a 22 hour per day schedule. Contractor shall not be obligated to install the CIS on MTS bus Vehicles that have been identified by MTS as having 18 months or less of service life remaining.

- a. MTS currently operates 90 bus routes and serves an area of 300 square miles.
- b. MTS buses are housed in 2 separate MTS divisions and four additional locations used by contracted bus line operators in San Diego County. It is possible that this number of locations could increase or decrease over the term of the Agreement.
- c. MTS's number of buses in peak-hour service is projected to be 580 at the start of this Agreement. It is possible that peak-hour service could either increase or decrease over the life of the Agreement.
- d. MTS will provide the Contractor with bus assignment data. MTS retains all bus assignment rights. The Contractor shall not represent to advertisers that a specific bus, which contains the advertiser's advertising, will appear on specific bus lines or routes.
- e. Passenger Statistics

Bus

Average Weekday Boardings (Includes Contracted Services)	150,000
Annual Boarding FY 2006 Figures	45,000,000
Total Annual (Revenue Service) Bus Hours (FY 06) (Includes Contracted Services)	1,545,000
Bus Stops	5,000

2.2 Rail Systems

2.2.1. MTS Light Rail System

CIS shall be installed in 123 of the total light rail vehicle (LRV) fleet of 134 vehicles. MTS reserves the right to have the Contractor install the automated CIS devices in the remaining 11 (S-70 type) vehicles at its discretion. The CIS shall be capable of supporting all equipped vehicles operating on the three designated routes, covering 508 daily trips (more during special events), during the entire 22-hour operating day from 4:00 a.m. to 2:00 a.m. each day.

- a. MTS Rail currently operates three primary routes designated as Orange Line, Blue Line, and Green Line. The Red Line, as designated, operates only during special events between Qualcomm Stadium Station and Imperial Avenue Transfer Station.
- b. MTS Rail operates three distinctly different types of LRVs. MTS owns 71 Siemens U-2 LRVs, 52 Siemens SD-100 LRVs, and 11 new Siemens S70 low floor LRVs. The Contractor shall install six (6) display devices on the U-2 cars and eight (8) on the SD-100 cars at the same locations and

in the same manner as those installed during the trial phase. Contractor shall also provide associated speakers for displays as appropriate.

- c. Actual placement of the displays within each LRV so equipped shall conform to attachments provided to MTS during the trial period.
- d. The LRVs are stored and maintained at the central operations and maintenance complex located at 13 South 13th Street between Newton Avenue to the east and 8th Avenue to the west.
- e. The number of peak vehicles in service varies from 95 to 116 based on service levels and whether there are special events planned.
- f. With the exception of the S70-type LRV, which is currently dedicated exclusively to the Green Line, all other vehicles are capable of operating on either the Blue or Orange Lines. The Contractor shall not represent to advertisers that a specific vehicle will be assigned to a particular line segment.
- g. The Contractor shall not presume that any vehicle(s) they intend to work on will be available to them absent specific notice to the LRV Maintenance Department Superintendent or his Assistant. Such notice shall typically involve 24-hour advanced notification. All Contractor personnel shall be provided with a safety orientation and shall receive Contractor-designated I.D. badges, which shall be displayed at all times and shown to MTS security if so requested.
- h. Actual number of displays, speakers, and mounting locations installed by Contractor may change based on improvements from the trial period. Any changes from the trial period will be proposed by Contractor and approved by MTS.
- i. Passenger Statistics:

Rail

Average Weekday Boardings	112,000
Annual Boardings - FY 06 Figures	33,829,833
Total Annual (Revenue Service) Trolley Hours – FY 06 Figures	474,000
Rail Stations – System Wide	54

3.0 NCTD CIS REQUIREMENTS

The following provisions set forth specific criteria and requirements related to services provided by Contractor to NCTD under this Agreement.

3.1 NCTD Breeze Bus/Sprinter Rail Fleet

The Contractor shall develop, install, and maintain an electronic Regional Transit Multimedia Customer Information System (CIS) to provide in-vehicle automated audio

(interior and exterior) and visual (interior), Americans with Disabilities Act (ADA) compliant, and stop announcements for NCTD Breeze buses initially beginning with buses and potentially adding Sprinter light rail vehicles once the Sprinter begins revenue service. Contractor is advised the NCTD buses are located in two maintenance facilities: West (Oceanside) and East (Escondido).

The Contractor shall provide television and programming services to NCTD in accordance with the authorized inventory listed below.

West Division (located in Oceanside)		
Series	Unit #'s	Total #
1000's	1001-1009	9
1100's	1101-1134	34
2100's	2104-2113	10
2200's	2204-2210	7
2300's	2310-2323	14
2400's	2413-2433	21
Totals		95

East Division (located in Escondido)		
Series	Unit #'s	Total #
1000's	1010-1016	7
1100's	1135-1153	19
2100's	2101-2103	3
2200's	2201-2203	3
2300's	2301-2309	9
2400's	2401-2412	12
Totals		53

As of February 2007, NCTD will make 148 buses available to Contractor. 12 new buses will be available in September bringing the total available to 160 in 2007. As new buses are procured in future years, equipment will have to be removed from retiring buses and installed in newly acquired vehicles in a timely manner.

NCTD operates in the northern portion of San Diego County, an area of approximately 1,100 square miles, which is inhabited by about 842,000 people. The total bus ridership for FY 2006 was 10.1 million passengers.

3.2 Miscellaneous

Contractor shall reimburse NCTD for the cost of reasonable repairs should installation and/or removal of televisions installed by Contractor cause damage to NCTD vehicles or if damage occurs to the bus while replacing televisions. The cost of repairs shall include all materials and labor. Labor shall be at the current NCTD labor rate plus benefits.

NCTD reserves the right to suspend temporarily, or discontinue permanently, the operation of any of its lines or any of its vehicles at any time and to decrease or increase the number of vehicles in daily use and to change scheduled runs. NCTD also reserves the right to make such changes from time to time in its vehicles in use as it may deem advisable. No increase, decrease, suspension, or discontinuance of any line or service, or change of vehicles by NCTD shall be deemed a breach of this Agreement, or affect or change the rights of either party against the other, or affect the payments provided herein.

NCTD agrees to furnish Contractor, upon request as may be convenient, reports showing the total number of passengers transported and such other information as may be reasonably required by Contractor for its use in selling advertising time to clients. NCTD agrees whenever practicable to give Contractor thirty days' notice in writing of any substantial change in NCTD's operating schedule, service, vehicles, or routes.

NCTD shall retain the right to use up to two (2) minutes per hour for broadcasting information to its passengers via the CIS for the Breeze and Sprinter modes.

4.0 MTS AND NCTD REQUIREMENTS

The following provisions set forth criteria and requirements related to services provided by Contractor to MTS and NCTD under this Agreement.

4.1 MTS and NCTD RTMS System

The MTS and NCTD RTMS systems include necessary subsystem functions capable of providing data for precision vehicle position analysis, route and geographic database storage, wireless LAN (WLAN), and conditioned power supply. A CIS system may be fully independent or may be partially integrated on any existing MTS or NCTD onboard system, such as the RTMS program. CIS shall operate on 802.11a or other wireless communications channels compatible with existing WLAN networks operated by MTS or NCTD and subject to MTS or NCTD approval as applicable. Contractor shall use its best efforts not create an additional sign on process for utilization of Contractor's equipment by the Vehicle operator.

4.2 Remote Terminals

If necessary to provide system functional support, the proposed CIS shall be equipped with remote terminal(s) or integrate with existing RTMS consoles. The number and location of terminals shall be considered and included in context with the proposed solution.

4.3 Geographic Information System (GIS)

MTS and NCTD shall be responsible for the determination of what stops will be announced on each of their routes. MTS and NCTD shall provide Contractor with a list for each route that indicates the GIS coordinate of each stop and the MTS- or NCTD-approved message to be announced at that stop. Contractor shall provide actual voice announcements to MTS and NCTD of each stop for approval.

