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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.

August 18, 2011

9:00 a.m.

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

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### ACTION RECOMMENDED

1. Roll Call
2. Approval of Minutes - July 14, 2011 Approve
3. Public Comments - Limited to five speakers with three minutes per speaker. Others will be heard after Board Discussion items. If you have a report to present, please give your copies to the Clerk of the Board.

Please **SILENCE** electronics  
during the meeting

1255 Imperial Avenue, Suite 1000, San Diego, CA 92101-7490 • (619) 231-1466 • [www.sdmts.com](http://www.sdmts.com)

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



## CONSENT ITEMS

- |     |  |                                |
|-----|--|--------------------------------|
| 6.  | <u>Pay Phone Services Contract - Exercise Contract Option Year Two</u><br>Action would: (1) ratify MTS Doc. No. L5678.1-08 with Western Communication Systems, Inc. for continued pay phone services; and (2) authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L5678.2-08 with Western Communication Systems, Inc. to exercise option year two for pay phone services.  | Ratify/<br>Approve             |
| 7.  | <u>San Diego and Arizona Eastern (SD&amp;AE) Railway Company Quarterly Reports and Ratification of Actions Taken by the SD&amp;AE Board of Directors at its meeting on July 19, 2011</u><br>Action would: (1) receive the San Diego and Imperial Valley Railroad (SD&IV), Pacific Southwest Railway Museum Association (Museum), and Carrizo Gorge Railway, Inc. (Carrizo) quarterly reports; (2) ratify actions taken by the San Diego and Arizona Eastern (SD&AE) Railway Company Board of Directors at its meeting on July 19, 2011; and (3) approve a recommendation by the SD&AE Board of Directors to elect Randy L. Perry as Chairperson to replace the position vacated by Don Seil. | Receive/<br>Ratify/<br>Approve |
| 8.  | <u>Unallocated Transportation Development Act Funds for Transit-Related Projects</u><br>Action would approve the use of \$33,452 in unallocated Transportation Development Act (TDA) funds currently held by the County of San Diego for transit-related expenses for the City of La Mesa.   | Approve                        |
| 9.  | <u>Transit System Safety, Security, Disaster Response Account (TSSSDRA) Grant Program</u><br>Action would approve Resolution No. 11-13 authorizing the CEO or designated representative to take any actions necessary to obtain funds provided by the California TSSSDRA Grant Program.  | Approve                        |
| 10. | <u>Investment Report - June 2011</u><br>Action would receive a report for information.   | Receive                        |
| 11. | <u>Drug and Alcohol Policy for all MTS Employees</u><br>Action would adopt Resolution No. 11-14, which would implement MTS's consolidated and updated Drug and Alcohol Policy in order to comply with current Federal Transit Administration (FTA) regulations.  | Adopt                          |
| 12. | <u>Class B Paratransit Buses - Contract Award</u><br>Action would authorize the CEO to execute MTS Doc. No. B0565.0-12 with Creative Bus Sales to purchase 30 Class B Cutaway buses manufactured by Starcraft Bus with an option to purchase up to 5 additional Class B Cutaway buses for paratransit services.  | Approve                        |
| 13. | <u>SANDAG Fund Transfer Recommendation</u><br>Action would forward a request to the San Diego Association of Governments (SANDAG) to transfer funds from the Grantville Feeder Replacement Project (Capital Improvement Project [CIP] 1130200) to the Substation Standardization Program (CIP 1142100).  | Approve                        |

## CONSENT ITEMS - CONTINUED

14. Job Order Contracts - Trolley Operations Approve  
Action would authorize the CEO to execute two Job Order Contracts (JOCs): (1) MTS Doc. No. PWL134.0-12 with Herzog Contracting Corporation; and (2) MTS Doc. No. PWL135.0-12 with ABC Construction Company, Inc. These two JOCs would piggyback on the San Diego Association of Governments' (SANDAG's) JOC contract to give MTS the ability to get any necessary work completed on the trolley operating system.
15. Greyhound Terminal Relocation Adopt  
Action would adopt Resolution No. 11-15 approving the Greyhound Terminal Relocation Project and making related findings under the California Environmental Quality Act (CEQA).

## CLOSED SESSION

24. a. CLOSED SESSION - CONFERENCE WITH LABOR NEGOTIATORS Possible  
Pursuant to California Government Code section 54957.6 Action  
Agency-Designated Representative - Jeff Stumbo;  
Employee Organization - Amalgamated Transit Union, Local 1309 (ATU)

### Oral Report of Final Actions Taken in Closed Session

## NOTICED PUBLIC HEARINGS

25. None.

## DISCUSSION ITEMS

30. SDTC Retirement Plans Actuarial Valuation as of July 1, 2010 (Cliff Telfer) Adopt  
Action would receive the San Diego Transit Corporation's (SDTC's) actuarial valuation as of July 1, 2010, and adopt a pension contribution rate of 28.105% for SDTC's retirement pension plans in FY 12.
31. IEM Bid Protest Appeal Hearing (MTS IFB No. L1016.0-11 - Furnish and Installation of a Light Rail Vehicle Wheel-Scanning Measurement System) Deny  
(Karen Landers)  
Action would deny a protest filed by International Electronic Machines (IEM) Corporation in response to MTS's Standard Invitation for Bids (IFB) for a Light Rail Vehicle (LRV) Wheel-Scanning Measurement System.
32. Light Rail Vehicle Wheel-Scanning Measurement System - Contract Award Approve  
(Karen Landers)  
Action would authorize the CEO to execute MTS Doc. No. L1016.0-11 with KLD Labs, Inc. for the procurement of goods, services, and parts necessary for a light rail vehicle (LRV) wheel-scanning measurement system.

## REPORT ITEMS

5. 2011 Comic-Con Post Event Summary (Tom Doogan and Brian Riley) Receive  
Action would receive a report for information.

- |     |   |             |
|-----|---|-------------|
| 60. | <u>Chairman's Report</u>  | Information |
| 61. | <u>Audit Oversight Committee Chairman's Report</u>  | Information |
| 62. | <u>Chief Executive Officer's Report</u>   | Information |
| 63. | <u>Board Member Communications</u>  |             |
| 64. | <u>Additional Public Comments Not on the Agenda</u><br>If the limit of 5 speakers is exceeded under No. 3 (Public Comments) on this agenda, additional speakers will be taken at this time. If you have a report to present, please furnish a copy to the Clerk of the Board. Subjects of previous hearings or agenda items may not again be addressed under Public Comments. |             |
| 65. | <u>Next Meeting Date:</u> September 15, 2011  |             |
| 66. | <u>Adjournment</u>  |             |

JOINT MEETING OF THE BOARD OF DIRECTORS FOR THE  
METROPOLITAN TRANSIT SYSTEM (MTS),  
SAN DIEGO TRANSIT CORPORATION (SDTC), AND  
SAN DIEGO TROLLEY, INC. (SDTI)  
1255 Imperial Avenue, Suite 1000  
San Diego, CA 92101

July 14, 2011

DRAFT MINUTES

1. Roll Call

Chairman Mathis called the Board meeting to order at 9:11 a.m. A roll call sheet listing Board member attendance is attached.

2. Approval of Minutes

Mr. Castaneda moved to approve the minutes of the June 23, 2011, MTS Board of Directors meeting. Mr. Van Deventer seconded the motion, and the vote was 8 to 0 in favor.

3. Public Comments

*John Wood* – Mr. Wood commented about the crossing gates and timing at Lemon Grove Depot station and stated that an underground tunnel would solve the problem. He also commented that if MTS could not afford to build a tunnel, then MTS should hire the cartels to do it.

*Dale Chock* – Mr. Chock was present to talk about his harassment by police at the San Diego State University (SDSU) Transit Center. He explained that he had prolonged contact with patrolmen; they asked if they could pat him down. He stated that they were physically intrusive and questioned him over and over even though they had no reason to stop him.

Chairman Mathis responded that Mr. Chock should write a formal complaint to SDSU. Mr. Jablonski stated that the transit center is SDSU property, and MTS uses it by easement. He told Mr. Chock to give his contact information to his staff, and he will be in touch with his contact at the university regarding his complaint.

*Lorraine Leighton* – Ms. Leighton stated that she witnessed 2 supervisors smoking at the Convention Center taxicab shelter even though there is a 25 foot smoking restriction in place.

CONSENT ITEMS:

6. Caltrans Mass Transportation Program Master Agreement for State-Funded Projects  
Action would adopt Resolution No. 11-11 authorizing the Chief Executive Officer (CEO) or designated representative to execute Master Fund Transfer Agreement A0041 A01 with the California Department of Transportation (Caltrans).

7. Cuyamaca/Gillespie Field Airplane Damage Repairs

Action would authorize the CEO to reimburse the San Diego Association of Governments (SANDAG) for invoices related to Cuyamaca/Gillespie Field airplane damage repairs.

8. Investment Report - May 2011

Action would receive a report for information.

9. SANDAG FY 2012 Budget Amendment - Light Rail Vehicle (LRV) Car Wash Replacement and Substation SCADA Design

Action would authorize the San Diego Association of Governments (SANDAG) to amend its FY 2012 Capital Improvement Program (CIP) budget and transfer \$200,000 from CIP 1144000 (Substation SCADA Design) to CIP 1128600 (LRV Car Wash Replacement).

Action on Recommended Consent Items

Ms. Lightner moved to approve Consent Agenda Item Nos. 6, 7, 8, and 9. Ms. Emerald seconded the motion, and the vote was 11 to 0 in favor.

CLOSED SESSION:

24. None.

DISCUSSION ITEMS: *(Taken Out of Order)*

30. Taxicab Administration Workshop and Revised Guidelines Related to Taxicab Advisory Committee Membership

John Scott, Taxicab Administration Manager, gave the Board an overview of the taxicab industry as it relates to MTS jurisdiction. He talked about the history of MTS's role in the taxicab industry, obligations under agreements, vehicle inspections, set rates of fare, permitting, and MTS's relationship to taxicab drivers. Mr. Scott explained that MTS does not license taxicab drivers-it is the Sheriff's responsibility.

Karen Landers, General Counsel, described the roles and responsibilities of the Taxicab Committee, which is advisory to the MTS Board of Directors. She also talked about the recent history of events surrounding the change in membership to the Taxicab Advisory Committee (TAC). She then gave an overview of the current recommendations for TAC membership as reflected in the chart below.

Current Taxicab Advisory Committee	Recommendation by the Taxicab Advisory Committee and Executive Committee	City Council Resolution
17 members	19 members	17 members
1 MTS Board	1 MTS Board	1 MTS Board
7 tourism/user <ul style="list-style-type: none"> <li>- Con Vis</li> <li>- Airport Authority</li> <li>- Convention Center</li> <li>- Travelers' Aide</li> <li>- Hotel/Motel Industry</li> <li>- Hotel/Motel Industry</li> <li>- Regional Chamber of Commerce</li> </ul>	7 tourism/user <ul style="list-style-type: none"> <li>- Con Vis</li> <li>- Airport Authority</li> <li>- Convention Center</li> <li>- Travelers' Aide</li> <li>- Hotel/Motel Industry</li> <li>- Hotel/Motel Industry</li> <li>- Sheriff's Licensing Division</li> </ul>	6 tourism/user <ul style="list-style-type: none"> <li>- Con Vis</li> <li>- Airport Authority</li> <li>- Convention Center</li> <li>- Travelers' Aide</li> <li>- Hotel/Motel Industry</li> <li>- Hotel/Motel Industry</li> </ul>
8 owners <ul style="list-style-type: none"> <li>- 3 owners 1-3 cabs (includes 1 owner/driver on current TAC)</li> <li>- 5 owners 4+ cabs</li> </ul>	7 owners ( -1 owner rep – see new owner/driver position below) <ul style="list-style-type: none"> <li>- 2 owners 1-3 cabs</li> <li>- 5 owners 4+ cabs</li> </ul>	5 owners ( -3 owner reps)
1 leased driver	3 leased drivers ( +2 driver reps)	5 leased drivers ( +4 leased driver reps)
	1 owner/driver <ul style="list-style-type: none"> <li>- (transfer from owner category and designated as required owner/driver)</li> </ul>	

Ms. Lightner commented that she was surprised the Executive Committee meeting on July 7 included a vote when the direction given at the last Board of Directors meeting was to bring it back to the Board at the July 14 meeting. She also stated that Ms. Emerald should have been involved in the Executive Committee discussions as well as the Public Safety & Neighborhood Safety (PS&NS) recommendation.

Ms. Emerald wanted to know if the TAC had an alternate policy. Mr. Scott stated that currently an individual can appoint their own alternate on the TAC. Ms. Emerald also wanted to know when the current positions come up for reelection. Mr. Scott responded that all positions will be up for election in 2013. Ms. Emerald stated that she appreciates staff working on this issue and getting the information to the Board in such a timely manner.

#### Motion

Ms. Emerald moved to adopt the City of San Diego Resolution No. R-2012-14 wherein the composition of the TAC will include an equal number of taxicab drivers and taxicab owners

(without increasing the number of members on the committee). The motion also requires that drivers elected to the TAC have a minimum of 3 years' experience. Ms. Lightner seconded the motion.

Chairman Mathis stated that a vote on the motion would not take place until the public speakers were finished making comments.

#### Public Comments

*Akbar Majid* – Mr. Majid stated that this issue is moving at the speed of a bullet. He feels that staff have worked hard and diligently on the issue and stated he is in support of the MTS staff recommendation.

*Fata Arghand* – Mr. Arghand stated that he would like to give his three minutes of speaking to the next speaker, Anthony Palmeri.

*Anthony Palmeri* – Mr. Palmeri is the President of Yellow Radio service, which is composed of 85 owners; mostly driver/owners. He has been involved with the TAC since 1989. He said that he does not want people to get the impression that this issue is owners versus drivers, and he feels that the drivers are ultimately more important. He also explained that the TAC chose to have a representative from the Sheriff's Licensing Division because it regulates all taxi drivers in the county except for Coronado. He stated that drug testing is done by the Sheriff's Licensing Division, which also has the authority to take permits away from drivers. He believes that the Workshop on Regulatory Matters (WORM) should have regular frequent meetings with drivers to hear problems. Mr. Palmeri stated that he has never heard of independent contractors being members on a Board with business owners. He stated his support for the TAC recommendation.

Ms. Lightner asked Mr. Palmeri which entity he represents on the TAC. Mr. Palmeri responded that he is the Travelers' Aide representative and that he owns 1 taxicab which is operated in the City of San Diego.

*Thomas Lam* – Mr. Lam is an intern with the United Taxi Workers of San Diego (UTWSD), and he supports the City Council resolution. He is asking for a committee roster on the TAC that gives the industry a voice, and one that reflects its constituents. He stated that there is not a magical marriage between drivers and lease holders.

*Sarah Saez* – Ms. Saez is a volunteer with UTWSD as well as the Employee Rights Center, and she stated some examples of cities that have incorporated equal numbers of drivers and equal numbers of permit holders on their Boards. She explained that drivers are not treated as employees; they are independent contractors, and therefore they pay business taxes, receive no health benefits, or workers' compensation, and are unable to form a union. She stated that taxi drivers are business people who have a right to be represented equally and encourages the Board of Directors to adopt the City Council Resolution.

*Matt Freeman* – Mr. Freeman is representing the UTWSD, and the Employee Rights Center. He wanted to explain that lease drivers and permit holders are very different. He is encouraging the Board to pass an equal representation recommendation.

**Mikaili Hussein** – Mr. Hussein is representing the UTWSD, and feels that increasing driver representation on the TAC will help expose the burdens of the taxi drivers and give them a place to bring forward complaints. He thanked Ms. Emerald for her support and vision in promoting equality.

**Jesse Mills** – Mr. Mills is a professor at the University of California, San Diego and volunteers with the UTWSD. He stated his support for the City Council Resolution creating equal representation on the TAC. He explained that he has not heard a good argument as to why the TAC needs to be an owner-dominated committee. He applauds Board members Emerald, Gloria, and Young for their decisive leadership. He then stated that there is an equity issue pertaining to drivers elected to the TAC (such as "good standing") and feels that there should be an amendment made to 2.3 and 2.4 of the agenda item.

**Moni Kehinde** – Ms. Kehinde is a lawyer with the Equal Rights Center and represents UTWSD. She stated that there is a culture of intimidating and harassing drivers. She provided an example with Mr. Hussein's case and trying to get a copy of his lease. She said that drivers are mistreated, and the drivers are present today because all citizens have a right to be heard.

**Tony Hueso** – Mr. Hueso is a small business owner who has been in business for 29 years. His problem is with government, and he wants the Sheriff's Department to be involved on the TAC. He stated that he is a volunteer member of several Boards, and he finds it disrespectful when decisions have been made without hearing all the details. He stated that everyone wants to be an owner - all drivers or permit holders want to be an owner. He explained that small businesses are not represented on the TAC, and he is asking for a fair, equitable process. He wants more government at the table and is in support of the TAC recommendation.

**Alex Gebreselassie** – Mr. Gebreselassie's family owns 5 permits and has recently been chosen to represent on the TAC. He explained that every owner on the TAC has been a driver at some point with the same complaints, and the industry has flourished on behalf of what past owners have done. He explained that there used to be a shortage of drivers but now there a shortage of taxis to drive. He stated that the TAC is willing to compromise, and change should come out of progression.

**Ahmed Sahid** – Mr. Sahid was not present during his time to speak.

**Rabbi Laurie** – Rabbi Laurie feels that taxi drivers should be able to speak without fear, and justice would demand equal representation on the TAC. She said that the Board must turn toward an equal voice on the TAC. She feels it is very sad that most taxi drivers are concerned about retaliation if they speak today and that there are 2,000-plus drivers who are called the "driving poor." She feels that people doing the driving deserve a voice without worry of retaliation.

**Kifle Ande** – Mr. Ande has been a taxicab owner and operator since 1987 and stated his support for the MTS staff recommendation. He wants to protect the integrity of the industry. He wishes the best for the drivers, but stated that you have to work hard to succeed.

**Albert Mavashiev** – Mr. Mavashiev is a new lease holder and operator and has been very vocal about his complaints and has not experienced any retaliation. He feels that it is impossible to satisfy everyone. He explained that he became involved in the taxi industry when he was laid

off from vehicle repair work with a successful dealership. He explained that he is self-employed and has no benefits.

*Bemnel Hailemichael* – Mr. Hailemichael has been driving since 1989 and is now an owner and a driver. He believes there is a problem with equality and feels that owner/drivers should be represented on the TAC.

*Abdelazi Ari* – Mr. Ari stated that he is a driver and is \$100 in debt before he walks out the door every morning for work and an owner is not, so they are not the same.

*Faraidon Bustani* – Mr. Bustani is a permit holder and the grassroots of the taxi industry in San Diego. He said that the drivers always complain about the owners and cannot understand why as they work side by side. He explained that not everyone can be a taxi owner. He stated that he is proud of himself, his family, and his business, and he hopes this meeting does not hurt his business.

*Mosses Uldermarian* – Mr. Uldermarian is currently an independent owner/driver. He has been a driver for 21 years in San Diego and feels that owner/operators need to be included on the TAC. He stated that the fairest proposal is the MTS recommendation.

*Margo Tanguay* – Ms. Tanguay explained that the lease program was an act of Congress signed by Jimmy Carter back in 1978. She feels that adding a member from the Sheriff's Department to the TAC will create a level playing field. She stated her support for the MTS recommendation. She also stated her support for adding a driver with 1 year plus to provide fresh input.

*Mr. Mumin* – Mr. Mumin is speaking on behalf of taxi drivers being oppressed by taxi owners, and he would like MTS help in regulating issues.

*Mr. Herzi* – Mr. Herzi has been driving a taxi for almost 20 years and applied many times for a medallion; he feels there needs to be more rights for drivers.

*(Taken Out of Order)*

*Mr. Noah* – Mr. Noah was present to talk about the limousine service takeover that is going on at hotels. He believes that limousine services are only supposed to pick up scheduled customers. He also requested uniform prices for all taxis.

#### Discussion

Ms. Emerald stated that after listening to the public comments, she would like to amend her motion to expand "good standing" to include owners. Ms. Lightner agreed to the amended motion.

Ms. Lightner would like staff to come back with a well-thought-out recommendation to the Board of Directors regarding guidelines for the TAC membership. She also stated that she would like annual elections staggered. She feels there needs to be a discussion on term limits as well as cross-pollination restrictions.