4.4 Data Protocols

Data communications to/from MTS and NCTD systems, such as RTMS, shall be based on standard, open protocols that conform to the Open Systems Interconnection (OSI) seven-layer model. These protocols shall include the following:

- a. The use of IEEE standard 802.3 – 1998 Ethernet with TCP/IP for local area network communications and 802.11 – 1997 Wireless LAN.
- b. The use of IP for wide area network communications.
- c. The use of TCIP, SAE, and EIA protocols for vehicle area network communications.

4.5 Data Access Limitations

Information generated and stored on the bus by MTS or NCTD is privileged data and may only be obtained for operation of the CIS in a passive mode. Data provided by MTS or NCTD may not be modified or retransmitted for other purposes other than operation of the CIS unless authorized by MTS or NCTD as applicable.

4.6 WIFI Equipment at Bus and Rail Maintenance Facilities

MTS bus and rail fleet maintenance areas, and NCTD bus maintenance areas are equipped with several wireless access points (WAPS) for uploading data collected from fare collection and passenger-boarding systems. Information transmitted via wireless transmission to MTS and NCTD back office systems will not interfere with CIS-deployed wireless devices. Data provided by MTS and/or NCTD may not be modified or retransmitted for other purposes other than operation of the CIS unless authorized by MTS and/or NCTD.

5.0 CIS FUNCTIONAL OVERVIEW

CIS shall operate automatically when the bus is powered up and will enter into a multilevel power management state when the bus is powered down.

5.1 Minimum Performance Standard

CIS shall operate with an accuracy of 98 percent and an up-time availability of 98 percent. This performance shall be achieved without adversely disrupting bus availability based on current bus-operating duty cycles. All necessary maintenance and information content manipulation shall be transparent to MTS and NCTD Vehicle operations. MTS and NCTD acknowledge that the CIS may, from time to time, be subject to reasonable interference or down time. Contractor will use its best efforts to ensure that any such interference or down time is corrected as soon as reasonably practicable.

5.1.1 CIS system shall be designed to minimize the time it is live or "powered up" during WLAN downloads in order to minimize impact on vehicle battery life.

5.2 First Article Installations and Approval

Following initial Notice to Proceed (NTP), the Contractor shall install CIS systems and minimum support equipment needed to demonstrate integration quality and proper system function on one of each MTS and NCTD bus for a period of performance not more than 90 days. Following first-article installations and subsequent operational verifications, a second NTP will be given to begin production system installations per the negotiated schedule.

5.3 Installation of CIS Equipment for MTS and NCTD Vehicles

CIS installations shall be suitably "Ruggedized or Heavy Duty" for operation in an urban public transit environment. While it is not MTS's or NCTD's intent to restrict or limit the Contractor's installation of CIS equipment, MTS and NCTD reserve the right to reject any proposed equipment installation that does not meet industry standards for quality (form, fit, or finish), appearance, or durability.

6.0 PROJECT MANAGEMENT REQUIREMENTS

The Contractor shall establish a Project Manager who shall be highly responsive to the needs of CIS as required in these Specifications and subject to MTS's and NCTD's acceptance. The Project Manager shall coordinate design and engineering activities and provide a technical liaison to MTS and NCTD. This person shall be highly competent and fully qualified in all aspects of the System. The Project Manager shall be available to MTS and NCTD on a 24-hour-per-day, seven-days-per-week basis via telephone, pager, and e-mail.

6.1 Schedule

The Agreement schedule shall show each activity, including demonstration, testing, and installation activities for completion of the work, and shall be properly ordered and sequenced. Six printed copies and one electronic copy of the detailed Agreement

schedule shall be submitted for MTS and NCTD approval within 15 calendar days after the NTP.

6.2 Technical Plan

The technical plans shall fully describe how the proposed CIS system functions, how the system integrates onto each MTS and NCTD Vehicle, and what Vehicle interfaces will be required, including the MTS and NCTD RTMS and WAN. Note: the Contractor-installed CIS units will be required to maintain a single display/announcement feature and be capable of being fully trainlined between coupled LRVs as the consist may be altered from single vehicle operation up to four (4) cars. Consideration must also be given to operation of the CIS units in the San Diego State University's 4,100 foot-long tunnel environment. The operator of the LRV shall have a Contractor-supplied keypad to activate the CIS for the designated route. Contractor shall also equip each LRV with roof-mounted GPS WiFi antennas and media engine as depicted on drawings provided to MTS and NCTD during the trial phase.

TECHNICAL SUBMITTAL	TECHNICAL DATA	SCHEDULE
<i>System Model Number (if applicable)</i>		
<u>General System Operating Description:</u> Contractor shall furnish a detailed description of the elements of the proposed CIS system that demonstrates proposer's degree of knowledge about MTS's and NCTD's existing systems and operating characteristics.	Documentation and Optional Multimedia Demonstration (video or CD/DVD)	
<u>Proposed Equipment Specifications:</u> Contractor shall furnish technical brochures, drawings, or pictures needed to provide MTS and NCTD with a clear understanding of the proposed CIS system.	Documentation	
<u>Provide Scale Installation Drawings(s) or Pictures:</u> that illustrate a typical CIS installation on an MTS 30', 35', 40', and 60' high-floor and low-floor buses, MTS Paratransit vehicles, NCTD 32', 35', and 40' low-floor buses, NCTD Paratransit vehicles and all LRVs.	Documentation	
<u>Proposed Message Content:</u> Samples of proposed message content, including next-stop and transfer information format, news, weather, time of day, and MTS or NCTD special messages.	Documentation	
<u>Installation and Maintenance Plan:</u> that demonstrates the seamless integration of an automatic CIS system including information content and data management process. The plan shall also cover proposed method to maintain the appearance of the CIS relative to daily wear and damage (including vandalism).	Documentation	
<u>Provide Scaled Logical Block Drawings(s):</u> that illustrate all network device communications for a typical CIS AVL GIS installation to included deployments of wireless devices and computer hardware on MTS 30', 35', 40', and 60' high-floor and low-floor buses, NCTD 32', 35', and 40' low-floor buses, MTS and NCTD Paratransit vehicles, and all light rail vehicles at rail platforms, maintenance facilities.	Documentation	
<u>Exceptions or Deviations:</u> provided to advise MTS and NCTD concerning proposed deviations to performance specifications.	Documentation	
Demonstration Period		

6.3 Manuals and Training

The Contractor shall provide orientation documentation and training to MTS and NCTD of the CIS system. MTS and NCTD acknowledge that Contractor is responsible for CIS maintenance and that the training and documents are designed to provide MTS and NCTD personnel with an understanding of the normal operation of the CIS system. Contractor shall provide MTS and NCTD with as-built block diagrams of each vehicle type showing the location and schematic connection of all CIS equipment. Delivery of the documents, drawings and training shall be provided by the Contractor and MTS- and NCTD-approved schedules.

6.4 System Support

Support for the maintenance and operation of installed CIS subsystems shall be provided on site at MTS and NCTD on a continuous basis at all bus or rail operating locations. Support for in-service CIS equipment shall be provided 24 hours per day, seven days per week. Contractor will use its best efforts to respond within 1 hour to telephone requests for support and within 4 hours after request of on-site support. Contractor will provide after-hours support contact numbers, including weekends and holidays, so MTS and NCTD staffs can call the CIS support center to report a CIS system outage, CIS device failures, or file CIS service support requests.

The Contractor shall provide on-call and on-site support throughout the Agreement period as defined in the warranty provision of the Agreement. MTS and NCTD can make available remote access capabilities to the Contractor using an MTS- or NCTD-supplied virtual provider network secured client connection to access the MTS or NCTD LAN/WAN network for troubleshooting and issue resolution of CIS-deployed equipment.

7.0 ADVERTISING REQUIREMENTS ON MTS BUS/RAIL FLEET

The Contractor shall comply with the requirements of MTS Policy No. 21 "MTS Revenue Generating Display Advertising, Concessions, and Merchandise," a copy of which is attached to this Scope of Work.

8.0 OTHER MISCELLANEOUS CHANGES

8.1 Retirement/Replacement of Vehicles

MTS expects to replace an average of 50 buses per year during the term of this Agreement, and NCTD expects to replace an average of 15 buses per year during the term of this Agreement. During this period, Contractor will be solely responsible for removing any CIS equipment from the MTS or NCTD buses being retired, as well as for installing CIS equipment on new buses being prepared for MTS and/or NCTD service. In addition, MTS may retire a portion of the U-2 vehicles during the next 3-5 years and, as such, the Contractor may be required to remove CIS equipment from the retired vehicles. Installation on newer vehicles (S70 or other type) will depend solely on the vehicle configuration and adaptability of the CIS display units.

Upon the decision by MTS or NCTD to retire any vehicle, MTS and/or NCTD will promptly notify Contractor in writing listing the vehicle number, location and date of retirement ("Retirement Notification"). Contractor shall have 60 days from the date of the Retirement Notification, which shall be issued by MTS and/or NCTD after the vehicle has been removed from revenue service, to remove any Contractor-owned CIS equipment. MTS and NCTD acknowledge that Contractor may choose to remove none or some of the CIS equipment based on the age of the equipment. During the 60 day period, MTS or NCTD will provide Contractor with access to the vehicle. Any CIS equipment left on the vehicle past the 60 days may be disposed of, along with the vehicle, in accordance with MTS's or NCTD's asset disposition procedures.

8.2 Disposition of Contractor Equipment

At the end of the Agreement or whenever a CIS display unit is removed, the Contractor will be solely responsible for removing CIS equipment from the Vehicles within a reasonable period of time and returning each Vehicle to its original operational configuration. Contractor shall remove CIS equipment in a timely, orderly manner and shall not cause undue interference with MTS or NCTD transit operations. If the Contractor does not remove its equipment in a timely manner, MTS and NCTD reserve the right to remove the equipment and bill the Contractor for the cost of removal and storage.

9.0 NCTD SPRINTER SCOPE OF WORK

Should NCTD decide to add the Sprinter LRVs to the scope of work provided by Contractor under this Agreement, the requirements related thereto shall be developed by NCTD, in consultation with the Contractor, and shall be subject to the approval of Contractor, such approval not to be unreasonably withheld. If so approved, the scope of work provided by Contractor hereunder and the requirement related thereto shall be incorporated into this Agreement.

Attachment: Policy No. 21

Policies and Procedures

No. 21

SUBJECT

Board Approval: 2/26/04

MTS REVENUE-GENERATING DISPLAY ADVERTISING, CONCESSIONS, AND MERCHANDISE

PURPOSE:

To establish a policy and guidelines concerning a revenue-generating advertising, concessions, and merchandise program encompassing trolley stations, MTS property and facilities, and selected printed materials.

Advertising on bus shelters and benches within the public rights-of-way shall be governed by the applicable policies of the applicable jurisdiction. The City of San Diego policy is included as Attachment A to this policy.

BACKGROUND:

Public transit operators and administration agencies have historically utilized advertising, concessions, and merchandising programs to supplement operational and capital funds. A sound advertising and concessions program can be a viable, alternative income source while maintaining aesthetic standards and promoting transit use.

POLICY:

The following guidelines will be reviewed annually to reflect the current policies of the MTS Board of Directors and to reflect changes in the trends of social and economic acceptance and appropriateness of various forms of advertising and concessions.

21.1 Advertising - General

21.1.1 Safety, aesthetic considerations, rider convenience, and information needs will take precedence over revenue generation.

21.1.2 Quantity, quality, and placement of all advertising will be controlled by and subject to the specific approval of MTS.

21.1.3 MTS reserves the right to reject any advertisement, commercial or noncommercial, which does not meet the Board's standards as set forth in this policy. Before any advertisement is rejected, it shall be referred to the Chief Executive Officer and General Counsel for MTS for appropriate action and a final decision.

21.1.4 The advertising program will serve the needs of local as well as national advertisers and encourage the promotion of public transit. Local advertisers will be guided by the appropriate transit agency staff in promoting specific routes/lines serving their areas.

21.1.5 No advertisement will be permitted that:

- a. appears to make a personal attack on any individual or upon any company, product, or institution; or falsely disparages any service or product or is defamatory in any respect;
- b. might be interpreted to be offensive to any religious, ethnic, racial, or political group;
- c. might be interpreted as condoning any type of criminal act or which might be considered as derogatory toward any aspect of the law enforcement profession;
- d. portrays acts of violence, murder, sedition, terror, vandalism, or other acts of violence against persons or institutions; or
- e. depicts nudity or portions of nudity that would be considered as offensive, distasteful, pornographic, or erotic, is obscene, or advertises adult entertainment. The rule of "public acceptance" should be used in such cases; i.e., if the advertisement has already gained public acceptance, then it may be considered as acceptable to MTS.
- f. might be interpreted as condoning any type of discrimination; or
- g. might be interpreted as condoning or soliciting any unlawful act or conduct.

21.1.6 No advertisement will be permitted that is in conflict with any applicable federal, state, or local law, statute, or ordinance.

21.1.7 No advertisement will be permitted that contains false or grossly misleading information.

21.1.8 No liquor, tobacco, religious, political, or firearms advertisements will be permitted.

21.1.9 Upon written demand by the Chief Executive Officer of MTS on stated grounds that shall be reasonable and upon review by General Counsel of MTS, any advertisement or other display deemed to be objectionable will be removed. No refund shall be made for the time such objectionable material was on display.

21.1.10 Advertising treatments will not impede vehicular or pedestrian traffic, will not restrict the visibility of directional/traffic signs and informational material, and will not encroach on necessary sight lines (e.g., driver/operator view of waiting patrons) nor present any other safety risks or hazards.

21.1.11 Advertising industry standard sizes will be used for all advertising treatments.

- 21.1.12 Advertising treatments will be maintained in "like-new" condition. Damage to the advertisement or its housing will be corrected within forty-eight (48) hours.

21.2 Advertising - Light Rail Vehicles and Buses

- 21.2.1 Light rail vehicles (LRVs) will not carry commercial advertising. Buses may continue the practice of having interior and exterior advertising.
- 21.2.2 For buses, a maximum of 10 percent of the full fleet may carry full-bus advertising formats rather than conventional advertising formats. Vehicle fronts must remain "unwrapped" with standard paint schemes and materials. The San Diego Transit Executive Committee, serving as the advertising design review committee, shall review and approve all full-bus advertisements in advance of installation.
- 21.2.3 Transit information material may be placed inside LRVs and buses at the discretion of the operating corporation's Chief Executive Officer. Such information can include, in accordance with this policy, the promotion of regularly scheduled public transit routes that will serve major community events open to the public with no admission charge.
- 21.2.4 At the request of a recognized public entity and with the approval of the individual operating corporation's Chief Executive Officer, LRVs and buses may carry notices of events that are served by regularly scheduled transit routes and open to the public for an entrance or other fee in accordance with this policy and under the following conditions only:
- Such notices shall be limited to no more than once per month.
 - More than one event may be shown on the same notice.
 - The listing order within the monthly notice will be by event dates. Should more than one event start on the same date, alphabetical ranking will then be used.
 - Notices will be produced in English and Spanish.
 - The production costs of each notice (including translation, typesetting, camera work, and printing) will be reimbursed by the participating public entity/event. If more than one public entity/event is involved, costs will be divided equally among all participants.
- 21.2.5 Metropolitan Transit System advertising would be excluded from the 10 percent cap on full-bus advertising formats.
- 21.2.6 Super King and Mural formats are approved for acceptable use on buses. The size specification for the Super King is 226 inches x 30 inches and is placed between the front and rear wheel wells on the street side of the bus. Murals are defined as encompassing the space under the vehicle

passenger windows on each side of the bus and extending from the front of the bus to just past the rear wheel well. These advertising formats will not be subject to the 10 percent cap assigned to full-bus wraps.