Chairman Mathis stated his reluctance for the Board of Directors to legislate the details of the TAC membership.

Ms. Emerald stated that she does not think the election process to the TAC would be micromanaging, and she would like staff to put forward some ideas on a process to achieve the intent of the vote as soon as possible.

Mr. Ovrom questioned why the City Council Resolution has left out the Sheriff's Licensing Division from the TAC. Ms. Emerald expressed concern for a regulator sitting on the committee and stated that she felt there could be a conflict of interest with a regulator also making decisions.

Mr. Roberts acknowledged that Ms. Tanguay has worked tirelessly for years and has missed very few meetings. He feels she has a very good understanding of the taxi industry. He stated that the TAC was formed to deal with quality of service and safety issues that were not taken seriously, and there was a great deal of concern to ensure professionalism. He explained that the City of San Diego was frustrated and asked MTS to take over. He stated that after listening to this discussion today he is rethinking his position. He feels that discussions have pitted owners and drivers against each other when the purpose of the TAC is to bring them together. He explained that he would like to see 3 owners of 1-3 cabs, 3 owners of 4 or more cabs, and 3 leased drivers while keeping the other members as is. He also stated that the Board is overlooking the uniqueness of the industry and trying to rush change. He does not support the motion, and if the motion does not pass, he would like to look at a smaller breakdown, as stated above, and add the Sheriff's Licensing Division or a neutral party associated with the visitor industry.

Mr. Castaneda sees incongruence with respect to revenue and increased insurance costs putting an unfair strain on the industry. He stated that if he has to vote on this issue, he will reflect on the public safety of those that use the services. He stated his support for Ms. Emerald's motion.

Ms. Bragg thanked the drivers for being present at the Board meeting and providing input. She stated that her family used to own a taxi company and so she is familiar with both sides of the issue. She explained that she would love to support the spirit in which the motion is offered; however, she is not ready to vote on it. She feels that components of the puzzle are missing specifically the election process not vetted out enough and perhaps the allocation of the seats on the TAC. She suggested 5 tourism/users, 5 owners, and 5 leased drivers to make sure it is a healthy balance and fair representation for everyone.

Chairman Mathis commented that having a representative from the Sheriff's Licensing Division on the TAC could be a benefit. Ms. Emerald stated they could be an ex-officio member.

Mr. Minto shared his opinion that law enforcement should be represented at the committee meetings, but they should not be an active member of the TAC.

Chairman Mathis stated that in terms of the vote of the Board, the staff will work out the details with respect to the elections with a proposal that the Board can review.

#### Action

The motion failed by 7 to 3 with Castaneda, Emerald, Gloria, Lightner, Minto, Van Deventer, and Young in favor; Bragg, Ovrom, and Roberts opposed; Chairman Mathis abstaining; and

Cunningham, England, and McClellan absent. Mr. Mathis stated that the motion needs 8 votes to pass. Ms. Emerald stated that she would like to call for a weighted vote. Mr. Jablonski commented that another jurisdiction besides the City of San Diego needs to join in a request for a weighted vote. Mr. Castaneda representing the City of Chula Vista stated that he is willing to support a weighted vote.

Ms. Bragg, representing the City of Imperial Beach, then opted to change her vote to support the motion. Chairman Mathis called for a re-vote of the motion. The vote was 8 to 2 with Bragg, Castaneda, Emerald, Gloria, Lightner, Minto, Van Deventer, and Young in favor; Ovrom and Roberts opposed; Chairman Mathis abstaining; and Cunningham, England, and McClellan absent. The motion carries.

Ms. Emerald stated that the next TAC meeting will take place in September, and she will work with staff to put together and present a proposal for new policy.

NOTICED PUBLIC HEARINGS: *(Chairman Mathis stated there were no public speakers for this item).*

25. Public Hearing Regarding Equivalent Facilitation for Modification of Detectible-Warning Tactile Strip to Accommodate Bridge Plate on Low-Floor Vehicles

Wayne Terry, Chief Operating Officer of Rail, gave the Board an overview of the Request for Equivalent Facilitation to the Federal Transit Administration (FTA) for a modification to the required tactile-warning strip on rail transit platforms. He stated that in order to achieve Americans with Disabilities Act (ADA) compliance for the safe use of the bridge plate, MTS and the San Diego Association of Governments (SANDAG) are proposing to submit a Request for Equivalent Facilitation. He explained that currently, 19 Green Line stations use modified tactile pavers to accommodate the bridge plate on the low-floor vehicles. He explained further that as part of the Low-Floor Improvement Program, 34 Blue and Orange Line stations will be improved to include modified tactile pavers. Mr. Terry also explained there has been an increase in the number of passengers who use the wheelchair-lift boarding over the past 5 years, and that the disabled community line up to ride the Green Line.

Action Taken

Mr. Minto moved to (1) receive public testimony; (2) adopt Resolution No. 11-12 approving the proposed design for the modified detectable-warning edge on all MTS light rail station platforms; and (3) authorize staff to submit a Request for Equivalent Facilitation to the FTA. Mr. Castaneda seconded the motion, and the vote was 10 to 0 in favor.

REPORT ITEMS:

45. Operations Budget Status Report for May 2011

A motion was made to receive a report without a staff presentation.

Action Taken

Ms. Emerald moved to receive an operations budget status report of MTS operations for May 2011. Mr. Van Deventer seconded the motion, and the vote was 10 to 0 in favor.

46. Tecate Bus Stop Improvement Project

Devin Braun, Senior Transportation Planner, talked about the Tecate Bus Stop Improvement Project. He explained that a federal grant, 5311(f), paid for a share of \$38,863 and a local match of \$5,035 for a total project cost of \$43,898. The project included purchasing and installing shelters, benches, schedule displays, and a trash can as well as pouring a new concrete waiting area at the bus stop on Route 894. He stated that Route 894 is the rural route with the highest ridership with more than 72% of total rural ridership.

Action Taken

Ms. Emerald moved to receive a report for information. Mr. Ovrom seconded the motion, and the vote was 10 to 0 in favor.

60. Chairman's Report

There was no Chairman's report.

61. Audit Oversight Committee Chairman's Report

There was no Audit Oversight Committee Chairman's Report.

62. Chief Executive Officer's Report

Mr. Jablonski stated that the Finance Department received an award for excellent financial reporting for the fiscal year 2010.

63. Board Member Communications

Mr. Castaneda told the Board that his son decided to take the bus instead of get his drivers' license and that he was excited to use the GOMTS texting feature when the bus stop signage includes the bus stop ID number.

64. Additional Public Comments on Items Not on the Agenda

*Margo Tanguay* – Ms. Tanguay stated that similar dialogues were going on during the consolidation and that it is a delight to watch the growth of this transit agency.

65. Next Meeting Date

The next regularly scheduled Board meeting is Thursday, August 18, 2011.

66. Adjournment

Chairman Mathis adjourned the meeting at 11:48 a.m.

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Chairperson  
San Diego Metropolitan Transit System

Filed by:

Approved as to form:

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

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Office of the General Counsel  
San Diego Metropolitan Transit System

Attachment: Roll Call Sheet

H:\Minutes - Executive Committee, Board, and Committees\Minutes - 2011\MINUTES - Board 07-14-11 DRAFT.docx

METROPOLITAN TRANSIT SYSTEM  
BOARD OF DIRECTORS  
ROLL CALL

MEETING OF (DATE): July 14, 2011

CALL TO ORDER (TIME): 9:11 AM

RECESS: \_\_\_\_\_

RECONVENE: \_\_\_\_\_

CLOSED SESSION: \_\_\_\_\_

RECONVENE: \_\_\_\_\_

PUBLIC HEARING: \_\_\_\_\_

RECONVENE: \_\_\_\_\_

ORDINANCES ADOPTED: \_\_\_\_\_

ADJOURN: 11:48 AM

BOARD MEMBER	(Alternate)	PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
CASTANEDA	<input checked="" type="checkbox"/> (Rindone) <input type="checkbox"/>		
CUNNINGHAM	<input type="checkbox"/> (Mullin) <input type="checkbox"/>		
EWIN	<input type="checkbox"/> (Sterling) <input type="checkbox"/>		
EMERALD	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>		
ENGLAND	<input type="checkbox"/> (Gastil) <input type="checkbox"/>		
GLORIA	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>	9:22 AM	
JANNEY	<input type="checkbox"/> (Bragg) <input checked="" type="checkbox"/>		
LIGHTNER	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>		
MATHIS	<input checked="" type="checkbox"/> (Vacant) <input type="checkbox"/>		
MCCLELLAN	<input type="checkbox"/> (Hanson-Cox) <input type="checkbox"/>		
MINTO	<input checked="" type="checkbox"/> (McNelis) <input type="checkbox"/>	9:16 AM	
OVROM	<input checked="" type="checkbox"/> (Denny) <input type="checkbox"/>		
ROBERTS	<input checked="" type="checkbox"/> (Cox) <input type="checkbox"/>	9:16 AM	11:45 AM
VAN DEVENTER	<input checked="" type="checkbox"/> (Zarate) <input type="checkbox"/>		11:47 AM
YOUNG	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>		11:35 AM

SIGNED BY THE OFFICE OF THE CLERK OF THE BOARD: Valerie Vizkelet  
 CONFIRMED BY OFFICE OF THE GENERAL COUNSEL: Pauli Sanders

## METROPOLITAN TRANSIT SYSTEM

## VOTE SHEET

MEETING DATE 7/14/11ITEM NO. 30 ITEM DESCRIPTION: Taxicab AdministrationACTION TAKEN: ☐ Staff Recommendation Approved in Full☒ Alternate Action Taken (describe below)

City of San Diego Resolution - 17 member  
TAC, 5 owner, 5 driver (3yr exp), eliminate  
Chamber spot; Return to Bd w/ Election Procedures.

BOARD MEMBER	(Alternate)	AYE	NO	ABSTAIN	ABSENT
CASTANEDA	<input checked="" type="checkbox"/> (Rindone) <input type="checkbox"/>	<input checked="" type="checkbox"/>			
CUNNINGHAM	<input type="checkbox"/> (Mullin) <input type="checkbox"/>				<input checked="" type="checkbox"/>
EWIN	<input type="checkbox"/> (Sterling) <input type="checkbox"/>				
EMERALD	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>	<input checked="" type="checkbox"/>			
ENGLAND	<input type="checkbox"/> (Gastil) <input type="checkbox"/>				<input checked="" type="checkbox"/>
GLORIA	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>	<input checked="" type="checkbox"/>			
JANNEY	<input type="checkbox"/> (Bragg) <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
LIGHTNER	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>	<input checked="" type="checkbox"/>			
MATHIS	<input checked="" type="checkbox"/> (Vacant) <input type="checkbox"/>			<input checked="" type="checkbox"/>	
MCCLELLAN	<input type="checkbox"/> (Hanson-Cox) <input type="checkbox"/>				<input checked="" type="checkbox"/>
MINTO	<input checked="" type="checkbox"/> (McNelis) <input type="checkbox"/>	<input checked="" type="checkbox"/>			
OVROM	<input checked="" type="checkbox"/> (Denny) <input type="checkbox"/>		<input checked="" type="checkbox"/>		
ROBERTS	<input checked="" type="checkbox"/> (Cox) <input type="checkbox"/>		<input checked="" type="checkbox"/>		
VAN DEVENTER	<input checked="" type="checkbox"/> (Zarate) <input type="checkbox"/>	<input checked="" type="checkbox"/>			
YOUNG	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>	<input checked="" type="checkbox"/>			
VOTING TALLY					

Valerie Vizkeleti

By: Clerk of the Board

1/20/2011



Metropolitan Transit System

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

## Agenda

Item No. 6

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

August 18, 2011

**SUBJECT:**

PAY PHONE SERVICES CONTRACT - EXERCISE CONTRACT OPTION YEAR TWO

**RECOMMENDATION:**

That the Board of Directors:

1. ratify MTS Doc. No. L5678.1-08 (Attachment A) with Western Communication Systems, Inc. for continued pay phone services; and
2. authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L5678.2-08 (in substantially the same format as Attachment B) with Western Communication Systems, Inc. to exercise option year two for pay phone services.

Budget Impact

MTS Contract No. L5678.0-08 is a revenue-generating contract based on a percentage split of the gross amount of revenue collected from each pay phone. MTS's revenue split for Amendment No. 2 would be 65% and would provide pay phone services from October 1, 2011, to September 30, 2012. Staff estimates that exercising option year two would net \$120,000 in additional revenue.

**DISCUSSION:**

MTS Contract No. L5678.0-08 was awarded in September of 2007 to Western Communication Systems, Inc. for a three-year base period and two 1-year options to install and operate pay phones at MTS transit stations. Currently, there are 145 pay phones across the MTS system.

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

In accordance with the current contract with Western Communication Systems, Inc., MTS shall receive a revenue split of 65% for option year two (see Attachment B).

Amendment No. 1

In August 2009, the CEO executed a contract amendment with Western Communication System, Inc. for an estimated revenue amount of \$76,800. This Amendment was necessary to continue to provide pay phone services to the public. Based on payments to date, actual revenues are expected to be \$117,837.00.

Amendment No. 2

Staff is requesting Board approval for the execution of contract Amendment No. 2 with Western Communication Systems, Inc. to exercise option year two for pay phone services. This amendment is necessary in order for MTS to continue to provide pay phones at designated trolley stations, transit centers, and park-and-ride lots to the public. This would also continue to provide security (free 9-1-1 calls), convenience to MTS customers, and generate additional revenue for MTS.

Actual revenue received by MTS through this contract to date is as follows:

Year 1:	\$ 45,059.06
Year 2:	\$ 80,307.61
Year 3:	\$123,909.06
Year 4 (Option Year I):	\$117,837.00 <sup>1</sup>
Year 5 (Option Year II):	\$120,000.00 (estimate) <sup>2</sup>
Total:	\$487,112.73 (estimate)

The adjusted amount of the entire contract, including these amendments, would be \$487,112.73.

Therefore, staff recommends:

1. ratification of MTS Doc. No. L5678.1-08 (Attachment A) with Western Communication Systems, Inc. for continued pay phone services; and
2. authorization for the Chief Executive Officer (CEO) to execute MTS Doc. No. L5678.2-08 (in substantially the same format as Attachment B) with Western Communication Systems, Inc. to exercise option year two for pay phone services.

  
Paul C. Jablonski  
Chief Executive Officer

Key Staff Contact: Wayne Terry, 619.595.4906, [wayne.terry@sdmts.com](mailto:wayne.terry@sdmts.com)

Attachments: A. MTS Doc. No. L5678.1-08  
B. MTS Doc. No. L5678.2-08

<sup>1</sup> Year 4 does not reflect actual revenue received. The estimated amount is based on \$41,837.00 received for October 2010 through January 2011 plus anticipated revenue of \$9,500 per month through September 2011.

<sup>2</sup> Year 5 revenue is estimated at \$10,000 per month.



Metropolitan Transit System

Att. A, AI 6, 8/18/11

1255 Imperial Avenue, Suite 1000  
San Diego, CA 92101-7480  
(619) 231-1466 • FAX (619) 234-3407



August 18, 2010

**ORIGINAL**

MTS Doc. No. L5678.1-08  
OPS 900

Mr. Thomas Beuse  
President  
Western Communication Systems, Inc.  
13200 Kirkham Way, #114  
Poway, CA 92064

Dear Mr. Beuse:

Subject: AMENDMENT NO. 1 TO MTS.DOC. NO. L5678.0-08: PAY PHONE SERVICES

This shall serve as Amendment No. 1 to our agreement for the pay phone services as further described below.

#### STATEMENT OF WORK

Pursuant to the specifications of MTS RFP No. L5678.0-07, the San Diego Metropolitan Transit System (MTS) on behalf of San Diego Trolley Corp. (SDTI) shall exercise Option Year One (1) of the pay phone services contract.

Western Communication Systems, Inc. agrees to continue pay phone services, including maintenance of pay phones in accordance with the terms and conditions as stated on MTS RFP No. L5678.0-07.

#### SCHEDULE

The Option Year I coverage period shall be effective October 1, 2010, through September 30, 2011.

#### PAYMENT

MTS revenue shall be based on the percentage split of the gross amount of revenue collected from each pay phone as reflected below. The estimated total value of this contract including this amendment shall be \$272,395.

Option Year I	64%	(Est. \$76,800)
---------------	-----	-----------------

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Mr. Thomas Beuse  
August 9, 2010  
Page 2

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

Sincerely,



Paul C. Jablonski  
Chief Executive Officer

CBROWN-CL  
CL-L5678.1-08.WESCOMM.CAQUINO

Enclosures: Revenue Form – Pay Phones

cc: Wayne Terry  
Claudine Aquino

Agreed:



Thomas Beuse  
Western Communication Systems, Inc.

Date: 8/24/10

Mr. Thomas Beuse  
August 9, 2010  
Page 2

**METROPOLITAN TRANSIT SYSTEM**

**REVENUE FORM**

Proposer shall insert the percent (%) of monthly revenue where indicated. Revenue proposal shall be evaluated as set forth in Section A.3.A.1:

Year of Contract	% of Gross Monthly Revenue	Estimated Monthly Revenue	Estimated Monthly Expenses
Year 1	55%	\$10,000	\$5,500
Year 3	61%	\$10,000	\$6,100
Year 4 Option Year 1:	64%	\$10,000	\$6,400
Grand Total:			

\* Estimated Monthly Revenue is for evaluation purposes only and does not necessarily represent anticipated revenue under this contract.

Firm: WESCOMM

Date: JULY 18, 2007

Signature: [Signature]

Printed Name: MAX E. STEINBERG

Title: GEO.

Street Address: PO BOX 502330

City, State & Zip Code: SAN DIEGO, CA 92150

Phone No.: 858-218-3500

Fax No.: 858-218-3501

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

**DRAFT**

August 18, 2011

MTS Doc. No. L5678.2-08  
OPS 900

Mr. Thomas Beuse  
President  
Western Communication Systems, Inc.  
13200 Kirkham Way, #114  
Poway, CA 92064

Dear Mr. Beuse:

Subject: AMENDMENT NO. 2 TO MTS DOC. NO. L5678.0-08; PAY PHONE SERVICES

This shall serve as Amendment No. 2 to our agreement for the pay phone services as further described below.

**STATEMENT OF WORK**

Pursuant to the specifications of MTS RFP No. L5678.0-07, the San Diego Metropolitan Transit System (MTS), on behalf of San Diego Trolley Corp. (SDTI), shall exercise option year two of the pay phone services contract. Western Communication Systems, Inc. agrees to continue to provide pay phone services, including maintenance of the pay phones in accordance with the terms and conditions as stated in MTS RFP No. L5678.0-07.

**SCHEDULE**

The option year two coverage period shall be effective October 1, 2011, through September 30, 2012.

**PAYMENT**

MTS revenue shall be based on the percentage split of the gross amount of revenue collected from each pay phone as reflected below. The estimated total value of this contract, including this amendment, shall be \$487,112.73.

**Option Year 2**

**65%**

Please sign and return the copy marked "original" to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Agreed:

Paul C. Jablonski  
Chief Executive Officer

\_\_\_\_\_  
Thomas Beuse  
Western Communication Systems, Inc.

Date: \_\_\_\_\_

Enclosure: Revenue Form – Pay Phones

cc: Wayne Terry, Claudine Aquino, Procurement File

# METROPOLITAN TRANSIT SYSTEM

## REVENUE FORM

Proposer shall insert the percent (%) of monthly revenue where indicated. Revenue proposal shall be evaluated as set forth in Section A.3.A.1:

Year	Percent of Gross Monthly Revenue	Estimated Monthly Revenue	Total Estimated Monthly Revenue
Year 1	55%	\$10,000	\$5,500
Year 3	61%	\$10,000	\$6,100
Year 4 Option Year 1	64%	\$10,000	\$6,400
Grand Total:			

\* Estimated Monthly Revenue is for evaluation purposes only and does not necessarily represent anticipated revenue under this contract.

Firm: WESCOMM

Date: JULY 18, 2007

Signature: [Signature]

Printed Name: MAX E. STEINBERG

Title: GEO.