21.3 Advertising - Transit Centers, Major Transit Points, Stations, and Stops

21.3.1 Advertising treatments (housings) will be designed to complement the architecture of the transit centers/stations and the flavor of the surrounding community. MTS plan specifications will be followed wherever applicable. Advertising treatments will be designed, constructed, and placed in accordance with all applicable local, state, and federal standards.

21.3.2 Any unsold transit center, major transit points, and station display advertising space will be allocated for graphics and/or other nonrevenue-producing functions approved by the MTS Board. At least one full display panel per transit center and station will be reserved exclusively for transit-related items.

21.4 Advertising - Printed Materials

21.4.1 Advertising space may be allowed in printed materials (e.g., timetables, maps, and informational brochures) at the discretion of the operating corporation's Chief Executive Officer.

21.4.2 Advertising space may be allowed on the reverse side of regional passes, tickets, and transfers at the discretion of the MTS Chief Executive Officer.

21.4.3 No advertising space shall supersede necessary transit information and/or regulations.

21.4.4 At the discretion of the respective Chief Executive Officer, MTS and operating corporations may allocate space in printed materials to inform transit customers about private entities actively participating in transit services, e.g., pass and ticket-sales outlets.

21.5 Concessions

21.5.1 Concession formats, quantity, and placement will be approved and controlled by the MTS Board.

21.5.2 Acceptable concession formats are: pay telephones, automatic teller machines (ATMs), child-care facilities, and kiosks/shops for the sale of prepaid transit fares, transit-related merchandise, and rider convenience items approved by the MTS Board. Any additional concession formats are subject to Board approval.

21.5.3 Contracts for any concession format or related development will be awarded in accordance with existing MTS policies.

- 21.5.4 During hours of business, concessionaires will provide the public with transit information materials as directed and supplied by MTS or its designated representative.
- 21.5.5 Concession treatments/structures will be designed to complement the architecture of the transit centers/stations and the flavor of the surrounding community. MTS plan specifications will be followed wherever applicable. Concession treatments/structures will be designed, constructed, and placed in accordance with all applicable local, state, and federal standards.
- 21.5.6 Concession treatments/structures will not impede vehicular or pedestrian traffic, will not restrict the visibility of directional signs and informational materials, and will not encroach on necessary sight lines.
- 21.5.7 Concessionaire contracts will include remittance to MTS or its designated operating corporation. Said remittance will be made monthly and include a flat rate, plus percentage of gross revenue, as approved by the MTS Board.
- 21.5.8 Any and all concession on-site signing and displays will be in accordance with existing MTS policies and subject to approval of the MTS Chief Executive Officer.
- 21.6 Merchandise
 - 21.6.1 Any and all system-related merchandise will be of the highest available quality and project a positive transit image.
 - 21.6.2 Merchandise licensing Agreements and royalty payments will be made in accordance with existing MTS policies.
- 21.7 Revenue
 - 21.7.1 Except as otherwise provided, revenue from advertising in transit centers, major transit points, stations, and stops shall accrue to MTS.
 - 21.7.2 Revenue received by each corporation for vehicle and printed material advertising, concessions, and merchandise will be retained by the respective corporation and used to offset the need for public subsidy. Revenue received from electronic message boards located at San Diego Trolley stations will be retained by San Diego Trolley.
 - 21.7.3 Revenue received from advertising on the reverse side of regional passes, tickets, and transfers shall be utilized as reimbursement to the MTS "Transfers, Tickets, Passes" line item.
 - 21.7.4 In lieu of revenue, MTS may elect to accept an equivalent value of goods and/or services, including, but not limited to, capital improvements, information services, and site maintenance.

21.8 Contractor Services

21.8.1 MTS may engage contractor(s) services for the development, implementation, management, and maintenance of advertising, concessions, and/or merchandise programs in conformance with existing Board policies and in the best interests of MTS.

LTresc/SChamp/JGarde

POLICY.21.REV GENERATE DISPLAY AD CONCESSIONS & MERCHANDISE

7/13/06

Attachment A – City of San Diego Advertising Policy

Original Policy approved on 5/9/83.

Policy revised on 6/6/85.

Policy revised on 7/9/87.

Policy revised on 6/23/88.

Policy revised on 3/22/90.

Policy revised on 3/14/91.

Policy revised on 4/9/92.

Policy revised on 5/12/94.

Policy revised on 8/11/94.

Policy revised on 6/22/95.

Policy revised on 3/27/97.

Policy revised on 6/11/98.

Policy revised on 2/22/01

Policy revised on 2/26/04.

ATTACHMENT A
MTS POLICY NO. 21
CITY OF SAN DIEGO
ADVERTISING POLICY

Subject:

ADVERTISING ON BUS STOP SHELTERS AND BENCHES

Background:

The City of San Diego (City) entered into a Memorandum of Understanding (MOU) with the Metropolitan Transit Development Board (MTS), adopted July 25, 1988, and amended February 25, 1991, and June 21, 1999, authorizing MTS to install bus stop shelters and bus benches in public rights-of-way in the City. Pursuant to the MOU, MTS contracted with third parties for the construction, installation, and maintenance of the bus stop shelters and benches. In exchange, MTS's contractors receive the proceeds from the sale of advertising space on the shelters and benches.

MTS regulated the content of the advertising placed on the bus stop shelters and benches according to its Policies and Procedures No. 21. After advertising containing a religious message was removed pursuant to that policy, valid concerns were raised that the policy may violate due process and first amendment rights governing public speech.

Purpose:

It is the intent of the City Council to establish a policy governing advertising on bus stop shelters and benches in the public rights-of-way within the City that will be included by amendment in the MOU between the City and MTS, and administered by MTS.

It is the further intent of the City Council to prohibit advertising on bus stop shelters and benches of alcoholic beverages, tobacco products, and firearms in recognition of the fact that many public transit patrons are minors, that possession of these products by minors is illegal and dangerous, and that advertising is a persuasive medium for encouraging the use of these products by minors.

This policy applies only to advertising space located in designated areas on bus stop shelters and benches, as described in the MOU between the City and MTS.

Policy:

Advertising on Bus Stop Shelters and Benches:

1. In its Agreement with its advertising contractors, MTS shall reserve the right to reject any advertisement, commercial or noncommercial, which does not meet the standards set forth in this policy.
2. All advertising posted on bus stop shelters and benches must conform to the following criteria:

2. All advertising posted on bus stop shelters and benches must conform to the following criteria:
 - A. Defamatory Advertising. No advertising will be permitted that falsely disparages any person, product, or company, or that is likely to damage the reputation of any person, product, or company.
 - B. Advertising Condoning Criminal Conduct. No advertising will be permitted that is likely to incite or produce imminent unlawful activity.
 - C. Obscene Advertising. No advertising will be permitted that contains obscene matter or matter harmful to minors, as defined in California Penal Code Sections 311 and 313.
 - D. False Advertising. No advertisement will be permitted that contains false or grossly misleading information.
 - E. Alcohol, Tobacco, and Firearms. No advertisement will be permitted that promotes the sale of alcoholic beverages, tobacco or tobacco products, or firearms.
 - F. Existing Laws. All advertisements must conform to applicable federal, state, and local laws.
3. The City may make demand upon the Chief Executive Officer of MTS for the removal of any advertisement, commercial or noncommercial, that does not conform to this policy. Such demand shall be in writing and shall state reasonable grounds for the demand. MTS shall consider and act upon the demand in accordance with this policy.

SGreen/SChamp/JGarde
POLICY.21.REV GENERATE DISPLAY
AD CONCESSIONS & MERCHANDISE
7/13/06

REVENUE-SHARING SCHEDULE

"Agreement Year" is defined as a 365-day period. Agreement Year One would consist of the day this Agreement is executed plus 364 days immediately subsequent thereto. For example, if this Agreement is executed on July 1, 2007, Agreement Year One would be July 1, 2007, through June 30, 2008.