Street Address: PO BOX 502330

City, State & Zip Code: SAN DIEGO, CA 92150

Phone No.: 858-218-3500

Fax No.: 858-218-3501

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



Metropolitan Transit System

1255 Imperial Avenue, Suite 1000  
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## Agenda

Item No. 7

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

SDAE 710 (PC 50771)

August 18, 2011

**SUBJECT:**

MTS: SAN DIEGO AND ARIZONA EASTERN (SD&AE) RAILWAY COMPANY  
QUARTERLY REPORTS AND RATIFICATION OF ACTIONS TAKEN BY THE SD&AE  
BOARD OF DIRECTORS AT ITS MEETING ON JULY 19, 2011

**RECOMMENDATION:**

That the Board of Directors:

1. receive the San Diego and Imperial Valley Railroad (SD&IV), Pacific Southwest Railway Museum Association (Museum), and Carrizo Gorge Railway, Inc. (Carrizo) quarterly reports (Attachment A);
2. ratify actions taken by the San Diego and Arizona Eastern (SD&AE) Railway Company Board of Directors at its meeting on July 19, 2011 (Attachment A); and
3. approve a recommendation by the SD&AE Board of Directors to elect Randy L. Perry as Chairperson to replace the position vacated by Don Seil.

Budget Impact

None.

**DISCUSSION:**

Quarterly Reports

Pursuant to the Agreement for Operation of Freight Rail Services, SD&IV, Museum, and Carrizo have provided the attached quarterly reports of their operations during the second quarter of calendar year 2011 (Attachment A).



## SD&AE Property Matters

Under its adopted policy for dealing with the SD&AE Railway, the MTS Board of Directors must review all property matters acted on by the SD&AE Board. At its meeting of July 19, 2011, the SD&AE Board approved the following licenses and permits:

- S200-11-472: Right of Entry Permit to W. C. Communications, Inc. to install aerial fiber optics at Palm Avenue in El Cajon.
- S200-11-485: Right of Entry Permit to the City of La Mesa for the Flag Day Parade.
- S200-11-487: Right of Entry Permit to Kimley-Horn and Associates, Inc. for field investigations along the South Line.
- S200-11-489: Right of Entry Permit to Terra Pacific Consultants for soils investigation at Hill Street in El Cajon.
- S200-11-491: Right of Entry Permit to Johnson-Frank and Associates, Inc. to perform surveying at the San Ysidro Border.
- S200-11-492: Right of Entry Permit to California Conservation Corps to perform clearing and grubbing along the Coronado Branch for the Bayshore Bikeway Project in Chula Vista.
- S200-11-493: Right of Entry Permit to the Sweetwater Authority to install a water valve at J Street in Chula Vista.
- S200-11-494: Right of Entry Permit to TY Lin International, Inc. to perform field investigations for the South Line Freight Improvement Project.

## Election to Fill Vacant Position of SD&AE Chair

The SD&AE Board of Directors approved forwarding a recommendation to the MTS Board of Directors to elect Randy L. Perry, General Manager of the San Joaquin Valley Railroad, as the Chairperson to replace the position vacated by Don Seil. Mr. Perry oversees three railroads, which include San Joaquin, Ventura, and SD&IV.



Paul C. Jablonski  
Chief Executive Officer

Key Staff Contact: Karen Landers, 619.557.4512, [Karen.Landers@sdmts.com](mailto:Karen.Landers@sdmts.com)

MAY12-11.6.SDAE RPTS.KLANDERS

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



# AGENDA

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

(PC 50771)

July 19, 2011

9:00 a.m.

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

San Diego & Arizona Eastern  
Railway Company

A Nevada Nonprofit  
Corporation

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

BOARD OF DIRECTORS  
Don Seil, Chairman  
Bob Jones  
Paul Jablonski

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

GENERAL COUNSEL  
Karen Landers

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 (ALDs) are available from the Clerk of the Board prior to the meeting and are to be returned at the end of the meeting.

1. Approval of the Minutes of April 19, 2011 Approve  
Action would approve the SD&AE Railway Company minutes of April 19, 2011.
2. Statement of Railway Finances (Linda Musengo) Receive  
Action would receive a financial report for the quarter and year ended June 30, 2011.
3. Report on San Diego and Imperial Valley (SD&IV) Railroad Operations (Matt Domen) Receive  
Action would receive a report for information.
4. Report on Pacific Southwest Railway Museum (Diana Hyatt) Receive  
Action would receive a report for information.
5. Report on the Desert Line (Chas McHaffie) Receive  
Action would receive a report: (1) for information; (2) on the status of the Jacumba yard hazardous waste cleanup; and (3) on the Federal Railroad Administration (FRA) Bridge Inspection Program.
6. Real Property Matters (Tim Allison)
  - a. Summary of SD&AE Documents Issued Since April 19, 2011 Receive  
Action would receive a report for information.
  - b. CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to California Government Code section 54956.8 Possible Action  
Property: MP 113.5 to 119.3 in Ocotillo Wells in Imperial County, CA  
Agency Negotiators: Karen Landers, MTS General Counsel; Tim Allison, Manager of Real Estate Assets; and Paul Jablonski, President & CEO  
Negotiating Parties: Pattern Energy Group  
Under Negotiation: Price and Terms of Payment

- c. **CLOSED SESSION - CONFERENCE WITH REAL  
PROPERTY NEGOTIATORS Pursuant to California  
Government Code section 54956.8**  
**Property:** MP 92.9 over Railroad Street in Jacumba, CA  
**Agency Negotiators:** Karen Landers, MTS General Counsel;  
Tim Allison, Manager of Real Estate Assets; and  
Paul Jablonski, President & CEO  
**Negotiating Parties:** SDG&E  
**Under Negotiation:** Price and Terms of Payment

Possible  
Action

7. **Election to Fill Vacant Position of SD&AE Chair (Karen Landers)**  
Action would discuss electing a new Chairperson for the SD&AE  
Railway Company Board of Directors and forward a  
recommendation to the MTS Board of Directors for approval.

Approve

8. **Old Business**

9. **New Business**

10. **Public Comments**

11. **Next Meeting Date: October 18, 2011**

12. **Adjournment**

A-SDAE-JULY19-11

# MINUTES

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

April 19, 2011

A meeting of the Board of Directors of the San Diego & Arizona Eastern (SD&AE) Railway Company, a Nevada corporation, was held at 1255 Imperial Avenue, Suite 1000, San Diego, California 92101, on April 19, 2011, at 9:00 a.m.

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

MTS staff:	Tim Allison, Karen Landers, Wayne Terry, Tom Lynch
SD&IV staff:	Matt Domen
Pacific Southwest Railway Museum:	Diana Hyatt
Carrizo Gorge Railway, Inc. (Carrizo):	Chas McHaffie, Sheila LeMire
Burlington Northern Santa Fe (BNSF):	John Hoegemeier
International Border Rail Institute:	Richard Borstadt
Federal Railroad Administration (FRA):	Hector Valdepena
Admicarga:	Jorge O. Munroz Sustaita, Gaspar Metzler Ibanez
Pattern Energy:	Joan Inlow

### 1. Approval of Minutes

Mr. Seil moved to approve the Minutes of the January 18, 2011, SD&AE Railway Board of Directors meeting. Mr. Jablonski seconded the motion, and it was unanimously approved.

### 2. Statement of Railway Finances

Tom Lynch, MTS Controller, reviewed the financial statement for the first quarter of 2011 (attached to the agenda item).

#### Action Taken

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

### 3. Report on SD&IV Operations

Matt Domen presented the report of activities for the first quarter of 2011 (attached to the agenda item). Mr. Jablonski asked for a follow-up on Mr. Domen's report at the previous meeting regarding delays to freight operations by contractors working on the Blue Line Rehabilitation Project. Wayne Terry responded stating that all parties involved have been working closely together (and will continue to do so) with ongoing meetings and communications to mitigate any issues and keep the operators moving freight on the line. He added that the overhead catenary system work should be completed around the second week of June, so he anticipates a reprieve before the track work and signaling begins.

#### Action Taken

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

**4. Report on Pacific Southwest Railway Museum Operations**

Diana Hyatt presented the first quarter of 2011 report (attached to the agenda item). Mr. Jablonski asked if there have been any communications with Mexico in regard to reopening the tunnel. Chas McHaffie responded and stated that funding is currently the issue in regard to refurbishing portions of the Desert Line. Administradora de la Vía Corta Tijuana-Tecate (ADMICARGA) wants Carrizo to pay 100% of the costs.

**Public Speaker:** Hector Valdepena of the FRA – Mr. Valdepena asked if Museum personnel will be responsible for track inspections and recordkeeping for Desert Line operations from Campo to Division.

- Ms. Hyatt responded that Museum personnel are keeping records and will be maintaining the track until Carrizo resumes its operations. She added that the main track inspector is Wally Barber who is trained and does very in-depth monthly inspections (track inspectors who have gone through Mr. Barber's training perform weekly inspections). Ms. Hyatt agreed to provide Mr. Valdepena with copies of the track inspections.

**Action Taken**

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

**5. Report on the Desert Line**

Sheila LeMire presented the 1<sup>st</sup> quarter report (attached to the agenda item).

**Public Speaker:** Reena Deutsche – Ms. Deutsche stated that she has given lectures on SD&AE's history over the years, and she has gotten questions inquiring if the Desert Line will ever reopen and if there will be passenger operations.

- Mr. McHaffie responded to Ms. Deutsche's question regarding reopening the Desert Line. Mr. McHaffie stated that he placed an embargo on the line due to safety concerns of the state of the bridges and tunnels. Repairs are estimated to cost around \$8 million to \$12 million. Procuring funding has been a challenge due to the recession, but Mr. McHaffie has not stopped moving forward in seeking those funds.
- Mr. Jablonski responded in regard to future passenger operations on the Desert Line. He stated that the bridges and tunnels must be in a state of good repair before passenger operations can resume.

**Action Taken**

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

**6. Real Property Matters****a. Summary of SD&AE Documents Issued Since January 18, 2011**

Tim Allison, MTS Manager of Real Estate Assets, presented the summary of document issued since January 18, 2011.

- **S200-10-459:** Right of Entry Permit to Gryphon Detective Agency to film at the San Ysidro Trolley Station.
- **S200-10-470:** License to Imperial Valley Solar, LLC for an at-grade crossing west of Plaster City in Imperial County.
- **S200-11-474:** Right of Entry Permit to Bert W. Salas, Inc. for a construction crossing of the Imperial Beach bike path at 8<sup>th</sup> Street in Imperial Beach.
- **S200-11-475:** Right of Entry Permit to Erickson Air Crane to cross the Desert Line for the Sunrise Power Link construction in Jacumba.
- **S200-11-476:** Right of Entry Permit to Pullman Engineering to construct a sewer pipeline at 54<sup>th</sup> Street in the City of San Diego.
- **S200-11-477:** Right of Entry Permit to Golden State Boring and Pipe Jacking to construct a sewer pipeline at 54<sup>th</sup> Street, in the City of San Diego.
- **S200-11-478:** Right of Entry Permit to AirX Utility Surveyors for utility investigations at Lemon Grove Avenue in the City of Lemon Grove.
- **S200-11-479:** Right of Entry Permit to Haley and Aldrich, Inc. to access the right-of-way near Gunpowder Point at the Sweetwater Marsh in the City of Chula Vista.
- **S200-11-480:** Right of Entry Permit to Nautilus Environmental to access the right-of-way near Gunpowder Point at the Sweetwater Marsh in the City of Chula Vista.
- **S200-11-481:** Right of Entry Permit to SDG&E to construct the Sunrise Power Link in San Diego and Imperial Counties.
- **S200-11-482:** Right of Entry Permit to Par Electric Contractors, Inc. to construct the Sunrise Power link in San Diego and Imperial Counties.
- **S200-11-483:** Right of Entry Permit to the U.S. Department of the Navy for the Bay Bridge Run/Walk.
- **S200-11-484:** Right of Entry Permit to Ortiz Corporation to abandon a sewer pipeline near Euclid Avenue in the City of San Diego.
- **S200-11-486:** Right of Entry Permit to Aguirre Engineering, Inc. to perform surveys near Lemon Grove Avenue in the City of Lemon Grove.
- **S200-11-488:** Right of Entry Permit to Aguirre Engineering, Inc. to perform surveys for the South Line Freight Improvement Project.

**Action Taken**

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

**b. License Agreement with Pattern Energy Group for At-Grade and Utility Crossings**

Tim Allison reviewed a request for proposed at-grade crossings, a utility crossing, and longitudinal utility occupation over SD&AE tracks located west of Ocotillo from approximately mile post (MP) 113.5 to MP 119.3 in Imperial County. Mr. Allison introduced Joan Inlow from Pattern Energy Group. Mr. Allison added that there may be a future proposal by Pattern to move some of the materials by rail from mile post 115 to Plaster City, and bringing the line up to operating standards would have to be addressed.

Mr. Jones stated that RailAmerica has moved a lot of wind turbine products in the past and would help in any way. Ms. Inlow outlined the scope of the freight.

Mr. McHaffie confirmed for Mr. Jablonski that Carrizo would still be able to interchange with Union Pacific (if this proposal is approved).

Mr. Jablonski stated that he would like to see a more detailed financial report at the next meeting in July before taking action on this item.

Discussion ensued regarding bringing the line up to operating standards for potential freight movement and crossing requirements during the life of the project.

**Action Taken**

No action was taken. This item will be deferred until the next meeting on July 19, 2011.

**c. San Diego Unified Port District Fiber-Optic Connectivity Project Agreement Amendment**

Mr. Allison reviewed a request from San Diego Unified Port District (Port) for an amendment to the Amended and Restated Use Agreement for fiber-optic installations. He described the projected extension of fiber-optics and the benefits to MTS information technology.

**Action Taken**

Mr. Jablonski moved to authorize the execution of an amendment to the Amended and Restated Use Agreement granting a license to the San Diego Unified Port District (Port) for fiber-optic installations. Mr. Jones seconded the motion, and it was unanimously approved.

**d. SDG&E Road-Crossing Easement**

This item was deferred to the July 19, 2011, SD&AE Board of Directors meeting. No action was taken.

- e. **CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS**  
Pursuant to California Government Code Section 54956.8  
Property: Assessor Parcel Nos. 667-020-52, 54, 60, & 70, San Diego, California  
Agency Negotiators: Karen Landers, MTS General Counsel; Tim Allison, MTS Manager of Real Estate Assets  
Negotiating Parties: U.S. General Services Administration  
Under Negotiation: Price and Terms of Payment

The Board adjourned into closed session at 9:41 a.m. and resumed open session at 10:21 a.m.

Action Taken

General Counsel Karen Landers reported that the Board received a report and gave direction to staff.

7. Old Business

There was no old business.

8. New Business

Mr. Sell announced that he is resigning as SD&AE Chair, and Randy Perry is replacing him as General Manager.

9. Public Comments

There were no public comments.

10. Next Meeting Date

The next meeting of the SD&AE Railway Company Board of Directors is on July 19, 2011, at 9:00 a.m.

11. Adjournment

The meeting was adjourned at 10:26 a.m.

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
General Counsel

/MINUTES.SDAE.4-19-11

# Agenda

Item No. 2

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

SDAE 710.1 (PC 50771)

July 19, 2011

## SUBJECT:

STATEMENT OF RAILWAY FINANCES

## RECOMMENDATION:

That the SD&AE Railway Company Board of Directors receive a financial report for the quarter and year ended June 30, 2011.

### Budget Impact

None.

## DISCUSSION:

Staff will present the unaudited results for quarter 4 of fiscal year 2010/11. The current quarter results show an increase in expenses over quarter 3 related to estimated depreciation expense for the year and a year-to-date net income of \$49,003. The final results and reserve balance for FY 11 will be available after completion of the FY 11 audit.

Attachment: SD&AE Financial Report Q4 2011

**SD&AE operating statement FY2011 and FY2010**

	FY2011 - unaudited									
	Q1	Q2	Q3	Q4	YTD	Q1	Q2	Q3	Q4	YTD
<b>Revenue</b>										
Right of entry permits	\$ 12,250	\$ 5,450	\$ 21,370	\$ 12,790	\$ 51,860	\$ 21,619	\$ 17,400	\$ 8,500	\$ 10,975	\$ 58,494
Lease income	22,072	28,845	19,340	18,580	88,837	25,871	43,341	819	31,193	101,224
SD&IV 1% freight fee	-	-	38,187	-	38,187	-	-	-	36,542	36,542
<b>Total revenue</b>	<b>34,322</b>	<b>34,295</b>	<b>78,897</b>	<b>31,370</b>	<b>178,885</b>	<b>47,490</b>	<b>60,741</b>	<b>9,319</b>	<b>77,710</b>	<b>195,260</b>
<b>Expense</b>										
Personnel costs	19,916	22,595	18,746	20,092	81,349	22,734	26,334	19,540	18,682	87,291
Outside services	-	260	-	335	595	12,031	5,989	5,147	37,574	60,741
Energy costs	-	-	-	-	-	-	-	-	32	32
Risk management	8,352	8,194	7,771	5,974	30,291	8,486	8,486	8,403	8,352	33,727
Misc operating expenses	303	194	70	-	567	20,474	(18,913)	25	-	1,586
Depreciation - estimated	-	-	-	17,080	17,080	-	-	-	17,080	17,080
<b>Total expense</b>	<b>28,571</b>	<b>31,243</b>	<b>26,586</b>	<b>43,481</b>	<b>129,882</b>	<b>63,725</b>	<b>21,897</b>	<b>33,115</b>	<b>81,721</b>	<b>200,458</b>
<b>Net Income/(loss)</b>	<b>\$ 5,751</b>	<b>\$ 3,052</b>	<b>\$ 52,311</b>	<b>\$ (12,111)</b>	<b>\$ 49,003</b>	<b>\$ (16,235)</b>	<b>\$ 38,845</b>	<b>\$ (23,796)</b>	<b>\$ (4,011)</b>	<b>\$ (5,198)</b>

<b>Reserve balance 2010 - final</b>	<b>\$ 890,173</b>
Allocated interest earnings - estimated	3,207
Operating profit (loss) estimated	49,003
Improvement expense 2011	-
<b>Reserve balance 2011- estimated</b>	<b>\$ 942,383</b>

# Agenda

Item No. 3

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

SDAE 710.1 (PC 50771)

July 19, 2011

## SUBJECT:

REPORT ON SAN DIEGO AND IMPERIAL VALLEY (SD&IV) RAILROAD OPERATIONS

## RECOMMENDATION:

That the SD&AE Board of Directors receive a report for information.

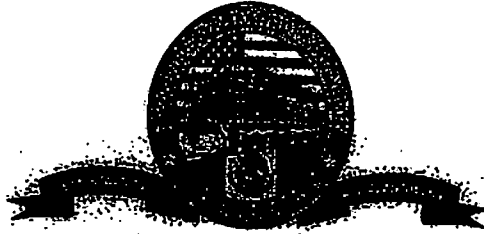
### Budget Impact

None.

## DISCUSSION:

An oral report will be given during the meeting.

Attachment: Periodic Report for the 2nd Quarter of 2011.



SD&AE Board  
C/O MTS  
1255 Imperial Avenue, Suite 1000  
San Diego, California 92101

July 6, 2011

## Periodic Report

In accordance with Section 20 of the Agreement for Operational Freight Service and Control through Management of the San Diego and Arizona Eastern Railway Company; activities of interest for the 2nd Quarter of 2011 are listed as follows:

### 1. Labor

At the end of June 30, 2011 the San Diego & Imperial Railroad had 11 employees:

- 1 General Manager
- 1 Asst. General Manager
- 1 Asst. Trainmaster
- 1 Manager - Marketing & Sales
- 1 Office Manager
- 1 Mechanical Officer
- 1 Roadmaster
- 1 Maintenance of Way Employee
- 2 Train Service Employees
- 1 Utility Employee

### 2. Marketing

Volume in the 2<sup>nd</sup> Quarter was significantly impacted by border crossing issues of Texas Gas & Oil LPGS. Overall, the volume dropped 24.4% over last year. Bridge traffic was down more significantly; 35.3% over last year. Traffic destined or originated on the SDIV was only down 22.3% to last year.

### 3. Reportable Injuries/Environmental

Days through year to date, June 30, 2011, there were no FRA Reportable injuries or environmental incidents on the SDIV Railroad.

Days FRA Reportable Injury Free: 4293

#### 4. Summary of Freight

	2011	2010	2009
Total rail carloads that moved by SDIY Rail Service in the quarter.	1101	1458	1425
Total railroad carloads Terminating/Originating Mexico in the quarter.	783	1211	1088
Total railroad carloads Terminating/Originating El Cajon, San Diego, National City, San Ysidro, California in the quarter.	302	247	336
Total customers directly served by SDIY in the quarter	0	0	0
Regional Truck trips that SDIY Railroad Service replaced in the quarter	3743	4957	4845

Respectfully,

Randy Perry-

General Manager

# Agenda

Item No. 4

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

SDAE 710.1 (PC 50771)

July 19, 2011

## SUBJECT:

REPORT ON PACIFIC SOUTHWEST RAILWAY MUSEUM

## RECOMMENDATION:

That the SD&AE Board of Directors receive a report for information.

### Budget Impact

None.

## DISCUSSION:

A report will be presented during the meeting.

Attachment: Second Quarter Report for 2011



# Pacific Southwest Railway Museum

La Mesa Depot 4895 Nebo Drive La Mesa, CA 91941 619-465-7776

July 11, 2011

SD&AE Board  
c/o Metropolitan Transit System  
1255 Imperial Avenue, Suite 1000  
San Diego, CA 92101

Re: Second Quarter 2011

Dear SD&AE Board:

During the second quarter of 2011, the Pacific Southwest Railway Museum carried 2,434 passengers with no FRA reportable accidents or injuries. Total income from SD&AE property for second quarter 2011 was \$33,954.16; a check for \$679.08 will be forwarded under separate cover. By comparison, PSRM carried 1977 passengers during the second quarter of 2010 and total income from SD&AE property for that quarter was \$31,215.63.

Progress on the Campo Depot waiting room has continued with the completion of the woodwork detail and the installation of the ceramic floor tiles. A display box is being constructed to highlight the operating levers for the depot's semaphore and an order for wooden benches will be placed soon. The interior stairwell still needs to be constructed as well as the completion of the electrical wiring and the receipt of the newly fabricated ticket counter.

Track work has been performed at MP 64.8, the first sweeping curve west of Campo yard limits. The rails were swapped in the curve and tie replacement is about 40% complete. Work is expected to be completed within the next two weeks. Once this work is completed, track work is scheduled to begin on the House Track in front of the Campo Depot.

Sincerely,

Diana Hyatt  
President

# Agenda

Item No. 5

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

SDAE 710.1 (PC 50771)

July 19, 2011

**SUBJECT:**

**REPORT ON THE DESERT LINE**

**RECOMMENDATION:**

That the SD&AE Board of Directors receive a report:

1. for information;
2. on the status of the Jacumba yard hazardous waste cleanup; and
3. on the Federal Railroad Administration (FRA) Bridge Inspection Program.

**Budget Impact**

None.

**DISCUSSION:**

A report will be presented during the meeting.



## Periodic Report

To The San Diego & Arizona Eastern Railway Company

Second Quarter 2011

The periodic Report to the SD&AE Railway Company is produced quarterly by the Carrizo Gorge Railway, Inc for the SD&AE Board, in fulfillment of contractual requirements and to document activity in the restoration of the line to regional service along with its ongoing improvement for future generations.

# **CARRIZO GORGE RAILWAY, INC.**

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## **Accomplishments during Second Quarter 2011**

### **CONTENTS**

#### **SECOND QUARTER 2011 ACTIVITY**

**Appendix A- MOW Summary**

**Appendix B- Desert Line Freight Revenues  
Financial Summary**

# **CARRIZO GORGE RAILWAY, INC.**

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## **Second Quarter 2011**

Metropolitan Transit Development Board  
San Diego & Arizona Eastern Railway Board  
1255 Imperial Avenue 10<sup>th</sup> floor  
San Diego, California 92101

Pursuant to reporting agreement, here is the summary of Second Quarter activity for 2011.

### **I. Labor**

As of June 30, 2011, Carrizo Gorge Railway has 6 employees to cover the railroad administration and operation in the U.S.

- 3 Administration
- 1 DSL & Engineer
- 1 Train Master & Locomotive engineer
- 1 Track Inspector & Signals

# **CARRIZO GORGE RAILWAY, INC.**

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## **II. Marketing**

Carrizo Gorge Railway is currently not seeking any new business for the desert line until repairs can be completed

Carrizo Gorge Railway continued working to improve relations with Admicarga in an effort to increase revenues as well as the improvement of service to the shipping community in the region.

## **III. Desert Line**

Carrizo Gorge Railway is the rail freight operator on the Desert Line by contractual agreement with Rail America/ SD&IV and with the approval of SD&AE/ MTDB.

The principal activity took place in the desert line was the following:

- 1.- Was continued with the process of clean out of hazardous products in Jacumba station, we are at 95% done.
- 2.- Began at Jacumba yard a project to clean the passanger cars trash (left overs of the cars) and its completed.
- 3.- Began at Jacumba yard a project to relocate on a safe spot treated wood and its completed.
- 4.- Began a project of removal of rocks and sand away from the main track from MP 93 to MP 129 with the propose of make an inspection with the Hy Rail. 15 spots were worked in total.

## **CARRIZO GORGE RAILWAY, INC.**

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### **IV. Reportable Injuries / Environmental Incidents**

There were no reportable injuries in the second quarter of 2011.

There were no reportable accidents in the second quarter of 2011.

There were no environmental incidents in the second quarter of 2011.

### **V. Freight Activity**

No freight activity in the 2<sup>nd</sup> quarter of 2011 due to the embargo, we are still continuing to store empties, with a total amount of 52 GE cars located in the East end of the line as of this date.

MOW Sand carloads moved on the Desert Line	0
Revenue Sand carloads moved on the Desert Line	0
Revenue Freight carloads moved to/from Seeley Via interchange with UPRR, on the Desert Line	0
Non-Revenue Freight carloads moved from UPRR and USG, on the Desert Line	0
Revenue Freight carloads terminating/originating in Mexico to/from San Ysidro via interchange with SD&IV Railroad	0
Total overall second quarter 2011 Carloads Moved	0
Revenue Empties	0
Revenue Storage	52

## **CARRIZO GORGE RAILWAY, INC.**

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### **VI. Mexican Railroad**

Carrizo Gorge Railway is the rail freight operator for the State of Baja California, Mexico and continues to employ the following personnel dedicated to freight service south of the border.

Here is an update of Carrizo Gorge Railway, Inc. Mexico's Operation.

#### **CURRENT MEXICO PERSONNEL**

1	Director of Operations
1	Supervisor of Operations
3	Dispatchers
3	Train Engineers
6	Conductors
1	Mechanic
1	Division Engineer
1	Track Inspector
1	Track Supervisor
8	Track laborer
2	Traffic

# CARRIZO GORGE RAILWAY, INC.

Page 1 of 1

## Appendix A M.O.W. SUMMARY

### DESERT LINE

#### TRACK

Ties Installed (6" x 8" x 8')	0	each
(7" x 9" x 9")	0	each
Stringers	0	each
90 lb/yd Rail Change Out	0	ft.
113 lb. rail Change Out	0	ft.
Repair Open Joints	0	each
Track Regaging	0	each
Separator Rails (4" x 8" x 20")	0	each
Replace Missing Track Bolts	0	each
Rail Anchors Replaces	0	each
Repair Broken angle bars (60 lb.)	0	each
(75 lb.)	0	each
(90 lb.)	0	each
Track Surfaced	0	ft
Track Spikes Used (new)	0	each
Switch Ties Installed	0	each

# **CARRIZO GORGE RAILWAY, INC.**

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Page 1 of 1

## **Appendix B FINANCIAL SUMMARY**

### **DESERT LINE**

#### **REVENUE FREIGHT HAULED**

Railcar loads to/from UP Interchange, Seeley /Plaster City	0
--	---

Railcar loads revenue sand from Dixie (Plaster City) to Campo	0
---	---

Non-revenue Freight  
USG Cars

<b>Total</b>	<b>0</b>
--------------	----------

#### **Track Use Fees:**

##### **Interchange freight to/from UPRR over the Desert Line**

SD&AE / MTS 1% payment	70.98
SD&IV / Rail America payment 6.9 (52 Railcars Storage)	489.76

##### **Revenue Sand from Dixie to Campo**

SD&AE / MTS 1% payment	0.00
SD&IV RailAmerica payment(0cars at \$0.00 each)	0.00

# Agenda

Item No. 6a

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

SDAE 710.1 (PC 50771)

July 19, 2011

## SUBJECT:

SUMMARY OF SD&AE DOCUMENTS ISSUED SINCE APRIL 19, 2011

## RECOMMENDATION:

That the SD&AE Railway Company Board of Directors receive a report for information.

### Budget Impact

None.

## DISCUSSION:

Since the April 19, 2011, SD&AE Railway Company Board of Directors meeting, the documents described below have been processed by staff.

- S200-11-472: Right of Entry Permit to W. C. Communications, Inc. to install aerial fiber optics at Palm Avenue in El Cajon.
- S200-11-485: Right of Entry Permit to the City of La Mesa for the Flag Day Parade.
- S200-11-487: Right of Entry Permit to Kimley-Horn and Associates, Inc. for field investigations along the South Line.
- S200-11-489: Right of Entry Permit to Terra Pacific Consultants for soils investigation at Hill Street in El Cajon.
- S200-11-491: Right of Entry Permit to Johnson-Frank and Associates, Inc. to perform surveying at the San Ysidro Border.
- S200-11-492: Right of Entry Permit to California Conservation Corps to perform clearing and grubbing along the Coronado Branch for the Bayshore Bikeway Project in Chula Vista.

- **S200-11-493:** Right of Entry Permit to the Sweetwater Authority to install a water valve at J Street in Chula Vista.
- **S200-11-494:** Right of Entry Permit to TY Lin International, Inc. to perform field investigations for the South Line Freight Improvement Project.

# Agenda

Item No. 7

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

SDAE 710.1 (PC 50771)

July 19, 2011

## SUBJECT:

ELECTION TO FILL VACANT POSITION OF SD&AE CHAIR

## RECOMMENDATION:

That the SD&AE Board of Directors discuss electing a new Chairperson for the SD&AE Railway Company Board of Directors and forward a recommendation to the MTS Board of Directors for approval.

### Budget Impact

None.

## DISCUSSION:

Don Sell has resigned as Chair of the SD&AE Board of Directors; therefore, the SD&AE Board needs to elect a new Chair to replace Mr. Sell and forward a recommendation to the MTS Board of Directors to approve the elected SD&AE Chairperson.

JULY19-11.7.ELECTCHAIRMAN.KLANDERS



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## Agenda

Item No. 8

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

August 18, 2011

### SUBJECT:

UNALLOCATED TRANSPORTATION DEVELOPMENT ACT FUNDS FOR TRANSIT-RELATED PROJECTS

### RECOMMENDATION:

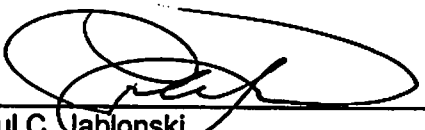
That the Board of Directors approve the use of \$33,452 in unallocated Transportation Development Act (TDA) funds currently held by the County of San Diego for transit-related expenses for the City of La Mesa.

#### Budget Impact

The use of unallocated TDA funds set aside by the County of San Diego for transit-related projects in various jurisdictions would have no impact on MTS's operating or capital budgets. The total available unallocated TDA amount held for the benefit of the City of La Mesa would be reduced by \$33,452, which would result in a zero balance.

### DISCUSSION:

On June 28, 2011, MTS received a letter from the City of La Mesa requesting the use of \$33,452 of the unallocated TDA funds held by the County of San Diego to reimburse City of La Mesa for its Allison Avenue Transit Improvements Project to purchase and install four transit shelters along Allison Avenue.

  
Paul C. Jablonski  
Chief Executive Officer

Key Staff Contact: Mike Thompson, 619.557.4557, [mike.thompson@sdmts.com](mailto:mike.thompson@sdmts.com)

AUG18-11.8.TDA LA MESA.ECHENG

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





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## Agenda

Item No. 9

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

August 18, 2011

### SUBJECT:

TRANSIT SYSTEM SAFETY, SECURITY, DISASTER RESPONSE ACCOUNT  
(TSSSDRA) GRANT PROGRAM

### RECOMMENDATION:

That the Board of Directors approve Resolution No. 11-13 (Attachment A) authorizing the Chief Executive Officer (CEO) or designated representative to take any actions necessary to obtain funds provided by the California TSSSDRA Grant Program.

#### Budget Impact

None.

### DISCUSSION:

Resolution No. 11-13 would authorize filing applications with and requesting reimbursements from the California Emergency Management Agency (CalEMA) and would satisfy requirements of the fiscal year 2010-2011 TSSSDRA security funding.

MTS's allocation of \$2,779,445 in TSSSDRA funding would be used to:


1. install a barrier system at the San Ysidro Transit Center;
2. procure handheld computer devices;
3. install a closed-circuit television system at Grossmont Center trolley stations;
4. install fiber-optic links and Blue Line wireless nodes;
5. upgrades to the Operations Control Center;
6. upgrade surveillance cameras;
7. upgrade trolley station CCTVs; and

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8. cover transit store security improvements.



---

Paul C. Jablonski  
Chief Executive Officer

Key Staff Contact: Nancy Dall, 619.557.4537, [nancy.dall@sdmts.com](mailto:nancy.dall@sdmts.com)

AUG18-11.9.PTMISEA.NDALL

Attachment: A. Resolution 11-13

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

RESOLUTION NO. 11-13

Resolution Approving the Submittal of Applications and Requests for Reimbursements  
for Fiscal Year 2010-2011 Transit System Safety, Security, Disaster Response Account (TSSSDRA)

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

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED that MTS does hereby authorize the Chief Executive Officer, or designated representative, to file and execute any actions necessary on behalf of MTS for the purpose of obtaining state financial assistance provided by the TSSSDRA and subgranted through the California Emergency Management Agency.

1. Chief of Staff, or designated representative, is authorized to file and execute any actions necessary on behalf of MTS or any other documents required by the California Emergency Management Agency.
2. The Chief Financial Officer, or designated representative, is authorized to file and execute any actions necessary on behalf of MTS or any other documents required by the California Emergency Management Agency.

PASSED AND ADOPTED by the Board of Directors this \_\_\_\_ day of \_\_\_\_\_ 2011,  
by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAINING:

\_\_\_\_\_  
**Chairperson**  
**San Diego Metropolitan Transit System**

**Filed by:**

**Approved as to form:**

\_\_\_\_\_  
**Clerk of the Board**  
**San Diego Metropolitan Transit System**

\_\_\_\_\_  
**Office of the General Counsel**  
**San Diego Metropolitan Transit System**



Metropolitan Transit System

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## Agenda

Item No. 10

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

August 18, 2011

SUBJECT:

INVESTMENT REPORT – JUNE 2011

RECOMMENDATION:

That the Board of Directors receive a report for information..

Budget Impact

None.

DISCUSSION:

Attachment A comprises a report of MTS investments as of June 2011. The combined total of all investments has decreased by \$8.8 million in the current month, which is largely due to deferred receipt of subsidy funds to future periods as scheduled and budgeted, \$2 million in disbursements for acquisition of capital assets, and a \$1.5 million scheduled debt service payment from restricted funds.

The first column provides details about investments restricted for capital improvement projects and debt service—the majority of which are related to the 1995 lease and leaseback transactions. The funds restricted for debt service are structured investments with fixed returns that will not vary with market fluctuations if held to maturity. These investments are held in trust and will not be liquidated in advance of the scheduled maturities. The second column, unrestricted investments, reports the working capital for MTS operations allowing for employee payroll and vendors' goods and services.

Paul C. Jablonski  
Chief Executive Officer

Key Staff Contact: Tom Lynch, 619.557.4538, [tom.lynch@sdmts.com](mailto:tom.lynch@sdmts.com)

Attachment: A. Investment Report for March 2011

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



**San Diego Metropolitan Transit System  
Investment Report  
June 30, 2011**

	<u>Restricted</u>	<u>Unrestricted</u>	<u>Total</u>	<b>Average rate of return</b>
<b>Cash and Cash Equivalents</b>				
Bank of America - concentration sweep account	\$ 5,291,772	\$ 6,256,921	\$ 11,548,693	0.00%
<b>Total Cash and Cash Equivalents</b>	<u>5,291,772</u>	<u>6,256,921</u>	<u>11,548,693</u>	
<b>Cash - Restricted for Capital Support</b>				
US Bank - retention trust account	1,996,640	-	1,996,640	N/A *
Local Agency Investment Fund (LAIF) Proposition 1B TSGP grant funds	5,546,995	536,000	6,082,995	0.45%
<b>Total Cash - Restricted for Capital Support</b>	<u>7,543,635</u>	<u>536,000</u>	<u>8,079,635</u>	
<b>Investments - Working Capital</b>				
Local Agency Investment Fund (LAIF) San Diego County Investment Pool	-	3,440,634 10,671,869	3,440,634 10,671,869	0.45%
<b>Total Investments - Working Capital</b>	<u>-</u>	<u>14,112,503</u>	<u>14,112,503</u>	
<b>Investments - Restricted for Debt Service</b>				
US Bank - Treasury Strips - market value (Par value \$39,474,000)	37,372,123	-	37,372,123	
Rabobank - Payment Undertaking Agreement	82,053,636	-	82,053,636	7.69%
<b>Total Investments Restricted for Debt Service</b>	<u>119,425,759</u>	<u>-</u>	<u>119,425,759</u>	
<b>Total cash and investments</b>	<u>\$ 132,261,166</u>	<u>\$ 20,905,424</u>	<u>\$ 153,166,589</u>	

N/A\* - Per trust agreements, interest earned on retention account is allocated to trust beneficiary (contractor)



Metropolitan Transit System

1255 Imperial Avenue, Suite 1000  
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(619) 231-1466 • FAX (619) 234-3407

## Agenda

Item No. 11

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

August 18, 2011

**SUBJECT:**

**DRUG AND ALCOHOL POLICY FOR ALL MTS EMPLOYEES**

**RECOMMENDATION:**

That the Board of Directors adopt Resolution No. 11-14 (Attachment A), which would implement MTS's consolidated and updated Drug and Alcohol Policy in order to comply with current Federal Transit Administration (FTA) regulations.

**Budget Impact:**

None.

**DISCUSSION:**

The FTA requires that recipients of federal financial assistance, such as San Diego Transit Corporation (SDTC), San Diego Trolley, Inc. (SDTI), and MTS, maintain a drug and alcohol policy that complies with FTA regulations, 49 CFR Parts 40 and 655, on preventing prohibited drug use and alcohol misuse in transit operations.

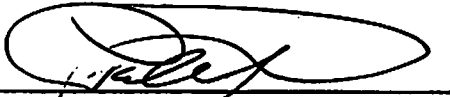
MTS's operating entities SDTC and SDTI currently maintain separate policies prohibiting alcohol misuse and specific drug use. The two policies were both designed to comply with 49 CFR Parts 40 and 655 and are substantially similar; however, they contain minor differences in areas where the FTA allows operator discretion.



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.

Having two separate policies is not necessary and makes the program more difficult to administer. As a result, staff has taken this opportunity to update the drug and alcohol policies to comply with recent FTA guidance and to consolidate them into one.

The FTA regulations require that the governing board of the organization approve the drug and alcohol policy. Accordingly, staff respectfully requests that the Board of Directors approve of the updated drug and alcohol policy, which is attached for review.



Paul O. Jablonski  
Chief Executive Officer

Key Staff Contact: Jeff Stumbo, 619.557.4509, [Jeff.Stumbo@sdmts.com](mailto:Jeff.Stumbo@sdmts.com)

AUG18-11.11.DRUG ALCOHOL POLICY.JSTUMBO

Attachment: A. Resolution No. 11-14 (w/proposed Drug & Alcohol Policy) - Board Only Due to Volume

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

RESOLUTION NO. 11-14

Resolution Amending Drug and Alcohol Policy for all MTS Employees

WHEREAS, The Metropolitan Transit System ("MTS") provides mass transportation services through its operating entities, San Diego Transit Corporation ("SDTC") and San Diego Trolley Incorporated ("SDTI"), which are funded in part by federal financial assistance from the Federal Transit Administration ("FTA"); and

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

WHEREAS, MTS has updated and combined its formerly separate drug and alcohol policies in order to improve operational efficiency and to ensure full compliance with current regulations; and

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED that the MTS Board of Directors does hereby adopt the updated drug and alcohol policy for all MTS employees, including SDTI and SDTC employees, effective September 1, 2011, which is attached to this Resolution.