Agreement Year	% of Adjusted Gross Revenues \$0 to \$6 Million	% of Adjusted Gross Revenues \$6.01 Million to \$11.99 Million	% of Adjusted Gross Revenues \$12 Million or greater
Year One	10%	15%	20%
Year Two	10%	15%	20%
Year Three	10%	15%	20%
Year Four	10%	15%	20%
Year Five	10%	15%	20%
Year Six	15%	25%	30%
Year Seven	15%	25%	30%
Year Eight	15%	25%	30%
Year Nine	15%	25%	30%
Year Ten	15%	25%	30%
Year Eleven	15%	25%	30%

Gross Revenues and Adjusted Gross Revenues. Contractor shall provide advertising services pursuant to the Scope of Work and this Agreement on the MTS system and NCTD system Vehicles on a fee-for-service basis and shall endeavor to collect from its advertising clients and separately account for aggregate revenues generated by the sale of such advertising services ("Gross Revenues"). The Gross Revenues actually collected by Contractor each calendar quarter shall be reduced by an amount equal to the amount paid for agency commissions ("Adjusted Gross Revenues"). Within 30 days after the end of each calendar quarter, Contractor shall remit to MTS the percentages of the Adjusted Gross Revenues for such calendar quarter to be paid to Authority. MTS shall transmit NCTD's portion of the Adjusted Gross Revenues to NCTD within 30 days of receipt of payment from Contractor. Payments to MTS and NCTD shall be allocated according to the ratio of the annual ridership carried by MTS and NCTD individually for those services on which TTN has been installed, in proportion to the total ridership carried by both MTS and NCTD for those services. Annual ridership shall be determined based on SANDAG counts or NCTD and MTS data as reported to the National Transit Database for the previous complete year. MTS and NCTD acknowledge that from time to time, Contractor may enter into trade arrangements with advertisers and that the value of those trade arrangements will not be included in the calculation of Gross Revenues. Any such trade arrangements will be referred to in Contractor's quarterly reports.

Agreement Years 1-5

During Agreement Years 1 through 5, MTS and NCTD Annual Combined Total Revenues shared shall be based on stair-step increments, which start at 10% of the Adjusted Gross Revenues between \$0 and \$6,000,000, 15% for the Adjusted Gross Revenues between \$6,000,001 and \$12,000,000, then 20% of the Adjusted Gross Revenues over \$12 million, as set forth in the table above.

Example 1: If the Adjusted Gross Revenues are \$20 million in Year 3, MTS and NCTD, then MTS and NCTD Annual Combined Total Revenue is calculated as follows:

10% of the first \$6,000,000 of Adjusted Gross Revenue or \$600,000;
15% of the Adjusted Gross Revenues between \$6,000,001 and \$12,000,000 or \$900,000; and

20% of the Adjusted Gross Revenue above \$12,000,000 or \$1,600,000.

Annual Combined Total Revenue to MTS and NCTD under this example would be \$3,100,000.

Agreement Years 6-11

During Agreement Years 6 through 11, MTS and NCTD Annual Combined Total Revenue shall be based on stair-step increments, which start at 15% of the Adjusted Gross Revenues between \$0 and \$6,000,000, 25% for the Adjusted Gross Revenues between \$6,000,001 and \$12,000,000, then 30% of the Adjusted Gross Revenues over 12 million, as set forth in the table above.

Example 1: If in any Agreement Years 6 through 11, Contractor collects Adjusted Gross Revenues of \$51 million, then MTS and NCTD Annual Combined Total Revenue is calculated as follows:

15% of the first \$6,000,000 of Adjusted Gross Revenues, or \$900,000.

25% of the Adjusted Gross Revenues between \$6,000,001 and \$12,000,000, or \$1,500,000.

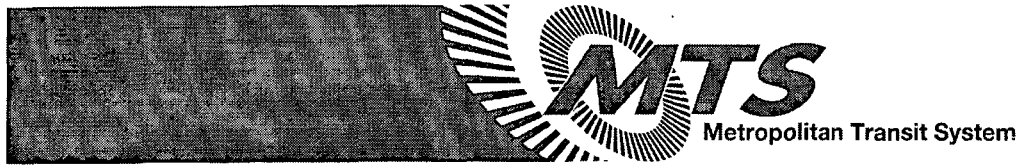
30% of Adjusted Gross Revenue of \$12,000,000, or \$11,700,000.

The Annual Combined Total Revenue to MTS and NCTD under this example would be \$14,100,000.

Guaranty: Within 30 days following the end of each Agreement year, if the Annual Combined Total Revenue remitted to MTS and NCTD for each Agreement Year does not equal or exceed the Guaranty amount set forth in the "Annual Guaranty Payment Chart" below for such Agreement Year, Contractor shall remit the difference between the Annual Revenue Share and the Guaranty amount applicable to the Authority for the Agreement Year to MTS. MTS shall transmit NCTD's portion to NCTD within 30 days of receipt of payment from Contractor. The initial Agreement year shall commence on the date of execution of this Agreement.

Annual Guaranty Payment Chart:

Agreement Year	Annual Guaranty Amount (to be shared by MTS and NCTD)
1	\$30,000
2	\$30,000
3	\$30,000
4	\$30,000
5	\$30,000
6	\$30,000
7	\$30,000
8	\$30,000
9	\$30,000
10	\$30,000
11	\$30,000



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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.

SRTP 875 (PC 50451)

July 19, 2007

SUBJECT:

MTS: FARE STRUCTURE OVERVIEW

RECOMMENDATION:

That the Board of Directors receive a report on the MTS fare structure.

Budget Impact

None.

Executive Committee Recommendation

At its meeting on June 21, 2007, the Executive Committee recommended forwarding this item to the Board for approval.

DISCUSSION:

As a result of Senate Bill 1703, the San Diego Association of Governments (SANDAG) is now responsible for regional fare setting of transit services and is currently conducting a regional fare study to identify opportunities to improve the regional fare structure as it relates to simplicity, impact on revenues and passengers, and implementation of the Compass Card smart card application. In the near future, a presentation will be given to the Executive Committee on fare structure strategies and options being developed as part of the fare study. To provide a background and context for discussing new strategies and options, an overview of the current MTS fare structure was presented at the June 21 Executive Committee and will be presented at the July 19 Board of Directors meeting.

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Conan Cheung, 619.515.0933, conan.cheung@sdmts.com

JULY19-07.45.FARE STRUCTURE.CHEUNG.doc



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 Lamons Grove, City of National City, City of Poway, City of San Diego, City of Santee, and the County of San Diego.

Metropolitan Transit System

MTS FARE STRUCTURE OVERVIEW

July 19, 2007



Regional Fare Study

Schedule and Status

- SB 1703 – SANDAG responsible for setting fare structure and policy
- Goals of Regional Fare Study:
 - ❖ Simplify regional fare structure
 - ❖ No negative impact to passengers and fare revenue
 - ❖ Establish structure for integration of Smart Card
- Additional MTS Fare Setting Goals:
 - ❖ Identify ways to equitably increase fare revenue
 - ❖ Increase controls over use of discount passes
- Implementation of any fare restructuring would be 3rd Qtr of FY08 (Jan-Mar 2008)



MTS Existing Fare Structure

CASH FARE

Category	Adult	S/D	ADA
Premium Express	\$4.00		
Trolley	\$1.25-\$3.00		
Express	\$2.50		
Urban Frequent	\$2.25	\$1.00	
Urban Standard	\$1.75		
Neighborhood	\$1.00-\$1.75		
Paratransit	\$3.00	\$1.50	\$3.50-\$4.50
Rural	\$5.00-\$10.00	\$2.50-\$5.00	