PASSED AND ADOPTED by the Board this \_\_\_\_\_ day of \_\_\_\_\_ 2011, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAINING:

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**Chairman  
San Diego Metropolitan Transit System**

**Filed by:**

**Approved as to form:**

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

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**Office of the General Counsel  
San Diego Metropolitan Transit System**

## **METROPOLITAN TRANSIT SYSTEM DRUG AND ALCOHOL POLICY**

### **I.**

#### **PURPOSES**

- A. To maintain a safe and efficient public transportation system;
- B. To maintain a safe, healthy working environment for all employees;
- C. To reduce the incidence of accidental injury to person or property;
- D. To reduce absenteeism, tardiness and indifferent job performance;
- E. To maintain a work environment free of alcohol and drug related performance problems, accidents and injuries; and
- F. To comply with the Federal Transit Administration ("FTA") regulations on prevention of prohibited drug use and alcohol misuse in transit operations, 49 C.F.R. Parts 655 and 40.

### **II.**

#### **APPLICATION OF POLICY**

This policy applies to applicants and employees of the San Diego Metropolitan Transit System's ("MTS") operating entities, San Diego Trolley, Inc. ("MTS Rail or SDTI") and San Diego Transit Corporation ("MTS Bus" or "SDTC") [MTS, SDTI and SDTC are collectively referred to as "the Agency"], and to certain contract personnel who have been notified of the applicability of this policy to their work and contractors who have chosen to incorporate this policy as their own based on contractual agreement with the Agency. The word "employee" as used in this policy includes all such designated personnel including contract employees. This policy also applies to employees of the Metropolitan Transit System who work in the titles listed below and/or perform safety-sensitive functions as defined below.

Some of the drug and alcohol testing and procedures required in this policy are mandated by FTA regulations preventing prohibited drug use and alcohol misuse in transit operations, 49 C.F.R. Parts 655 and 40. The drug testing and alcohol testing mandated by FTA is applicable to "safety-sensitive employees" of the Agency, which includes those who:

- 1. Operate revenue service vehicles, including when such vehicles are not in revenue service;
- 2. Operate a non-revenue service vehicle, when such vehicle is required to be operated by a holder of a Commercial Driver's License;

3. Control dispatch or movement of a revenue service vehicle;
4. Maintain a revenue service vehicle or equipment used in revenue service;
5. Security personnel who carry firearms;
6. Supervisors of the aforementioned employees since these supervisors may perform safety-sensitive duties.

The Agency has reviewed the actual duties performed by employees and determined that the following jobs functions may require the performance of safety-sensitive duties:

### **MTS Rail**

Train Operator, Electromechanic, Linemen, Assistant Linemen, Track Serviceperson, LRV Maintainers, Wayside Maintainers, Serviceperson, Flagperson, Controller, Superintendent and Assistant Superintendent of Transportation, Central Control Supervisor, Training Coordinator, Transportation Supervisor, Superintendent and Assistant Superintendent of Maintenance, Maintenance Supervisor, Track Supervisor, Facilities Manager and Facilities Supervisor.

### **MTS Bus**

Bus Operators (student and part-time included), Service Operations Supervisors, all hourly Maintenance employees, Maintenance Manager, Assistant Maintenance Managers, Maintenance Foremen, Quality Assurance Manager, Quality Assurance Supervisor, Dispatchers, Dispatch Clerks, Communications/Operations Supervisors, Operations Trainer, Maintenance Instructor, Manager of Transportation, Assistant Transportation Managers, Senior Transportation Supervisor, Director of Transportation and Director of Maintenance, Manager of Training, Part Time Training Instructor, Safety Manager, Facilities Manager, and Facilities Foremen.

### **MTS Security**

Director of Transit System Security, Assistant Director of Transit System Security, Manager of Transit System Security Field Operations, Transit System Security Supervisor, and all contract officers or supervisors of contract security officers who carry firearms regardless of title or rank.

The drug and alcohol testing required by this policy for employees who are not safety-sensitive employees as defined above is required by the Agency, not the FTA. This policy specifies which testing is mandated by FTA and which is required by the Agency.

Upon implementation, this policy supersedes all previously issued Drug and Alcohol Policies for SDTC, SDTI and MTS.

### **III.**

## **ILLEGAL DRUGS, LEGAL DRUGS AND ALCOHOL**

### **A. Illegal Drugs**

The sale, offer to sell, purchase, use, manufacture, transfer or possession of illegal drugs while on Agency business or on Agency premises, property or vehicles is prohibited. Further, no employee shall bring drug paraphernalia onto Agency premises or property or into company vehicles. Violation of these rules will result in disciplinary action, up to and including termination; termination is likely for any violation, even a first offense.

Illegal drug means any drug (a) which is not legally obtainable or (b) which is legally obtainable but has not been legally obtained. The term includes marijuana, cocaine, opiates (codeine, morphine, heroin), phencyclidine[" PCP"], and amphetamines (amphetamine, methamphetamine, MDMA, MDA, MDEA ["ecstasy"]). Regardless of any State laws protecting the medicinal or recreational use of Marijuana, federal regulations forbid its use by safety-sensitive employees, and Agency policy forbids its use for all other employees. The term also includes prescribed drugs not legally obtained, prescribed drugs not being used for prescribed purposes and any substance which a person holds out or represents to another as an illegal drug.

### **B. Legal Drugs**

The use of legal drugs at a level, or in a manner, combination or quantity which impedes an employee's ability to perform his job is prohibited and will lead to disciplinary action, up to and including termination. Agency policy (not FTA regulations) also deems failure to report the use of legal drugs per the procedure described below as a violation of this policy that will result in discipline up to and including termination of employment.

It is the employee's responsibility to insure that any legal drug(s) they are taking allow them to safely perform their duties. Employees have an affirmative obligation to report any drug or medication which they are taking to their immediate supervisor, using the "Prescription Drug Notification Form", or in their supervisor's absence, directly to the Human Resources Manager, so that a determination can be made by the company's physicians as to the ability of the employee to perform their particular job safely while using that drug or combination of drugs. If, after consulting with its physicians, the Agency has determined that the employee does not pose a threat to his or her own safety, public safety, or the safety of coworkers, and that the employee's job performance will not be significantly affected by the legal drug, the employee may continue to work while taking that particular legal drug. Any employee using a prescription drug must provide the prescription and the medication itself (if requested) to the designated Agency medical facility as soon as possible (but in any case within 24 hours) after notification by Agency management or its physicians.

### **C. Alcohol**

No employee shall consume alcoholic beverages in Agency vehicles, on Agency premises or property, within four hours before performing safety-sensitive functions, while on Agency business, or while in uniform. Violation of these rules will result in disciplinary action, up to and including termination, even for a first offense.

No employee who is on call and therefore subject to being called into work shall consume alcohol within four hours of or during those on call hours. In the event such an employee is called and must report for duty, the employee has the opportunity to acknowledge that they have used alcohol and therefore are not able to perform their safety-sensitive function. In such a case, that employee shall not be required to perform work, but may be disciplined for the use of alcohol during on call hours based on Agency policy (not FTA regulations). FTA regulations mandate that employees with a breath-alcohol concentration between 0.02 percent and 0.039 percent not be allowed to perform any safety-sensitive function until the start of the employee's next regularly scheduled duty period that is at least eight hours following the administration of the alcohol test. The Agency's policy is that any employee who is tested for alcohol and has a breath-alcohol content of 0.02 percent or greater will be terminated, even for a first offense.

#### **IV.**

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

All employees must report for work with no illegal drugs or their metabolites or alcohol in their bodies. Employees must not have illegal drugs or their metabolites or alcohol in their bodies at any time while on the job and employees may be tested for the presence of drugs and/or alcohol at any time while on duty or at an Agency facility. Alcohol tests on safety-sensitive employees who are performing, are about to perform or who have just completed performing safety-sensitive duties are FTA mandated tests; all other alcohol tests are required by MTS policy. Drug tests on safety-sensitive employees are FTA-mandated tests except those specifically identified by this Policy as MTS tests; all drug tests on non-safety-sensitive employees are required by MTS policy, not FTA regulations. FTA regulations prohibit safety-sensitive employees from using alcohol within four hours prior to their shift or while on call, and from having a breath-alcohol concentration of 0.02 or higher while performing safety-sensitive duties. Agency policy likewise prohibits employees from having a breath-alcohol concentration while on duty of 0.02 percent or higher; any employee with a breath-alcohol concentration of 0.02 percent or higher will be terminated. Compliance with these rules is considered an essential job qualification for all employees. **Termination of employment will occur for a violation of any of these rules, even for a first offense. This is a zero tolerance policy. No employee who violates this policy will be given a second chance.**

#### **V.**

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

#### **A. Pre-employment Drug Testing.**

All Agency applicants are subject to pre-employment drug testing. Those who are applying for safety-sensitive positions are subject to an FTA pre-employment drug test. Those who are not applying for a safety-sensitive position may be subject to an Agency pre-employment drug test. All drug tests will be administered by a medical

facility designated by the Agency. If the drug test is cancelled by the Medical Review Officer ("MRO"), the employee must retake and pass the drug test before being hired. The Agency extends conditional offers of employment to successful candidates contingent on their passing a pre-employment drug test; any prospective employee refusing to submit to the drug test will not be hired by the Agency. Any prospective employee with a positive drug test will be rejected from further consideration for employment with the Agency. Further, any applicant or employee who has previously failed or refused a drug test must provide proof to the Agency, prior to being considered for employment, that they have successfully completed a referral, evaluation and substance abuse treatment plan compliant with the requirements in 49 C.F.R. Part 40 and 655. The Agency will provide each applicant or employee who fails a drug test with a list of names, addresses and telephone numbers of locally available Substance Abuse Professionals ("SAP(s)") qualified under 49 C.F.R. Part 40 requirements. Agency policy, not FTA regulations, requires that all fees, other than the cost of the drug test itself, including but not limited to referral, counseling and treatment fees will be paid by the candidate/employee.

## **B. Reasonable Suspicion Alcohol and Drug Testing**

All Agency employees are subject to reasonable suspicion alcohol testing and drug testing. Those who work in safety-sensitive positions are subject to an FTA alcohol test and drug test. Those who do not work in a safety-sensitive position are subject to an Agency alcohol test and drug test. When the Agency has reasonable suspicion to believe that an employee has violated the prohibitions set forth in this policy, the employee will be required to submit to an alcohol test and/or a drug test immediately upon demand by the Agency. Reasonable suspicion testing will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of an employee. One or more supervisors or company officials trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations. For FTA reasonable suspicion alcohol tests, the alcohol testing authorized in this section (and the observations required by the supervisors or company officials referred to above) must occur during, just before or just after the workday of the employee being tested. Observations leading to Agency alcohol tests will likewise be made during, just before or just after the workday of the employee being tested. Observations leading to FTA drug tests may occur any time a safety-sensitive employee is on duty. Observations leading to MTS drug tests may occur any time a non-safety-sensitive employee is on duty.

FTA regulations require that any employee with a positive drug test or an alcohol concentration measure of 0.02 percent or higher be immediately removed from service, and that an employee with an alcohol concentration measure of 0.02 to 0.039 percent will, at a minimum, not be allowed to perform a safety-sensitive function until the start of the employee's next regularly scheduled duty period that is at least eight hours following the administration of the alcohol test.

Agency policy, not FTA regulations, requires that all employees who are required to submit to a reasonable suspicion drug and alcohol test (Agency or FTA) be removed from working until the results of both tests are known. Further, any employee with a positive drug test or having a breath alcohol concentration measure of 0.02 percent or higher will be terminated from employment with the Agency. Any employee who has a positive DOT drug test or an alcohol concentration measure of 0.04 percent or higher on a DOT-mandated alcohol test will be referred to the Substance Abuse Professional ("SAP") for evaluation in accordance with 49 C.F.R. Part 40. Agency policy, not FTA

regulations, requires that all costs, other than the cost of the drug test itself, including but not limited to, referral, counseling and treatment fees will be paid by the candidate/employee.

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

### **C. Post-Accident Alcohol and Drug Testing**

FTA regulations require drug and alcohol testing following certain accidents. In addition, the Agency requires post-accident testing for accidents in circumstances when such testing is not required by the FTA. The following guidelines describe when a test is required by the FTA versus when the test is required by Agency policy. Employees will be informed whether the test is an FTA test or an Agency test. Agency tests will not be conducted using FTA testing forms.

1. FTA Definition of "Accident." An accident, as defined by the FTA, is an occurrence associated with the operation of a vehicle, if as a result:
  - a. An individual dies; or
  - b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or
  - c. With respect to an occurrence in which the mass transit vehicle involved is a bus, van or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as a result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or
  - d. With respect to an occurrence in which the mass transit vehicle involved is a trolley car, the mass transit vehicle is removed from operation.
  - e. Disabling damage means damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. Disabling damage includes damage to a motor vehicle, where the vehicle could have been driven, but would have been further damaged if so driven. Disabling damage does not include damage that can be remedied temporarily at the scene of the accident without special tools or parts, tire disablement without other damage even if no spare tire is available or damage to headlights, tail lights, turn signals, horns, or windshield wipers that makes the vehicle inoperative.
2. Fatal Accidents. As soon as practicable following an accident involving the loss of human life, each surviving employee operating the mass transit vehicle at the time of the accident shall submit to an alcohol test and a drug test. Further, any other employee whose performance could have contributed to the accident (e.g., a mechanic in the case of brake failure causing the accident), as determined by the Agency using the best information available at the time of the decision, shall also be required to submit to an alcohol test and a drug-screen test.

3. Non-fatal Accidents. As soon as practicable following an accident not involving the loss of human life, each employee operating the mass transit vehicle at the time of the accident shall submit to an alcohol test and a drug-screen test, unless Agency management determines, using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor to the accident. In addition, any employee whose performance could have contributed to the accident, as determined by the Agency, using the best information available at the time of the decision, will be required to submit to an alcohol test and a drug-screen test.
4. Agency Definition of "Accident". The Agency defines an accident as any incident which is not subject to FTA-mandated post-accident alcohol or drug testing, but involves damage to company property or an injury to any person. Any employee who is involved in an accident may, at Management's discretion, be required to submit to a non-DOT breath alcohol test and drug test. The definition of "involvement" in an accident includes, but is not limited to, an employee who is in a bus, trolley or other Agency vehicle at the time of an accident. Further, any other employee whose performance could have contributed to the accident, as determined by Agency management using the best information available at the time of the decision, shall also be required to submit to a non-DOT alcohol test and a drug test. The procedures and rules outlined in the remainder of this section apply uniformly regardless of whether the test is an Agency test or a FTA test, however, the Agency sets the procedures for its own testing based on its own authority, not FTA authority.
5. Post-Accident Testing Procedures.
  - a. Any employee involved in an accident is prohibited from using alcohol for eight hours following the accident or until he or she undergoes a post-accident alcohol test and drug test. Any employee involved in an accident who fails to remain readily available for the testing required by this section, including notifying company officials of his or her location if he or she leaves the scene of the accident prior to submission to such tests, will be deemed to have refused to submit to testing.
  - b. Post-accident testing will occur after the employee assists in resolution of the accident or receives medical attention following the accident. The Agency will complete the post-accident drug testing as soon as possible, and such testing will occur no later than 32 hours after the accident. The Agency will attempt to complete the post-accident alcohol testing within two hours of the accident. If the testing is not completed within two hours, the Agency will continue to attempt to complete the test and will prepare a report explaining why the breath specimen was not collected within two hours. If the alcohol test is not completed within eight hours of the accident, the Agency shall cease attempts to complete the test and update the report as to why the test was not completed.
  - c. Refusal to submit to a test required by this section will be sufficient grounds for termination and will result in the employee being relieved of his or her duties immediately. Based on FTA regulations, any employee with a positive drug test or having an alcohol concentration measure of 0.02 percent or higher will be immediately removed from service. Based on Agency policy, any employee with a positive drug test and/or an

alcohol concentration measure of 0.02 percent or higher will be terminated from employment with the Agency.

- d. Any employee who has a positive DOT drug test or an alcohol concentration measure of 0.04 percent or higher on a DOT-mandated alcohol test will be referred to the Substance Abuse Professional ("SAP") for evaluation in accordance with 49 C.F.R. Part 40. Agency policy, not FTA regulations, requires that all costs, other than the cost of the drug test itself, including but not limited to, referral, counseling and treatment fees will be paid by the employee/former employee.

#### **D. Random Alcohol Testing and Drug Testing**

(The testing in this section applies only to safety-sensitive employees as defined above.) All safety-sensitive employees will be subject to unannounced, random alcohol testing and random drug testing in accordance with 49 C.F.R. Part 655. The selection of employees for random alcohol testing and random drug testing shall be made randomly by the Agency. The selection of employees for random alcohol testing and random drug testing shall be by a scientifically valid method, such as a random number table or a computer-based random number generator. Each employee will have an equal chance of being tested each time selections are made. These tests will not be announced in advance and will be administered on all days and at during all work hours throughout the year. The current minimum testing requirement is to annually perform drug tests on 25% and alcohol tests on 10% of the safety-sensitive employees. The Agency's Drug and Alcohol Program Manager ("DAPM") will adjust the number of tests periodically to ensure the Agency conducts no fewer than the FTA-mandated number of tests.

Each employee selected for random alcohol testing and/or random drug testing must proceed to the test site immediately. Refusal to submit to such testing will be sufficient grounds for termination and will result in the employee being relieved of his or her duties immediately. Based on FTA regulations, any employee failing a drug test or having an alcohol concentration measure of 0.02 percent or higher will be immediately removed from service. Based on Agency policy, any employee with a positive drug test and/or an alcohol concentration measure of 0.02 percent or higher will be terminated from employment with the Agency. Any employee who has a positive DOT drug test or a finding of an alcohol concentration measure of 0.04 percent or higher on a DOT-mandated alcohol test will be referred to the Substance Abuse Professional ("SAP") for evaluation in accordance with 49 C.F.R. Part 40. Agency policy, not FTA regulations requires that all costs, other than the cost of the drug test itself, including but not limited to referral, counseling and treatment fees will be paid by the employee/former employee.

#### **E. Drug Testing for Employees Assuming Safety-Sensitive Duties**

Any employee who accepts a position with the Agency involving safety-sensitive duties, who has previously been engaged in non-safety-sensitive duties, will be required to submit to and pass a pre-employment drug test prior to assumption of the safety-sensitive duties. In addition, any employee who has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and where that employee has not been in the Agency's random drug testing selection pool during that time, shall be required to take a pre-employment drug test in accordance with Section V(A) above, with a verified negative result before returning to duty.

If the drug test is cancelled by the MRO, the employee must retake and pass the test before assuming safety-sensitive duties. Refusal to submit to such testing will be sufficient grounds for termination of employment. Any employee failing a drug test will be immediately removed from service. Further, failure of a drug test will subject the employee to termination from employment with the Agency. Any employee who has a positive DOT drug test will be referred to the Substance Abuse Professional ("SAP") for evaluation in accordance with 49 C.F.R. Part 40. Agency policy, not FTA regulations, requires that all costs, other than the cost of the drug test itself, including but not limited to, referral, counseling and treatment fees will be paid by the employee/former employee.

#### **F. Return to Duty and Follow-Up Alcohol Testing and Drug Testing**

Any safety-sensitive employee who is allowed to return to duty after failing or refusing an alcohol test or a drug test must first provide a negative drug, alcohol (or both) test result. Employees returning to duty after failing or refusing an alcohol test or a drug test will be required to undergo unannounced follow-up alcohol and/or drug testing as directed by a substance abuse professional ("SAP"). The number and frequency of such follow-up testing shall be directed by the SAP. The employee will be subject to follow-up testing for as long as prescribed by the SAP, but such testing shall not continue beyond five years from the date the employee returns to safety-sensitive duties.

Agency policy, not FTA regulations, requires that any employee who is allowed to return to duty following leave for substance abuse rehabilitation must first provide a negative drug, alcohol (or both) test result. Employees returning to duty following leave for substance abuse rehabilitation will be required by Agency policy to undergo unannounced follow-up alcohol and/or drug testing as determined by a Substance Abuse Professional ("SAP"). The number and frequency of such follow-up testing shall be directed by the SAP. The employee will be subject to follow-up testing for as long as prescribed by the DAPM, but such testing shall not continue beyond five years from the date the employee returns to their duties. The follow-up testing following a leave of absence specified in this paragraph is required by Agency policy, not FTA regulations.

Based on FTA regulations, any employee with a positive drug test or having an alcohol concentration measure of 0.02 percent or higher will be immediately removed from service. Based on Agency policy, any employee with a positive drug test and/or an alcohol concentration measure of 0.02 percent or higher will be terminated from employment with the Agency. Any employee who has a positive DOT drug test or an alcohol concentration measure of 0.04 percent or higher on a DOT-mandated test will be referred to the Substance Abuse Professional ("SAP") for evaluation in accordance with 49 C.F.R. Part 40. Agency policy, not FTA regulations, requires that all costs, other than the cost of the drug test itself, including but not limited to, referral, counseling and treatment fees will be paid by the employee/former employee.

#### **G. Alcohol Testing and Drug Testing Following Injuries**

(The alcohol testing and drug testing required in this section is required by the Agency; these are not FTA-mandated tests.) Any employee who sustains an injury on the job will be required to submit to an alcohol test and a drug test as part of the physician's examination of the employee for the injury. Refusal to submit to such alcohol tests or drug tests will result in the employee being relieved of his or her duties

immediately and will subject the employee to termination of employment. Any employee with a positive drug test or an alcohol concentration measure of 0.02 percent or higher will be terminated by the Agency.

## **VI.**

### **FALSIFICATION, FAILURE TO TIMELY ARRIVE FOR TESTING, AND FAILURE TO NOTIFY**

Any employee who provides false information in connection with an alcohol test or drug test administered under this policy, or who attempts to falsify test results through tampering, contamination, adulteration or substitution, shall be terminated by the Agency.

Any employee who fails to appear for a drug test or alcohol test within a reasonable time when required by this policy, or to remain at the testing site until the testing process is completed, or to cooperate fully in the testing process, will be deemed to have refused to be tested, and will be considered to have a positive test.

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

## **VII.**

### **BEHAVIOR CONSTITUTING A REFUSAL TO SUBMIT TO A TEST**

The behaviors outlined in this section apply to all tests administered under this policy regardless of if they are FTA-mandated or required by the Agency's authority; however, Agency tests will not be conducted on DOT testing forms.

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

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

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

1. Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
2. Failure to remain at the testing site until the testing process is complete;
3. Failure to cooperate with any part of the testing process (e.g., refusal to empty pockets when so directed by the collector, behaving in a confrontational way that disrupts the collection process);
4. Failure to provide a sufficient urine sample as required without a valid medical cause established in writing by a physician;
5. Refusal to undergo a medical examination or evaluation as directed by the MRO or as directed by a Designated Employer Representative ("DER");
6. Failure or refusal by an employee to take a second drug screen test if a DER or the MRO has directed the employee to do so;
7. Failure to permit the observation or monitoring of the collection of the specimen in the case where a directly observed or monitored collection of a urine specimen is required;
8. For an observed collection, failure to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process, or to possess or wear such a device that could be used to interfere with the collection process; or
9. The MRO reports to the Drug and Alcohol Program Manager that an employee has a verified adulterated, diluted or substituted test result.
10. Admitting to the Collector or MRO that the specimen was substituted or adulterated.

Refusal to submit to a drug screen test constitutes a verified positive drug test result, which will result in termination of employment according to Agency policy.

**VIII.**

**PROCEDURES FOR ALCOHOL AND DRUG TESTING**

**A. Procedure for Alcohol Tests**

All FTA-mandated alcohol testing called for in this policy shall be conducted in accordance with 49 C.F.R. Part 40: Procedures for Transportation Workplace Drug and Alcohol Testing Programs, as amended. All Agency-mandated breath alcohol testing will follow the same procedures but Agency-mandated tests are not required or governed by 49 C.F.R. Part 40. However, the results of FTA-mandated breath alcohol testing will be compiled on a U.S. Department of Transportation ("DOT") Alcohol Testing

Form ("ATF"). The results of breath alcohol testing required by the Agency (and not FTA) will be on non-DOT testing forms. Agency management will inform the collection facility whether the test is an FTA or an Agency test. The alcohol testing in this policy applies regardless of whether the alcohol was ingested as beverage alcohol or in a medicinal or other preparation.

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

## **B. Procedure for Drug Tests**

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

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

Transfer of urine specimens will be accomplished through appropriate chain of custody procedures. The forms accompanying the specimens will have unique preprinted specimen ID numbers and the employee will sign or initial certifying that the specimen was taken from that employee. All drug tests that are positive will be retested in a confirmation test prior to the laboratory specifying a positive result on a drug test. All drug testing done under this policy will be done by a laboratory that has been certified by the federal Department of Health and Human Services ("DHHS"). The

Agency's DHHS certified laboratory is Quest Diagnostics, Inc. All confirmatory tests will be performed using GC/MS techniques. There are federally mandated cut-off limits for the minimum quantity of drug that must be detected in order for a positive test on the initial and confirming test. The current cut-off limits expressed in nanograms per milliliter (ng/ml) are as follows:

<u>Drug</u>	<u>Initial Screen</u>	<u>Confirming Test</u>
Marijuana (THC)	50	15
Cocaine	150	100
Opiates Codeine Morphine Heroin	2000	2000
Phencyclidine (PCP)	25	25
6-Acetylmorphine	10	10
Amphetamines Amphetamine Methamphetamine MDMA MDA MDEA	500	250

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

test fail to confirm the presence of the drugs or drug metabolites found in the primary specimen, the MRO shall cancel the test.

If the MRO advises the Agency that the result of the drug test was negative, but that the test was dilute because the specimen contained a creatinine concentration greater than or equal to 2mg/dL, but less than or equal to 5mg/dL,; the employee will be required to take another drug screen test immediately; the new test will be an observed collection. In this circumstance, the employee will be given as little advance notice as possible that he or she must return to the collection site. The test result from this test will be used to determine if the employee passes the drug test.

If the MRO advises the Agency that the result of the drug test was negative, but that the test was dilute and the specimen contained a creatinine concentration greater than 5mg/dL, the employee will be required to take another drug screen test immediately; the new test will not be an observed collection. In this circumstance, the employee will be given as little advance notice as possible that he or she must return to the collection site. The test result from this test will be used to determine if the employee passes the drug test.

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

MTS policy, not FTA regulations, require that employees who are waiting to provide a breath or urine sample refrain from using electronic devices such as cell phones, ipods, and PDAs. Employees violating this rule will be suspended for a minimum of one day.

## **IX.**

### **POLICY REGARDING TREATMENT FOR DRUG OR ALCOHOL ADDICTION**

A. (The following policy on treatment for drug and alcohol addiction, follow-up testing and the associated consequences is an Agency policy, not an FTA policy.) Any employee who feels that he or she has developed an addiction to, dependence upon or problem with alcohol or drugs, legal or illegal, is encouraged to seek assistance. No disciplinary action will be issued against any employee who (1) comes forward to management with their problem prior to being requested to submit to an alcohol test or a drug screen test and before the Agency learns of a violation of the drug and alcohol policy, and (2) provided the employee has not violated the policy before coming to management. If an employee comes forward to management regarding a drug or alcohol problem seeking assistance, but management learns that the employee violated this policy before coming forward, the Agency will discipline the employee for violating the policy, up to and including termination of employment. Further, if the company learns of a violation of this policy before the employee comes forward, or if the

employee comes forward with the problem only after being requested to submit to an alcohol test or a drug screen test, the employee will be subject to termination.

**B. How to Seek Assistance.** To seek assistance for a problem with drugs or alcohol, you may contact MTS's Human Resources Manager (See "Contact Person" listed below), or you may directly contact Horizon Health, the Agency's Employee Assistance Program ("EAP"), by calling 800-342-8111. Information concerning the EAP is posted on company bulletin boards and is available in the Human Resources offices. All requests for assistance will be kept confidential.

**C.** The Agency has worked with the EAP to develop a list of resources (hospitals and community organizations) offering alcohol or drug treatment programs. The EAP will refer employees seeking assistance to a facility covered by their healthcare (if applicable) or another appropriate treatment organization. Any employee failing an alcohol test or drug test required under this policy will be provided the above-referenced list of resources. The referral to the EAP is independent of any disciplinary action that the company may impose and the employee is responsible for all costs associated with analysis and treatment.

**D.** Rehabilitation itself is the responsibility of the employee. However, any employee seeking medical attention for alcoholism or drug addiction will be entitled to benefits available under the company's group medical insurance plan applicable to that employee, subject to the restrictions and limits stated in the applicable plan document. Furthermore, rehabilitation leave will be available only to those employees whose employment is not terminated for misconduct prior to coming forward. Rehabilitation leave requests are subject to the leave of absence provisions of the applicable collective bargaining agreement, the Agency's medical leave policy (or the applicable administrative leave policies, if the employee is an administrative employee or member of management). Rehabilitation leave will be available on a one-time-only basis, subject to the conditions for continuing employment in Paragraph E below. **The Agency will not offer rehabilitation leave on a second occasion. The recurrence of an alcohol or drug problem will result in termination of employment.**

**E.** To be eligible for continuation of employment following a rehabilitation leave, the employee must:

1. Undergo evaluation by a SAP, who will recommend a course of rehabilitation. (This is an Agency-mandated evaluation, not an FTA requirement.)
2. Begin a program of rehabilitation, strictly follow the rules and guidelines of that program, and sign a release of all medical information, including that relating to drug and alcohol treatment, so the company can monitor his or her progress.
3. Remain continuously enrolled in a treatment program and actively participate in that program.
4. Not reject treatment or leave the treatment program prior to being properly discharged therefrom.
5. Agree that the SAP will determine whether the employee has successfully completed the program.

6. Not violate the Drug and Alcohol Policy.
- F. Any employee suffering from an alcohol or drug problem who rejects treatment or who leaves a treatment program prior to being properly discharged there from will be terminated from employment.
- G. All employees returning to active employment from rehabilitation will be required to sign a "Return to Work Agreement" requiring:
  1. That the employee must pass a non-DOT alcohol test and non-DOT drug screen test before returning to work;
  2. That a SAP must determine that the employee has properly followed an appropriate rehabilitation program and is capable of returning to duty;
  3. That the employee agrees to unannounced alcohol testing and drug testing. The number and frequency of follow-up testing shall be determined by the SAP (this is required by Agency policy, not FTA regulations). The employee will be subject to follow-up testing for as long as prescribed by the SAP, but such tests shall not continue beyond five years from the date of the employee's return to duty;
  4. That failure of any drug test or alcohol test or refusal to immediately submit to such testing during this period shall be grounds for immediate termination based on Agency policy (not FTA regulations);
  5. That the employee must maintain an acceptable attendance and performance record, not violate the Drug and Alcohol Policy, and comply with all other company rules and policies upon their return to work.

**X.**

**MISCELLANEOUS INFORMATION REGARDING THIS  
DRUG AND ALCOHOL POLICY**

**A. Contact Person**

Any employees having questions about the Agency's Drug and Alcohol Policy should contact Brendan Shannon, MTS's Human Resources Manager, located at 1255 Imperial Avenue, Suite 1000, San Diego, California 92101-7492, telephone number 619-557-4569.

**B. Training**

The Agency provides training for all of its supervisors in order for them to be able to make a determination of whether reasonable suspicion exists for an employee to be required to submit to reasonable suspicion alcohol testing and drug testing. This training includes a minimum of 60 minutes of supervisor training on the effects of drug use and 60 minutes of supervisor training on the effects alcohol use and this policy. Training of newly promoted or hired supervisors will occur before they

assume supervisory duties (unless they are under the direct supervision of a trained supervisor or manager).

### **C. Notice of Certain Requirements in Addition to FTA-Mandated Requirements**

The policy is designed in part to comply with the Federal Transit Administration ("FTA") regulations on prevention of prohibited drug use and alcohol misuse in transit operations, 49 C.F.R. Part 655. However, MTS has added certain additional requirements to this policy, including the following:

1. This policy applies to all employees of MTS and its operating divisions (MTS Bus and MTS Rail), not just safety-sensitive employees as defined by the FTA. As such, Agency employees who are not safety-sensitive employees are subject to pre-employment drug testing and to reasonable suspicion, post-accident and post-injury drug testing and alcohol testing.
2. The Agency requires post-accident alcohol and drug testing in cases where such testing is not required by the FTA. The FTA regulations limit the circumstances under which post-accident alcohol and drug testing will occur, as set forth in Article V(C) above. The Agency requires post-accident alcohol and drug testing using a much broader definition of accident.
3. The Agency requires alcohol testing and drug testing following work injuries, which is not required by FTA regulations.
4. This policy requires employees using prescription drugs to report the prescription to their supervisor or Human Resources, and to provide the medication itself (if requested) to the Agency medical facility.
5. This policy sets forth the disciplinary action for violations of the policy, which is an Agency decision, and is not part of the FTA regulations.
6. This policy requires that all costs of drug treatment and/or SAP evaluation be paid by the employee or former employee. This is an Agency decision, not an FTA requirement.

### **D. Substance Abuse Professional**

The Agency has secured the services of a Substance Abuse Professional ("SAP"). The Agency's Substance Abuse Professional is Peggy Wagner of Horizon Heath, who can be reached at 858-571-1698. Ms. Wagner is a Certified Employee Assistance professional who specializes in evaluating and treating individuals with substance abuse disorders. Ms. Wagner will evaluate employees who come forward with substance abuse problems, employees returning to duty after failing an alcohol or drug test or following leave for substance abuse rehabilitation, and will direct the frequency of follow-up drug testing and alcohol testing for employees.

### **E. Right to Examine Records**

Every employee has the right to review his/her drug and alcohol testing records (except SAP-determined DOT follow-up testing plans), provide information to dispute

the results of a drug or alcohol test and, upon written request, to obtain copies of any records pertaining to his or her drug and alcohol tests, including records pertaining to equipment calibration and laboratory certifications.

## APPROVAL OF POLICY BY MTS

This policy has been approved by the MTS Board of Directors and Chief Executive Officer.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Harry Mathis  
Chairman, MTS Board of Directors

DATED: \_\_\_\_\_

\_\_\_\_\_  
Paul C. Jablonski  
Chief Executive Officer

**ACKNOWLEDGMENT OF RECEIPT OF  
METROPOLITAN TRANSIT SYSTEM DRUG AND ALCOHOL POLICY  
(EFFECTIVE 9/1/11)**

I hereby acknowledge receipt of a copy of the **METROPOLITAN TRANSIT SYSTEM** Drug and Alcohol Policy, effective 9/1/2011. I understand that I am responsible for reading the policy and in consideration of my employment with the Agency (MTS, SDTC or SDTI), I hereby agree to comply with the policy in all respects and consent to the alcohol testing and drug screen testing required by this policy.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Employee ID Number

\_\_\_\_\_  
Employee Name (Please Print)



Metropolitan Transit System

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

## Agenda

Item No. 12

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

CIP 11360

August 18, 2011

### SUBJECT:

#### CLASS B PARATRANSIT BUSES - CONTRACT AWARD

### RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. B0565.0-12 (in substantially the same form as Attachment A) with Creative Bus Sales to purchase 30 Class B Cutaway buses manufactured by Starcraft Bus with an option to purchase up to 5 additional Class B Cutaway buses for paratransit services.

#### Budget Impact

The purchase of 30 Class B buses would not exceed \$2,274,950.25 (MTS Capital Improvement Program [CIP 11360-1300]). To exercise the option for the additional 5 Class B buses would require a not-to-exceed amount of \$376,658.40.

### DISCUSSION:

MTS has a contractual obligation to provide its paratransit contractor with a bus fleet capable of meeting service demands. The Federal Transportation Administration (FTA) regulations require that MTS schedule 100% of its daily trip demand with a zero-denial rate. MTS must provide a sufficient spare ratio to accommodate routine preventative maintenance and demand growth.

The FTA Circular 4220.1F, Chapter V, Section 4, encourages recipients who receive federal funding to use state and local intergovernmental agreements for procurements of property and services. Based on this authority, MTS staff identified an intergovernmental agreement that provides Class B buses, which meet MTS's specifications. The Class B buses are available through a local government purchasing schedule administered by the California Association of Coordinated Transportation (CalACT). The CalACT Vehicle Purchasing Cooperative allows MTS to select vehicles from a menu of choices from different vendors and manufacturers. This flexibility enables MTS to procure buses that will best suit MTS's requirement without a formal procurement process.

1255 Imperial Avenue, Suite 1000, San Diego, CA 92101-7490 • (619) 231-1466 • [www.sdmts.com](http://www.sdmts.com)

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



Market analysis identified the CalACT Vehicle Purchasing Cooperative as the most advantageous and beneficial method in meeting MTS's current needs. The CalACT Vehicle Purchasing Cooperative was competitively bid in accordance with FTA procurement guidelines and contains all of the federally required clauses and certifications.

The unit price established at the time of the CalAct Vehicle Purchasing Cooperative award is still considered fair and reasonable (see Attachment D). This determination is based on the following rationale.


- Economies of Scale: This unit price per Class B bus offered on the CalACT Vehicle Purchasing Cooperative is based on a sale of 1,000 units.
- Discounts: The buses offered via the CalACT Vehicle Purchasing Cooperative are approximately \$7,000 to \$8,000 less than open-market pricing.

Other Considerations

- Standardization: The Class B buses that MTS intends to purchase via the CalACT Vehicle Purchasing Cooperative are the same buses currently in MTS's fleet.
- Delivery: The 30 Class B buses that MTS is seeking to procure would be delivered approximately 120 days after award (early 2012) and would allow MTS to continue to provide Americans with Disabilities Act services with zero denials.

Based on the above information, MTS staff has concluded that awarding a contract to Creative Bus Sales for Class B buses manufactured by Starcraft Bus represents the best value to MTS. Pricing and other factors considered, it is recommended that the Board approve awarding a base contract to Creative Bus Sales in the amount of \$2,274,950.25 for 30 Class B buses and grant the CEO the authority to exercise the option in the amount of \$376,658.40 for up to 5 additional Class B buses should funding become available.

MTS staff has conducted a preaward audit and certifies that the Class B buses are compliant with federal regulations for purchasing rolling stock with federal financial assistance.

  
\_\_\_\_\_  
Paul C. Jablonski  
Chief Executive Officer

Key Staff Contact: Daniel McCaslin, 619.235.2648, [daniel.mccaslin@sdmts.com](mailto:daniel.mccaslin@sdmts.com)

AUG18-11.12.CLASS B PARATRANSIT BUSES.SREED

Attachments: A. MTS Doc. No. B0565.0-12  
B. Creative Bus Sales Proposal Dated 7/17/11  
C. CalACT Letter of Assignment, Revised for Options 8/3/11  
D. Fair and Reasonable Cost Justification Memo

} Board Only Due  
to Volume

## STANDARD PROCUREMENT AGREEMENT

B0565.0-12  
 CONTRACT NUMBER  
 OPS 920.6  
 FILE NUMBER(S)

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2011, in the state of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following contractor, hereinafter referred to as "Contractor":

Name: Creative Bus Sales

Address: 13501 Benson Avenue

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

Chino, CA 92710

Telephone: 909.465.5529

Authorized person to sign contracts: Tony Matijevich President  
 Name Title

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

This Agreement is for the purchase and delivery of thirty (30) Class B Minibuses (per MTS requirements) with an option to purchase up to an additional 5 Class B Minibuses exercisable at the sole discretion of MTS with notice to proceed no later than December 31, 2011. Vehicles will be purchased against the CalACT Vehicle Purchasing Cooperative with Creative Bus Sales and in accordance with the MTS Standard Procurement Agreement, including the Standard Conditions for Procurement, Federal Requirements, Safety Department Standard Operating Procedures (SAP-016), Creative Bus Sales' quotation dated July 18, 2011, and Creative Bus Sales' production schedule received July 21, 2011 (hereinafter "Contract Documents"). If there are any inconsistencies between the Contract Documents, the following order of precedence will govern the interpretation of this contract:

1. Standard Procurement Agreement, including Standard Conditions Procurement and Federal Requirements;
2. Creative Bus Sales Proposal dated July 18, 2010 and attached Production Schedule dated July 21, 2011.
3. CalACT/MTA Vehicle Purchasing Cooperative No. 09-02 as amended.