PASS FARE

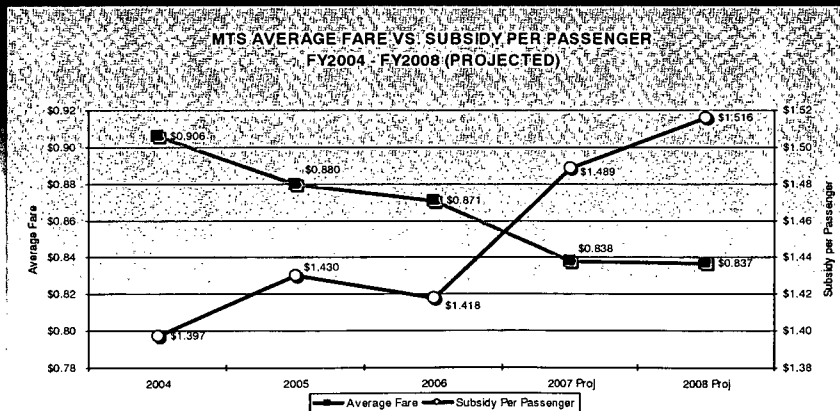
Category	Std Month	S/D Month (All Day)	Student Month	Student Term	Day Pass	Youth Pass
Premium Express	\$84.00					
Express	\$64.00					
Trolley						
Urban Frequent	\$60.00	\$15.00	\$45.00	\$104-\$154	\$5.00	\$30.00
Urban Standard						
Neighborhood						
Paratransit						
Rural						

OTHER CRITERIA

S/D Qualifying Age	60
Transfers	Free (2hr from time of boarding)
Tokens	Token value of \$2.25 discounted to \$2.09 when buying 20 or 40 tokens

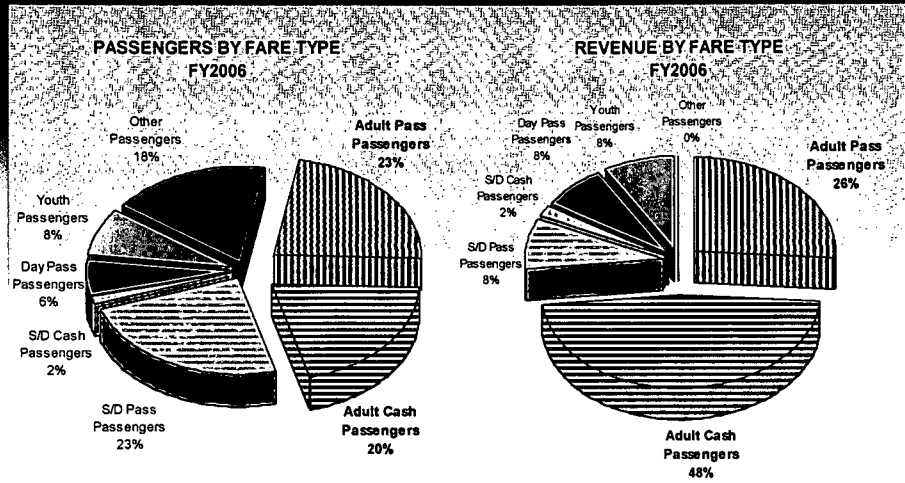
Average Fare vs. Subsidy

FY2004 – FY2008 (Projected)



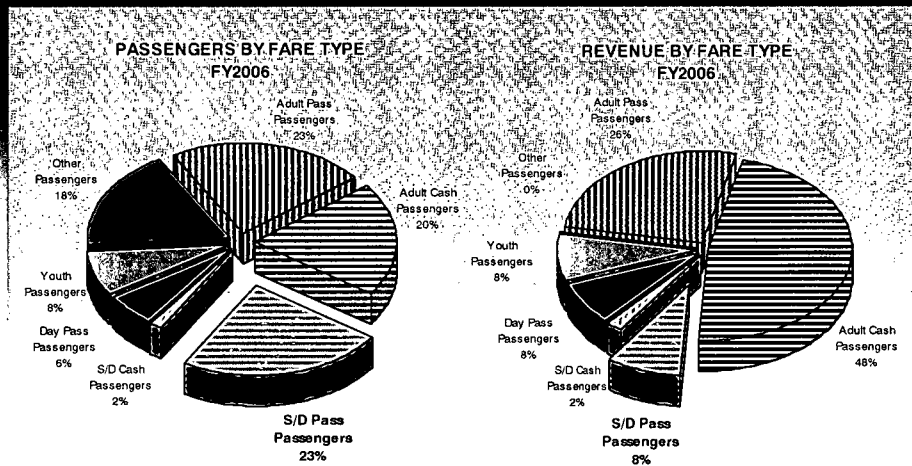
- Overall operating cost increasing and avg. fare is decreasing
- FY 2007 decrease in avg. fare and increase in sub/pax due to MVE and transfers related to "Green to Blue" at Old Town

Passenger Revenues – Adult Fares



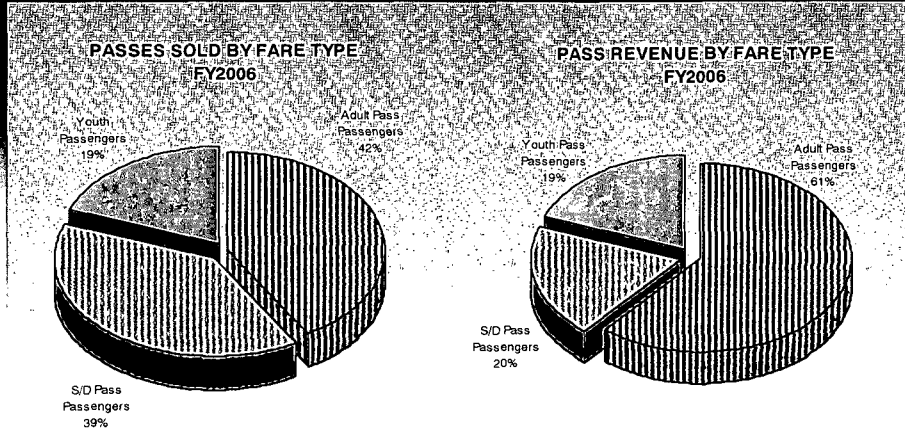
- Adult fares represent only 43% of passengers, but account for 74% of revenue
- Disparity due to adult cash fare as adult pass fares are equitable

Passenger Revenues – S/D Fares



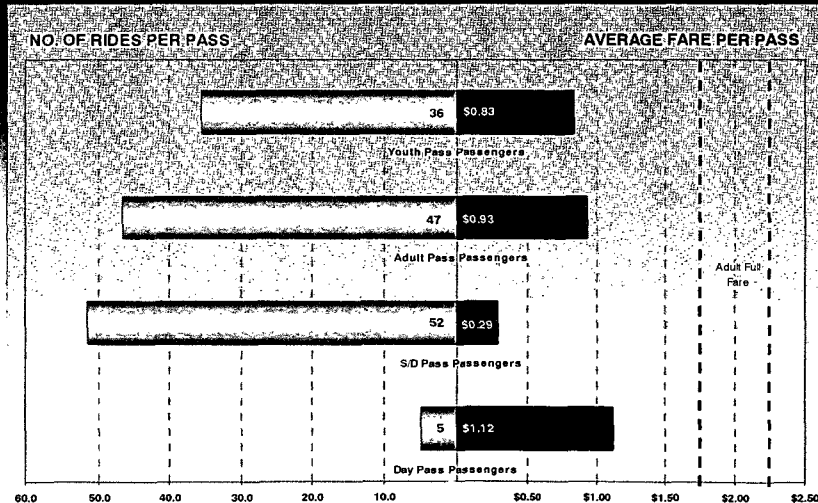
- S/D fares represent 26% of passengers, but account for only 10% of revenue
- Disparity due to S/D pass fare as S/D cash fares are equitable

Regular Pass Sales and Revenues



- S/D pass are 39% of regular pass sales, but only account for 20% of pass revenue
- Adult pass are 42% of regular pass sales, but account for 61% of pass revenue