Delivery of the thirty (30) Class B Minibuses shall be completed no later than **February 28, 2012** unless otherwise specified by MTS in writing. Exercise of the option for up to five (5) Class B minibuses must be completed within twelve (12) months from date that this Agreement is executed.

Vehicle shall be delivered to: **Metropolitan Transit System (MTS)**  
 7490 Copley Park Place  
 San Diego, CA 92111  
 Attn: Dan McCaslin – 619.235.2648

The registered owner will be: **San Diego Metropolitan Transit System (MTS)**  
 1255 Imperial Avenue, Suite 1000  
 San Diego, CA 92101

This is a firm-fixed-price contract not subject to escalation. The total cost for the thirty (30) Class B Minibuses shall not exceed **\$2,274,950.25**, which includes sales tax, "exempt" license, California tire fee, training, and delivery. The total cost for the optional five (5) Class B minibuses shall not exceed \$376,658.40, which includes sales tax, "exempt" license, California tire fee, training, and delivery, upon exercise at MTS's discretion.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	CONTRACTOR AUTHORIZATION
---------------------------------------	--------------------------

By: \_\_\_\_\_  
Chief Executive Officer

Approved as to form:

By: \_\_\_\_\_  
Office of General Counsel

Firm: \_\_\_\_\_

By: \_\_\_\_\_  
Signature

Title: \_\_\_\_\_

AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
\$2,274,950.25	11306-1300	FY 12

By: \_\_\_\_\_  
Chief Financial Officer

(\_\_\_ total pages, each bearing contract number)

AUG18-11.12.AMA BOSTON-12.CREATIVE BUS SALES.SREED

Attachment: Production Schedule dated 7/21/11

# Production Schedule dated 7/21/11

## SAN DIEGO MTS SCHEDULE

UNIT #	Start Date	Phase 1	Phase 2	Phase 3	Offline	Que/Paint	Road/Water	Final Insp.	Rework	Ship	CREATIVE BUS SALES	DELIVERY TO MTS
1	11/4/2011	11/7/2011	11/8/2011	11/9/2011	11/10/2011	11/17/2011	11/23/2011	11/28/2011	11/29/2011	11/30/2011	11/29/2011	12/1/2011
2	11/4/2011	11/7/2011	11/8/2011	11/9/2011	11/10/2011	11/17/2011	11/23/2011	11/28/2011	11/29/2011	11/30/2011	11/29/2011	12/1/2011
3	11/4/2011	11/7/2011	11/8/2011	11/9/2011	11/10/2011	11/17/2011	11/23/2011	11/28/2011	11/29/2011	11/30/2011	11/29/2011	12/1/2011
4	11/4/2011	11/7/2011	11/8/2011	11/9/2011	11/10/2011	11/17/2011	11/23/2011	11/28/2011	11/29/2011	11/30/2011	11/29/2011	12/1/2011
5	11/4/2011	11/7/2011	11/8/2011	11/9/2011	11/10/2011	11/17/2011	11/23/2011	11/28/2011	11/29/2011	11/30/2011	11/29/2011	12/1/2011
6	11/7/2011	11/8/2011	11/9/2011	11/10/2011	11/11/2011	11/18/2011	11/24/2011	11/29/2011	11/30/2011	12/1/2011	11/29/2011	12/1/2011
7	11/7/2011	11/8/2011	11/9/2011	11/10/2011	11/11/2011	11/18/2011	11/24/2011	11/29/2011	11/30/2011	12/1/2011	11/29/2011	12/1/2011
8	11/7/2011	11/8/2011	11/9/2011	11/10/2011	11/11/2011	11/18/2011	11/24/2011	11/29/2011	11/30/2011	12/1/2011	11/29/2011	12/1/2011
9	11/7/2011	11/8/2011	11/9/2011	11/10/2011	11/11/2011	11/18/2011	11/24/2011	11/29/2011	11/30/2011	12/1/2011	11/29/2011	12/1/2011
10	11/7/2011	11/8/2011	11/9/2011	11/10/2011	11/11/2011	11/18/2011	11/24/2011	11/29/2011	11/30/2011	12/1/2011	11/29/2011	12/1/2011
11	11/8/2011	11/9/2011	11/10/2011	11/11/2011	11/12/2011	11/19/2011	11/25/2011	11/30/2011	12/1/2011	12/2/2011	11/30/2011	12/2/2011
12	11/8/2011	11/9/2011	11/10/2011	11/11/2011	11/12/2011	11/19/2011	11/25/2011	11/30/2011	12/1/2011	12/2/2011	11/30/2011	12/2/2011
13	11/8/2011	11/9/2011	11/10/2011	11/11/2011	11/12/2011	11/19/2011	11/25/2011	11/30/2011	12/1/2011	12/2/2011	11/30/2011	12/2/2011
14	11/8/2011	11/9/2011	11/10/2011	11/11/2011	11/12/2011	11/19/2011	11/25/2011	11/30/2011	12/1/2011	12/2/2011	11/30/2011	12/2/2011
15	11/8/2011	11/9/2011	11/10/2011	11/11/2011	11/12/2011	11/19/2011	11/25/2011	11/30/2011	12/1/2011	12/2/2011	11/30/2011	12/2/2011
16	11/8/2011	11/9/2011	11/10/2011	11/11/2011	11/12/2011	11/19/2011	11/25/2011	11/30/2011	12/1/2011	12/2/2011	11/30/2011	12/2/2011
17	11/9/2011	11/10/2011	11/11/2011	11/12/2011	11/13/2011	11/20/2011	11/26/2011	11/31/2011	12/2/2011	12/3/2011	11/31/2011	12/3/2011
18	11/9/2011	11/10/2011	11/11/2011	11/12/2011	11/13/2011	11/20/2011	11/26/2011	11/31/2011	12/2/2011	12/3/2011	11/31/2011	12/3/2011
19	11/9/2011	11/10/2011	11/11/2011	11/12/2011	11/13/2011	11/20/2011	11/26/2011	11/31/2011	12/2/2011	12/3/2011	11/31/2011	12/3/2011
20	11/9/2011	11/10/2011	11/11/2011	11/12/2011	11/13/2011	11/20/2011	11/26/2011	11/31/2011	12/2/2011	12/3/2011	11/31/2011	12/3/2011
21	11/10/2011	11/11/2011	11/12/2011	11/13/2011	11/14/2011	11/21/2011	11/27/2011	11/31/2011	12/3/2011	12/4/2011	11/31/2011	12/4/2011
22	11/10/2011	11/11/2011	11/12/2011	11/13/2011	11/14/2011	11/21/2011	11/27/2011	11/31/2011	12/3/2011	12/4/2011	11/31/2011	12/4/2011
23	11/10/2011	11/11/2011	11/12/2011	11/13/2011	11/14/2011	11/21/2011	11/27/2011	11/31/2011	12/3/2011	12/4/2011	11/31/2011	12/4/2011
24	11/10/2011	11/11/2011	11/12/2011	11/13/2011	11/14/2011	11/21/2011	11/27/2011	11/31/2011	12/3/2011	12/4/2011	11/31/2011	12/4/2011
25	11/10/2011	11/11/2011	11/12/2011	11/13/2011	11/14/2011	11/21/2011	11/27/2011	11/31/2011	12/3/2011	12/4/2011	11/31/2011	12/4/2011
26	11/11/2011	11/12/2011	11/13/2011	11/14/2011	11/15/2011	11/22/2011	11/28/2011	11/31/2011	12/4/2011	12/5/2011	11/31/2011	12/5/2011
27	11/11/2011	11/12/2011	11/13/2011	11/14/2011	11/15/2011	11/22/2011	11/28/2011	11/31/2011	12/4/2011	12/5/2011	11/31/2011	12/5/2011
28	11/11/2011	11/12/2011	11/13/2011	11/14/2011	11/15/2011	11/22/2011	11/28/2011	11/31/2011	12/4/2011	12/5/2011	11/31/2011	12/5/2011
29	11/11/2011	11/12/2011	11/13/2011	11/14/2011	11/15/2011	11/22/2011	11/28/2011	11/31/2011	12/4/2011	12/5/2011	11/31/2011	12/5/2011
30	11/11/2011	11/12/2011	11/13/2011	11/14/2011	11/15/2011	11/22/2011	11/28/2011	11/31/2011	12/4/2011	12/5/2011	11/31/2011	12/5/2011

Plant Shutdown Holidays in this Timeframe: Thanksgiving - November 24 - 25, 2011. Christmas - December 26 - 30, 2011

### START DATE:

The body frame will already have been welded and primo painted. This is the day the chassis comes into our prep area at this time cab and frame modifications are made, heater hoses installed and chassis made ready for the body.

### PHASE 1:

This phase of production includes base electrical additions such as battery cables, grounds and taillight harnesses. Then the unit moves into our flooring department and the plywood is installed. After that some lower exterior skin is applied.

### PHASE 2:

This phase includes the roof and upper exterior skin attachment. The unit flows down the line and the flooring material is installed, front and rear caps installed, interior finish panels are installed, and the heater is installed.

### PHASE 3:

This phase includes attachment of the windows and doors, electrical system harness and hookup, interior trim and interior lighting, audio/visual products, A/C ordered and the hookup of all exterior lighting required.

### OFFLINE:

During the final 3 to 4 stations on the line final interior finishing takes place. Seats are installed, W.C. tie down kits are finalized with attachment and any missing trim or earlier shortages put in place. The unit then leaves the production line.

### QUE/PAINT

Our paint department faces an ever-changing workload since we cannot predict the magnitude of paint work needed until all orders are scheduled for both our commercial and school bus plants. For this reason we always assume roughly one week of que time and paint time combined to enable the paint department to schedule their work as efficiently as possible.

### ROAD-WATER:

All vehicles undergo a road test to check for all accessories functioning properly, squeaks or rattles, if any for repair and other items for which the driver has a standard checklist. After the road test is complete the unit undergoes a complete water test in our rain booth. Any leaks are noted for repair. The unit also has a 4 corner scaled weight performed and the vehicle labels are printed and installed for FMVSS purposes.

Note: Any defects noted during the road and water test require a re-test be performed to verify compliance.

### FINAL INSPECTION:

Known as our float area, this is where any and all remaining quality defects noted are checked and repaired. A final Quality Control verification of the repairs is noted before the unit is ready for inspection by any Third Party Inspectors.

### REWORK:

Any Inspector noted defects are repaired at this stage for sign off by the Inspector.

### SHIP:

This phase is the vehicle pickup from Starcraft by the customer designated transport firm for delivery. Any transport time is in addition to this date.

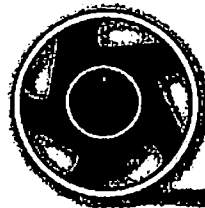
### INSPECTION BY MTS:

For the delivery of the last set of new buses, MTS chose to inspect the first bus at Creative Bus Sales.

Based upon the inspection and findings of this first bus, all others were modified accordingly and final inspection was done at delivery to MTS. These inspections and dates are not required and can be modified or deleted by MTS.

### DELIVERY TO MTS:

These dates are somewhat flexible and can be modified accordingly to meet the schedule requirements of MTS.

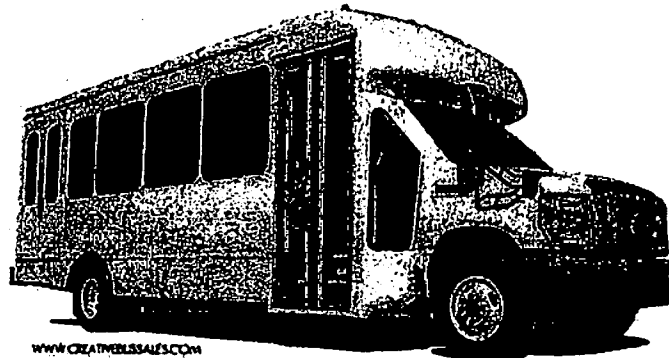


**Creative Bus Sales**

**13501 Benson Avenue, Chino, California, 91710**

**July 18, 2011**

**Creative Bus Sales Proposal to  
San Diego MTS**



**CalACT Type B Cutaway ADA Bus for 12-Ambulatory + 2-Wheelchair Passengers  
Pricing based off of CalACT / MBTA Vehicle Purchasing Cooperative**

- Piggyback Options: CalACT / MBTA Bid (Class B-Gasoline)
- Purchase Requires Membership to CalACT and Payment of Procurement Fee
- Delivery Timeline: Approximately 120-days
- Starcraft Allstar Cutaway Bus
- 2012 Ford E450 Cutaway Bus with 6.8L V10 Gasoline Engine
- 12-Ambulatory Passengers + 2-Wheelchair Positions
- Ricon S-2010 Wheelchair Lift with Lift Cover
- Restraints: Q-Straint 8100 Deluxe with Knobs

From the office of Steve Chung  
Cell 909.549.9398 / Office 800.326.2877 / Fax 909.465.5529  
stevec@creativebussales.com  
www.creativebussales.com

- Flooring: Altro Chroma TFCR27MTS Grey w/ Yellow Step Nosing and Yellow Standee Line
- Passenger Seats Covers: #117 Wine D-90 Vinyl
- Driver Seat Cover: Recaro Black Vinyl 77850L
- Exhaust to Exit Street Side of Bus Turned 90 Degrees from Underneath Chassis and Exit 6" From Rear of Bumper of Bus. (Rearmost Window Street Side of Bus to be Solid Pane / Non-Emergency Exit to Meet Title 13 Regulations for Exhaust)
- Exterior Paint Scheme Per Attached Photos: Valspar #829R4072 (Toyland Red)
- Decals Per Attached Photos (No Starcraft Bus or Creative Bus Sales Decals on Buses)
- Pricing:

Quantity	Description	Price	Est. Price	ADA
1	Class B (Ford) - Starcraft Alistar	\$51,149.00	\$51,149.00	\$7,500.00
8	<Credit> Seat	-85.00	-568.00	
<b>Caltrans Features</b>				
1	Recaro SHS Drivers Seat	\$1,191.00	\$1,191.00	
1	Dialight - Exterior LED Lighting (All)	\$750.00	\$750.00	
1	Dialight - Interior LED Lighting (Passengers)	\$400.00	\$400.00	
1	11" First Step Height	\$0.00	\$0.00	
<b>Additional Available Options</b>				
4	Freedman Folding Seat	\$975.00	\$3,900.00	
2	34" - 36" Freedman Flip Seat	\$795.00	\$1,590.00	
1	No First Aid Kit	-40.00	-40.00	
1	Rims to be Powder Coated White	\$0.00	\$0.00	
1	All Buses to be Keyed Alike	\$100.00	\$100.00	
1	No Tool Box for Wheelchair Restraints	-40.00	-40.00	
1	2 x 750 CCA Batteries in Tray (No Battery Under Hood)	\$150.00	\$150.00	
1	Battery Disconnect Switch with Decal Located in Driver Area	\$0.00	\$0.00	
3	Torso Pads (for total of 4)	\$35.00	\$105.00	
1	910 Engine Package from Ford (Hardened Valves and Seats)	\$315.00	\$315.00	
1	Pre-Wire for 4-Camera System (Full-Wire Only)	\$300.00	\$300.00	
1	Exterior Side View Mirrors- Remote with LED Strip (Not Heated)	-25.00	-25.00	
1	Solid Pane Window (Rear Most Street Side Only)	\$50.00	\$50.00	
1	Roof Vent	\$495.00	\$495.00	
1	Raised Floor (3-Step Entry / No Step-Up Behind Driver)	\$650.00	\$650.00	
2	Additional Mobility Aid Position (w/Tiedowns)	\$795.00	\$1,590.00	
1	Telma Driveline Brake Retarder	\$6,400.00	\$6,400.00	
1	Removable Diamond Floor Access Plate	\$100.00	\$100.00	
1	Bus Decals (Including Installation Per Attached Photos)	\$600.00	\$600.00	
1	MTS Paint Scheme (Painted at Starcraft Bus)	\$1,900.00	\$1,900.00	
			<b>Total</b>	<b>ADA</b>
			Base Price	\$51,149.00
			Option Total	\$19,801.00
			Document Prep Fee	\$55.00
			<b>Total</b>	<b>\$71,005.00</b>
			Non-Taxable	\$15,335.00
			Taxable Amount	\$55,670.00
			<b>Tax Total</b>	<b>\$4,314.43</b>
			<b>Sub-Total</b>	<b>\$75,319.43</b>
			Procurement Fee 1.5%	\$500.00
			DMV Estimated Fee	\$0.00
			Tire Fee	\$12.25
			Delivery	\$0.00
			<b>Total</b>	<b>\$75,831.68</b>
			Number of Units	30
			<b>Final Total</b>	<b>\$2,274,950.25</b>

San Diego 783

Delivery Included First 100 Miles

Included

From the office of Steve Chung  
 Cell 909.549.9398 / Office 800.326.2877 / Fax 909.465.5529  
 stevec@creativebussales.com  
 www.creativebussales.com



Starcraft - Type B Ford	
Qty	Description
1	Chassis, Ford 6.8 Gas 158in 14,500 (2010) 225 Amp Alt.
1	12 + 2 w/c Body
1	Extended Warranty
1	Tire Valve Extension
1	Spare Tire - Ship Loose
1	Help Bumper w/Hawkeye (Anti Ride)
1	Driveshaft Guard - Additional
1	As-Built Wiring Diagram
1	Wiring Diagram Installed on Circuit Breaker Cover
1	Electrical Wiring Function and Color Coded (Packard Connectors)
1	Gateway - ILIS
1	LED - Passenger Entry Door Light
1	LED - Front Marker Lights
1	LED - Rear Marker Lights
1	LED - Rear Center Brake Light
1	OEM Daytime Running Lights
1	LED - Mid-Ship Turn / Marker Lights
1	LED - Backup Lights
1	Independent Brake and Turn Signals
1	Rear Turn Signals - Amber
1	Door Activated Interior Lights
2	LED Steplight
1	Maximum Capacity 2nd Battery (750cca ?)
1	Battery Disconnect - Body Only
1	Stainless Steel Slides on Battery Tray
1	Battery Box and Tray
1	Stainless Steel Battery Box
1	Locking Latch on Battery Tray Door
1	Battery Cable Diagram on Battery Door
1	Battery Disconnect - Decal
3	Three Total Added Grounds
1	Back-Up Alarm
1	Frame Corrosion Protection
1	One-Piece Roof
1	Stainless Steel Exterior Screws and Exterior Fasteners
12	Docket 90 Vinyl Seat Material (Seats Fully Enclosed)
12	Fully Enclosed Seats - Flameblocker
12	USR Seatbelt
2	24" Seat Belt Extenders
12	Seat Grab Handle
6	US Armrest
6	Mid-High Back Freedman Double Seat
0	Mid-High Back Freedman Single Seat
1	Freedman Sport Drivers Seat
1	D-90 For Drivers Seat
1	5/8" Exterior Grade Plywood Flooring (Sealed Edges)
1	Altro Meta Flooring - Gray
1	Altro Standee Line - Yellow
1	Standee Line Decal
1	FRP on Ceiling