Regular Pass Usage vs. Average Fare FY2006



- S/D pass represent lowest avg. fare (\$0.29) and most uses (52 trips/month)

Discounted Pass Sales and Revenue FY2006

PREPAID MEDIA TYPE	COST	DISCOUNT	QUANTITY SOLD	REVENUE	% OF PREPAID MEDIA SALES	% OF PREPAID MEDIA REVENUE
Jury Services	\$4.35	13%	36,657	\$159,579.00	1.7%	0.5%
College Monthly Pass	\$45.00	25%	14,021	\$630,945.00	0.7%	1.8%
College Semester Pass	\$136.54	35%	9,202	\$1,256,459.00	0.4%	3.7%
Senior/Disabled	\$15.00	75%	381,557	\$5,635,589.52	17.8%	16.5%
Youth Pass	\$30.00	50%	187,091	\$5,528,539.07	8.7%	16.1%
Universal Token	\$2.25	9%	330,249	\$673,707.96	15.4%	2.0%
Social Svc Day Tripper	\$4.18	16%	13,919	\$58,181.42	0.6%	0.2%
Hotel Day Tripper	\$5.00	5%	4,978	\$23,620.50	0.2%	0.1%
Classroom Day Tripper	\$1.50	70%	45,310	\$67,965.00	2.1%	0.2%
Day Tripper - 1 Day	\$5.00	0%	753,764	\$3,580,379.00	35.1%	10.5%
Day Tripper - 2 Day	\$9.00	10%	38,137	\$324,164.50	1.8%	0.9%
Day Tripper - 3 Day	\$12.00	20%	25,072	\$282,060.00	1.2%	0.8%
Day Tripper - 4 Day	\$15.00	25%	54,452	\$762,328.00	2.5%	2.2%
Eco Pass	\$44.40	31%	8,947	\$397,232.37	0.4%	1.2%
Convention	\$11.51	23%	1,586	\$18,251.25	0.1%	0.1%
Average prepaid media discount:		25%	1,904,942	\$ 19,399,001.59	88.7%	56.6%

- 88.7% of all prepaid media sales receive an avg. discount of 25%
- S/D passes receive an avg. discount of 75%
- Excluding S/D and Youth passes, avg. prepaid media discount is 8%

Note: % of system prepaid media revenue statistics calculated without TransNet subsidy of \$5.5 million

Key Findings and Conclusions

- Average fare is \$0.84 and declining as more trips are made and more discount passes are used
- Adult Cash passengers are significantly subsidizing S/D Pass passengers
- S/D Pass passengers represent lowest avg. fare (\$0.29) and highest number of trips per month (52)
- Regular adult passes only represent 11% of prepaid media sales, remaining 89% are discounted an average of 25% off regular adult pass price

FARE TYPE	DISCOUNT*	% OF PREPAID SALES
Day Tripper	10%-25%	41%
S/D Pass	75%	18%
Tokens	9%	15%
Youth Pass	50%	9%

* Discount off regular adult pass



Metropolitan Transit System

MTS FARE STRUCTURE OVERVIEW

July 19, 2007





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 19, 2007

In accordance with Board Policy No. 52, Procurement of Goods and Services, attached are listings of contracts, purchase orders, and work orders that have been approved within the CEO's authority (up to and including \$100,000) for the period June 5, 2007, through July 6, 2007.

[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. 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,

Agenda Item 61
Chief Executive Officer's Report

July 19, 2007

Contracts

Organization	Subject	Amount
BRENCO OPERATING INC	PURCHASE UP TO 600 SPARK PLUGS	\$35,525.18
SDSU	ECO PASS	\$57,648.00
COUNTY OF SAN DIEGO	GRANT OF EASEMENT	\$0.00
HI-TEC ENTERPRISES	PROVIDE 1500 SILVER CONTACTS	\$29,011.69
GIRO INC	MAINTENANCE CONTRACT	\$60,363.00
SIEMENS TRANSPORTATION	PROVIDE TEN LOAD CELLS	\$16,108.63
TMD	ON-CALL GENERAL TRANSPORTATION SERVICES	\$35,000.00
LAW OFFICES OF DAVID SKYER	LEGAL SERVICES-GENERAL LIABILITY	\$45,000.00
AZTEC FIRE AND SAFETY	REPAIRS TO AUTOMATIC FIRE SYSTEM	\$4,940.00
APPLIED INDUSTRIAL	CHART DATA RECORDER KIT	\$18,692.40
CANON BUSINESS	PURCHASE OF FIVE COPIERS FOR SDTC	\$36,467.99
MORRISON METALWELD PROCESS	PROVIDE WELDING SERVICES	\$10,000.00
HEGENSCHEIDT CORP	REPAIR SERVICES ON WHEEL TOWING	\$17,720.00
SIEMENS TRANSPORTATION	PROVIDE THREE U2 PANTOGRAPHS	\$58,846.05
J. PEREZ ASSOCIATES INC	PROVISION OF ADDITIONAL MAINTENANCE	\$77,020.00
WISMAR & BARBER	LEGAL SERVICES-WORKERS' COMPENSATION	\$35,000.00
THE KOBAY CORPORATION	MASTER CONCESSIONAIRE SERVICES	\$93,000.00
WHEATLEY BINGHAM & BAKER	LEGAL SERVICES-GENERAL LIABILITY	\$100,000.00
GREYHOUND	LEASE OF EXCESS RIGHT OF WAY AT SAN YSIDRO ITC	\$1,375.00
HECHT SOLBERG, ROBINSON	LEGAL SERVICES-CONSTRUCTION	\$100,000.00
SYSTEMS SUPPORT SOLUTIONS	CONTRACT FOR FIBEROPTIC EQUIPMENT	\$4,992.50
CENTRE CITY DEVELOPMENT CORP.	PERMIT FOR CONSTRUCTION OF PARK BLVD	\$0.00
THE DÉCOR PLAN	TROLLEY STATION BANNER FOR ADVERTISING	\$25,000.00
SCRIPPS HEALTH CENTER	ECO PASS	\$65,971.20
AZTEC JANITORIAL	FASHION VALLEY TRANSIT CENTER JANITORIAL	\$12,078.00
EVANS HOTELS	ECO PASS	\$58,176.00
SUPERIOR COURT (SANDAG)	MULTIAGENCY FOR JUROR PARTNERSHIP	\$0.00
HI-TEC ENTERPRISES	PROVIDE EIGHT GEAR BOX REPAIR KITS	\$83,339.88
FIRE HAWK FIRE SAFETY	FIRE EXTINGUISHER SERVICE	\$31,483.38
SIEMENS ENERGY AND AUTOMATION	PROVIDE OVERHAUL AND REPAIR SERVICES	\$81,822.68
LAW OFFICES OF BING I. BUSH JR	\	\$45,000.00
OMEGA ELEVATOR	ESCALATOR MAINTENANCE	\$72,904.00

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Chief Executive Officer's Report

July 19, 2007

Purchase Orders

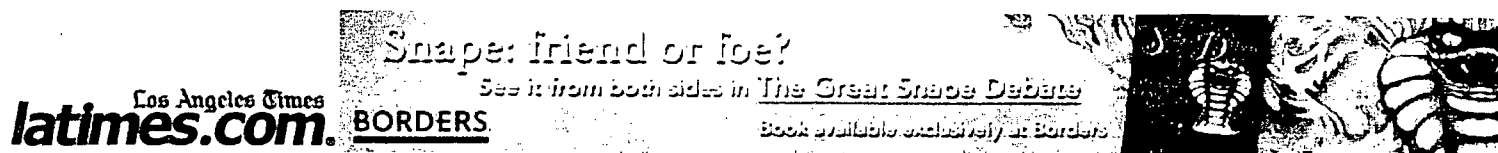
Organization	Subject	AMOUNT
THE GATES GROUP	OUICK TRIP BUS CARDS	\$2,465.32
HOSPITALITY COMPANY	ADS IN STUDENT NEWSPAPER(SDSU)	\$2,380.00
RUSH PRESS	PRINTING OF REGIONAL TRANSIT MAP	\$1,247.21
DIMENSIONAL SILK SCREEN	BALBOA PARK	\$1,877.01
AFFORDABLE BUTTONS.COM	DUMP THE PUMP BUTTONS	\$230.85
RUSH PRESS	SAN DIEGO TROLLEY POCKET GUIDE	\$4,800.26
CITY HEIGHTS BUSINESS ASSN.	BANNER POLES	\$2,500.00
CBS OUTDOOR	OPEN P.O. FOR BUS SHELTERS	\$40,290.00
CRUZ ESTRELLA'S CADD AND DRAFTING	AMAYA STATION AND PARKING CLOSED-CIRCUIT TELEVISION	\$976.45
AAA PRINTING CO.	PRINTING OF ACCESS/ADA SUBURBAN RIDER'S GUIDE	\$2,136.68
PACIFIC SERVICES	SWITCHES	\$5,811.59
TRANSIT INFO PRODUCTS	TACTILE PLATES	\$1,007.24
AAA PRINTING	NO-SMOKING TAKE ONE	\$1,424.38
AZTEC JANITORIAL SERVICES	ASSEMBLE & INSTALL BENCHES	\$2,498.04
FRANKLIN COVEY	CERTIFICATION ON 7 HABITS	\$2,033.75
INC. ADDONS	SOFTWARE INTERFACE FOR ELLIPSE	\$7,680.00
BORDEAUX PRINTERS	BALBOA PARK COUPON BOOK	\$8,059.70
DOCUSURE	SCANNING VARIOUS DOCUMENTS	\$20,000.00
FUEL SOLUTIONS	FEDERAL CNG TAX REBATE CONSULTING	\$12,935.00
TIMECLOCK SALES AND SERVICE CO	YEARLY MAINTENANCE CONTRACT	\$512.00
SKYLINE SAN DIEGO	BANNER STAND PACKAGE	\$1,654.63
AZTEC LANDSCAPING INC	WEED ABATEMENT	\$4,246.95
AAA PRINTING COMPANY	MTS ACCESS	\$850.85
SAN DIEGO PUBLISHING CO.	FULL-PANEL AD IN NATIONAL CITY	\$1,895.00
THE GATES GROUP	BUS CARDS, SDMTS	\$2,462.09
BROWN & BIGELOW	CERAMIC MUGS WITH NEW SDMTS	\$862.21
VISIBLE INK	CITY COLLEGE BANNER	\$1,530.05

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Chief Executive Officer's Report

July 19, 2007

Work Orders

Organization	Subject	Amount
BERRYMAN & HENIGAR	BID PROCESSING FOR 9TH & 10TH FLOOR REMODEL	\$5,811.00
PADILLA	CONTINUE TO REVIEW AND REVISE DBE GOALS	\$2,300.00



<http://www.latimes.com/news/printedition/california/la-me-mta27jun27,1,5199510.story?coll=la-headlines-pe-california>
 From the Los Angeles Times

Coalition sues in bid to block MTA fare hikes

Plaintiffs say higher fees could push more transit users into cars, adding to pollution. They want the agency to produce an environmental report.

By Tiffany Hsu
 Times Staff Writer

June 27, 2007

Three groups representing local public transit riders and conservation interests united Tuesday in an effort to require the Los Angeles County Metropolitan Transportation Authority to hold off on fare increases until their environmental effects can be measured.

A coalition of the Natural Resources Defense Council, the Bus Riders Union and the Labor/Community Strategy Center, a think tank, filed suit seeking to require the MTA to produce an environmental impact report and filed a separate injunction request to block fare increases until the suit is resolved.

The coalition said the MTA's increased prices would force more public transit passengers — mostly the working poor — into cars, causing pollution levels to surge.

In anticipation of a \$1.8-billion deficit over the next decade, MTA directors authorized the fare hike May 24. Los Angeles Mayor Antonio Villaraigosa had sought a smaller increase.

Effective Sunday, the monthly pass for buses and trains is to increase from \$52 to \$62, the day pass from \$3 to \$5 and the monthly pass for seniors from \$12 to \$14. Over the next two years, the single-ride fare is to climb from \$1.25 to \$1.50.

Before the May board meeting, the coalition sent a comment letter warning the MTA of the possibility of a lawsuit opposing fare hikes, said Francisca Porchas, a Bus Riders Union organizer.

A judge is expected to rule on the injunction today.

In a similar situation in 1994, the MTA was sued by the National Assn. for the Advancement of Colored People and the Bus Riders Union over proposed fare hikes and the elimination of the monthly bus pass.

The agency ultimately signed a consent decree agreeing not to raise fares for several years.

This time, the coalition alleges that the MTA is violating the California Environmental Quality Act of 1970, which requires local government agencies to measure environmental effects before proceeding with development plans. The law allows agencies to restructure fares without such a report to meet operating costs.

Porchas believes the MTA plans to use the funds for construction of rail projects.

"It was a lot of what [MTA Chief Executive] Roger Snoble stated during the actual fare increase process, a lot of, 'Oh, some rail projects are going to have to wait if we don't get the money,'" Porchas said.

"To us, it looks like they're going to free up money to build capital projects," she said.

But MTA spokesman Marc Littman said none of the money from the fare increase was headed to construction plans.

With rider fees covering 24% of the bus and rail systems' operations costs, and subsidies filling the rest, even revenue from the price boost would not be enough to balance the MTA's budget, Littman said.

"To make this argument that we're going to have more money than we need is not true," Littman said. "The point is, every penny of the fare increase is going into operations, just to maintain the current system."

But if the fares are increased, coalition representatives said, nearly 100,000 bus riders — with an annual median income of \$12,000 — could be priced out of public transportation; 2,800 of those, they said, would use cars.

For each 10% increase in fares, public transportation ridership drops 3% to 4%, Porchas said, citing a statistic that Littman said was outdated.

"These people are still going to need to get to school, work, church, etc.," said David Pettit, director of the Natural Resources Defense Council's Southern California Air Program. "And in some cases it might be financially worth it to go buy some piece of junk car. And they're going to tend to be older and more polluting cars."

The influx of drivers would further choke Southern California streets, plaintiffs said, and intensify respiratory disease, air pollution, greenhouse gas emissions, global warming and other environmental and health woes.

"It's something the MTA, in our view, ought to study," Pettit said. "They can study it and say it's trivial, but they wouldn't know that unless they look at it."

The MTA has refused to conduct an environmental impact report because, Littman said, state law exempts it from the resource-intensive process.

"These reports take a lot of time. They can go on for years, they're very expensive and, since we couldn't even sustain a growing operating deficit, it's untenable," Littman said. "We've never had to do that in the past. And in the meantime, we had a crisis."

The MTA takes in less than \$3 million a year from fares, said Littman, who argued that the agency's rates are reasonable considering its recent expansions in service.

And although the MTA expects to lose riders from the price hikes, it expects to win them back through increased service, Littman said, pointing to the costs of driving.

"Even with the fare increase, the average boarding is only 66 cents," Littman said. "But if you factor in the costs of a car — the cost of a gallon of gas alone, depreciation, parking, maintenance — there's no comparison, Metro's still a bargain."

tiffany.hsu@latimes.com

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New MTA fares are to take effect Sunday

Under a series of fare increases approved in May, bus and rail passengers will be charged significantly more, effective

MTA fares

	Senior Daily		Weekly		Senior Monthly	
	Cash	cash*	pass	pass	pass	pass
Current	\$1.25	na	\$3.00	\$14.00	\$52.00	\$12.00
New						
July 1, 2007	1.25	0.25	5.00	17.00	62.00	14.00
July 1, 2009	1.50	0.30	6.00	20.00	75.00	17.00

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* Discount cash fare for seniors and the disabled during non-peak hours Source: Los Angeles County Metropolitan Transportation Authority

Los Angeles Times

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