1	FRP on Rear Wall
1	Altro Coved Flooring
2	Altro Stepnosing - Yellow
1	Electric Entry Door
1	Exterior Entry Door Key Lock
1	Accessible Service Door - For Door Mechanism
1	Driver Running Board
1	Driver Entry Assist Rail
1	Dual Entry Door Grabrails
2	Overhead Handrails
1	Driver Modesty Panel (Formica)
1	Smoked Plexiglass Upper Driver Modesty Panel
1	Fixed Rear Streetside Window
1	LED Emergency Exit Lights
2	Emergency Exit Decals
1	Insulated (Astro-Foil) Front Cap
1	Full Undercoating - Included Cab Area
1	Steel Wheelwells
1	Front Mudflaps
1	TA 733 Rear A/C (Dual Compressors) - MUST BE ALL OEM COMPONENTS
1	50,000 BTU Rear Heater
2	Heater Brass Turn Valves
1	Silicone Heater Hoses
1	Shut-Off Valves - Decal
1	Braun Millenium or Ricon S-5005 Wheelchair Lift
1	Dual Lift Entry Doors - 68" Minimum w/Windows - Gas Shock Hold-Opens
1	Special Lift Doors Construction to Meet Spec
1	LED - Lift Curbside Lighting
1	(PCOM) Park Crank Module
2	Q'Straint QRT 8300 Max (L Track)
8	Webbing Loop
1	Wheelchair Restraint - Plastic Storage Box
1	Web Cutter
1	Torso Pad - Solo
1	Recessed Front Cap w/Storage - Locking Door
1	5lb Fire Extinguisher
1	Emergency Triangle Kit
1	16 Unit First Aid Kit
1	B & R 6" x 9" Passenger View Mirror
1	B & R or Hadley Exterior Electric Mirrors w/Turn Signal
2	Minimum of 8 Interior Incandescent Lights
1	Streetside Exhaust w/Turn Down
1	Two-Way Radio Prep w/Pull Wire & Access Panel, Ground Plane
1	Brake Max or Duratans Overdrive Controller
1	Blood Borne Pathogen Kit
1	Driver Coat Hook - Chrome
1	Manual, CD Cust Part-Elec-Vid w/Driver Manual
1	DVD, QRT Training
1	Chassis, No Tow
1	Spring, Additional Leaf - Lift Side
1	Lift Pad Kit
1	ADA Decals
1	No Paint

## ► The Allstar Series

**STARCRAFT BUS**  
a division of Forest River, Inc.

## ► The Allstar Series

**STARCRAFT BUS**  
a division of Forest River, Inc.

### ► Standard Exterior Feature Highlights

- Fully welded steel cage construction meeting all applicable FMVSS requirements
- "Starview" drivers visibility window in front of entry door
- Electric actuated passenger entry door with full length glass
- 36" wide x 36" high upper double T-slider tempered safety glass windows with climate control fan
- Black powder coated steel rear bumper
- Rear mud flaps
- Pre-painted white aluminum side, rear walls, skirts
- One-piece seamless FRP (fiberglass reinforced plastic) roof
- Breakaway rearview mirrors with built-in convex
- Sealed LED stop, tail, and turn signal lights with incandescent reverse lights
- Exterior graphics package available in three colors (blue, green or burgundy)

### ► Standard Interior Feature Highlights

- 83" interior width
- 80" interior floor to ceiling height with standard floor (raised floor is 75")
- Floor and wall seat track for flexible seating
- Black ribbed rubber aisle with gray carpet under the seats
- 5/8" exterior grade plywood flooring
- Ceiling and rear wall fabric for sound abatement
- FRP (fiberglass reinforced plastic) sidewalls for ease of cleaning
- White step nosing
- 1.25" left hand vertical passenger assist rail at entry door
- Printed circuit board with automotive type fuses and LED trouble shooting lights
- Entry door step wall lights
- Incandescent driver and passenger area lighting

### ► Popular Option Highlights

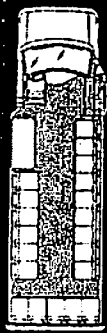
- Stainless steel wheel inserts
- Interior and exterior LED lighting
- Luggage Storage areas (overhead luggage racks with reading lights, interior luggage racks, rear storage area)
- Rear emergency door with window(s)
- Passenger area rear heat and air conditioning
- Complete rubber flooring
- Passenger grab rails
- Padded vinyl or cloth walls and ceiling
- Audio and video systems
- Mid back or high back seating
- ADA and FMVSS compliant wheel chair lifts and securement systems
- Fiberglass side walls, skirts, and rear cap
- Seal belts



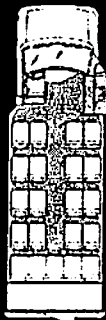
12 Passenger 2 Wheelchair  
4 Passenger Foldaway Seats Plus Driver



16 Passenger 2 Wheelchair  
4 Passenger Foldaway Seats Plus Driver



20 Passenger with Interior Luggage Plus Driver



21 Passenger with Rear Luggage Plus Driver



25 Passenger Plus Driver

Due to our commitment to product quality, specifications and options are subject to change without notice in the interest of product improvement and market changes.



Altoona Teled • 7 Year/200,000 Miles

**STARCRAFT BUS**  
a division of Forest River, Inc.

2367 Century Drive • Goshen, IN 46528 • Lit. No. SCB-09/093010  
1,800.348.7440 • Fax: 574.642.3301 • www.starcraftbus.com

► Safety. Performance. Durability.

## ► The Allstar Series | Safety. Performance. Durability.

**STARCRAFT BUS**  
a division of Forest River, Inc.

► **Safety** is our primary focus at Starcraft Bus, from the 3,000 lbs. seat-pull test to the rigorous 7-year/200,000 mile Altaona testing, passengers can be assured that the Allstar surpasses the most stringent testing. Bus operators can relax knowing that the fully welded steel cage construction offers the best passenger protection.

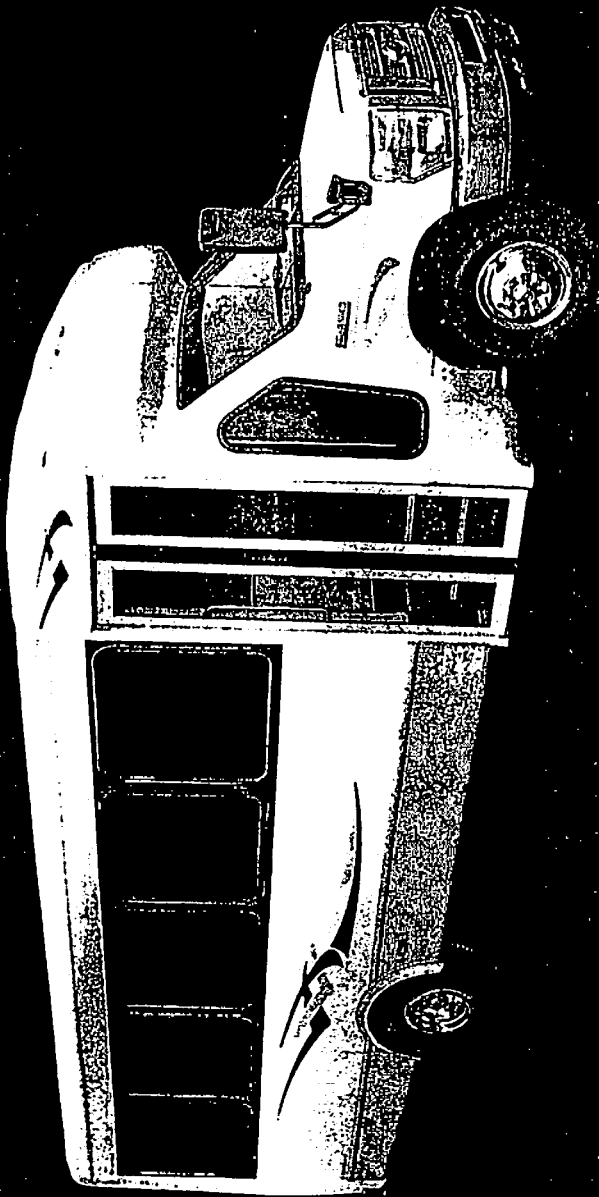
**Performance** is not measured by how fast the bus will go, but rather by passenger comfort. The Allstar features straight side wall construction that maximizes passenger shoulder space and the widest aisle in the industry.

**Durability** does not come easily or quickly. The Allstar has been time tested for close to a decade. The 22,000-plus Starcraft buses on North America's roads offer a billion reasons why the Allstar has become a favorite, and those reasons are called miles. The Allstar is engineered to accommodate a variety of seating arrangements including wheelchair accessibility and various storage options for luggage.

Starcraft Bus, a division of Forest River, Inc., is owned by Bechtel, Heston & Co., one of the most respected and secure companies in the industry. We continue to be the leader by providing value, perfect performance, durability and safe transportation.



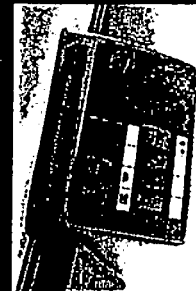
Allstar can also be equipped with optional rear wheelchair accessibility.



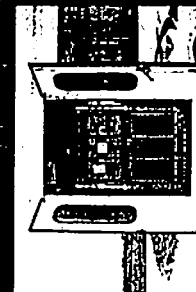
## ► Allstar Features | Features to Meet Your Specific Needs



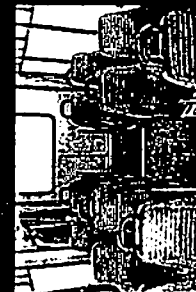
Optional high-back seats, upholstery, padded cloth walls and ceiling, and overhead luggage racks.



Driver's switch panel conveniently located within view of the road and not on the engine cover.



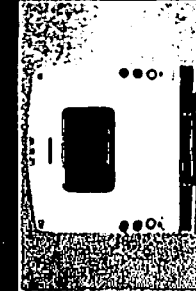
Optional double wheelchair door with top-mounted gas shocks to hold door open in windy conditions.



Optional mid-back seats, padded vinyl walls and ceiling, and wheelchair accessible.



Printed electrical circuit board with LED trouble-shooting lights.



Optional fiberglass rear cap.

# Cover Options Commercial Vehicle

**RECARO** 10411

## Fabrics (Standard)



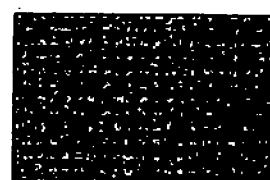
Royal Blue  
78205



Brown  
78267



Black  
78207



Taupe  
78200



Navy Blue  
78206



Grey  
78203



Red  
78201

## Vinyl (Standard)



Royal Blue  
77851L



Brown  
77864L



Black  
77850L



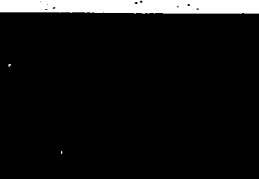
Navy Blue  
78065L



Light Grey  
78060L

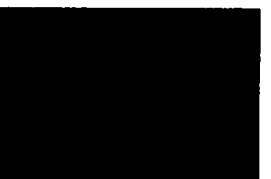


Dark Grey  
78584L



Red  
78016L

## Leather (Standard)



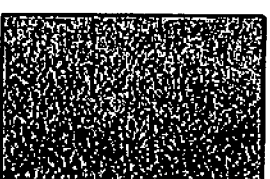
Black  
78072



Dark Blue  
78230



Dark Brown  
7213876



Beige  
78222



Light Grey  
78431



Red  
78411



Dark Grey  
78146



Burgundy  
78189



August 3, 2011

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

Re: Cooperative Letter of Assignment

Dear Mr. Reed:

The CalACT-MBTA Vehicle Purchasing Cooperative is pleased to assign thirty-five options, for thirty-five Class B, Starcraft Allstar cutaways to be purchased from Creative Bus Sales from RFP #09-02.

Please be advised that assignment of said vehicles does not constitute a recommendation or endorsement of this product by the Cooperative. San Diego MTS as the purchaser is responsible for its choice of vehicle product and options selected. San Diego MTS is responsible for vehicle inspection, acceptance and enforcement of any contract provisions.

Purchasers of hybrid and low floor vehicles in particular are advised that these vehicles be considered by the Cooperative as developmental in nature. Purchasing agencies are urged to exercise due diligence in evaluating the suitability of these vehicles for their operating environment. In particular, the Cooperative urges you to read and understand the Altoona test report for the vehicle you are purchasing. Copies of the solicitation documents containing contract provisions are available at [www.CalACT.org](http://www.CalACT.org)

By accepting assignment, San Diego MTS agrees to hold harmless, indemnify and defend the Cooperative as per Section 6.0 (6) of RFP #09-02 from any and all liabilities. Thank you so much for purchasing your vehicles through the Cooperative. If you have any questions please call me at 916-920-8018.

Sincerely,

*Jacklyn Montgomery*

Jacklyn Montgomery  
Executive Director

Cc: Steve Chung, Creative Bus Sales  
Daniel McCaslin, San Diego MTS  
J. Byrne, San Diego MTS  
I. Tilman, San Diego MTS



Att. D, AI 12, 8/18/11

Purchasing Department  
1255 Imperial Ave., Suite 1000  
San Diego, CA 92101  
619.557.4576 FAX 619.696.7084

## MEMORANDUM

DATE: August 18, 2011  
TO: Procurement File  
FROM: Sean Reed  
SUBJECT: PRICE ANALYSIS CLASS B MINIBUSES MTS DOC. NO. B0565.0-12

### BACKGROUND

In July of 2011, MTS Transit Operations requested a purchase of thirty (30) Class B Cutaway Buses with the option to purchase up to an additional five (5) units. On November 20, 2009, the California Department of Transportation (Caltrans), Division of Mass Transportation MS 39, reviewed the CalACT Vehicle Purchasing Cooperative (CalACT) Request for Proposals (RFP) No. 09-02 for the procurement of accessible paratransit vehicles and approved the bid solicitation and subsequent bid award. This review consisted of CalACT's contract compliance with federal statutes and regulations applicable to third-party contracting. Specific areas in which Caltrans reviewed were CalACT's procurement activities, to include, adherence to 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, and the Federal Transportation Administration (FTA) Circular 4220.1F Chapter V, Part 4 - Third Party Contracting Requirements. From this review, Caltrans determined that the above procurement documents met all of the required federal guidelines.

### PRICE ANALYSIS

This price analysis is submitted in accordance with the requirements outlined in the FTA Circular 4220.1F, Chapter VI, paragraph 6, b., and the Best Practices Procurement Manual (BPPM) Section 5.2. The purpose of this analysis is to determine the reasonableness of the proposed contract pricing and if the pricing offered via the CalACT is fair and reasonable and represents the best value to MTS. The following factors will be analyzed:

- Price comparison of other Class B buses offered via the CalACT Vehicle Purchasing Cooperative.
- Pricing comparison of similar type Class B buses previously purchased by MTS.

The BPPM considers "Established catalog prices" as an acceptable form of price analysis. The CalACT price schedule, effective 1/15/10, lists the StarCraft model cutaway bus, Class B (Ford E450) as the lowest bid price compared to other manufactured vehicles in the same category (see attached CalACT-



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.

MBTA Vehicle Purchasing Cooperative effective 1/15/10, Cutaway Buses). The current final quoted price per unit, inclusive of additional options not provided on previous purchases, procurement fees and taxes is \$75,831.68.

MTS purchased 17 StarCraft buses from CBS in 2010 via the CalACT catalog, which was awarded in September of 2010 at a total unit price (before tax and procurement fee) of \$70,602.25. The bid submitted by CBS dated July 18, 2011 identified a per-bus price of \$70,552.25 (before tax, procurement fee, and \$465/unit in additional options).

In order to better determine the cost of the buses ordered in 2010 versus the cost of the buses to be ordered in 2011, the fixed pricing offered via the CalACT pricing will be adjusted utilizing the Producer Price Index (PPI), Commodity Code 1413, Truck and Bus Bodies. The pricing on the CalACT pricing was established in January of 2010, with a fixed price subject to a maximum 4% base price escalation after the second year of the contract (2012). Therefore, the PPI from January 2010 will be used as the baseline for comparison purposes to the latest figures available (June 2010). The following analysis is provided:

Formula:

•	<u>Index Point Change</u>	
	PPI: June 2011	219.7
	Less PPI: Base Award JAN 2010	<u>216.5</u>
	Point Change:	3.2
•	<u>Index Percentage Change</u>	
	Index Point Change	3.2
	/ PPI JAN 2010	<u>216.5</u>
	Equals	.0148
		<u>X 100</u>
	Equals Percent Change	1.48%

Creative Bus Sales JAN 2010 Price	\$70,602.25 per bus
Plus Percentage Change (1.48% x \$70,602.25)	<u>\$1,044.91</u>
Revised Price:	\$71,647.16

The revised (CalACT) pricing represents the cost for the same bus as if it were ordered today using PPI adjustment. The pricing offered via the CalACT Vehicle Purchasing Cooperative (\$70,552.25) when compared to the previous MTS purchase price for the same StarCraft bus, adjusted for PPI, (\$71,647.16) is \$1,094.91 less expensive today than the previous order.

RECOMMENDATION

Based on the above information, the pricing offered from Creative Bus Sales via the CalACT Vehicle Purchasing Cooperative is determined to be fair and reasonable. It is recommended that the Board award a contract to Creative Bus Sales for up to 30 Class B buses with a unit price of \$75,831.68 inclusive of all applicable fees and taxes, with authorization for the Chief Executive Officer to exercise options for an additional 5 units no later than December 31, 2011 in order to maintain current pricing. Pricing and other factors considered, Creative Bus Sales' bid represents the best value to MTS.

  
Sean Reed  
Contract Officer

**CalACT-MBTA Vehicle Purchasing Cooperative effective 1/15/10****Cutaway Buses**

Standard Equipment includes

Hawkeye reverse assistance, Intermotive fast idle, wheelchair interlocks, PCOM module and overdrive controllers, Freedman Passenger seating inc. Docket 90 level upholstery, Altro flooring, Surelok or Q-Straint (your choice), A&M electric doors, BRS Hadley Power mirrors, Braun or Ricon Lifts (your choice), LED marker lighting

Manufacturer Dealer	Champion Creative	Eldorado Creative	ElkhartAZ AZ-Bus	ElkhartBW BusWest*	Glaval AZ-Bus	Goshen Creative	StarCraft Creative	Startrans Creative
<b>Class A (Ford E350)</b> 8 min psgr, 138" wb	52655	51880	50699	49350	55714	48050	48766	48290
<b>Class A-GM (GM 3500)</b> 8 min psgr, 139" wb	55953	54160	N/A	N/A	58423	51012	N/A	51109
<b>Class B (Ford E450)</b> 12 min psgr, 158" wb	56063	55850	55286	53750	59415	52116	51149	52545
<b>Class B-GM (GM 4500)</b> 12 min psgr, 159" wb	58875	57860	N/A	N/A	61709	54519	53705	55101
<b>Class B-CNG*</b> 12 min psgr, 158" wb	89905	86615	N/A	84950	85406	82881	81914	83310
<b>Class B-Hybrid</b> 12 min psgr, 158" wb	114688	108491	N/A	N/A	109929	104725	N/A	106747
<b>Class C (Ford E450)</b> 16 psgr (rear lift), 176-190" wb	58799	57635	58037	55975	62248	54999	53687	54995
<b>Class C -CNG*</b> 16 psgr (rear lift), 176-190" wb	91888	88400	N/A	87500	87789	85764	84452	85760

Elkhart and Glaval CNG buses are due Altoona testing before acceptance of first federally funded vehicle

\*NOTE-Buswest offers \$1,000 parts discount and extended warranty on Elkhart Brand coaches

Options Prices	Champion Creative	Eldorado Creative	ElkhartAZ AZ-Bus	ElkhartBW BusWest	Glaval AZ-Bus	Goshen Creative	StarCraft Creative	Startrans Creative
Freedman Folding Seat	975	975	1060	925	980	975	975	975
34"-36" Freedman Flip Seat	795	795	775	645	639	795	795	795
17"-18" Freedman Flip Seat	340	340	446	425	401	340	340	340
Child Seat	880	880	806	625	806	880	880	880

	Champion	Eldorado	ElkhartAZ	ElkhartBW	Glaval	Goshen	StarCraft	Startrans
Roof Vents	495	495	270	475	270	495	495	495
Additional Mobility Aid positions (w/tie downs)	795	795	565	695	565	795	795	795
HELP Front bumper	985	985	895	975	895	985	985	985
Credit for seat delete	-85	-85	-160	-125	-180	-85	-85	-85
Locking rear door w/alarm	764	764	385	575	665	764	764	764
Removable diamond floor access plate	100	100	65	225	110	100	100	100
Locking fuel door	125	125	75	125	75	125	125	125
Armored Marker lights and side turn signal	0	0	0	225	0	0	0	0
RECARO SHS Drivers Seat	1191	1191	1050	945	1050	1191	1191	1191
USSC 9500 Drivers Seat	967	967	875	690	1242	967	967	967
Telma Driveline Brake Retarder	6400	6400	7250	6945	7150	6400	6400	6400
Raised Floor	650	650	440	750	440	650	650	650
Mor-RYD Suspension'	989	989	875	735	760	989	989	989
Engine Credit for Ford 5.4 Liter	-918	-918	-800	-450	-800	-918	-918	-918
Upgraded A/ C System (75,000 BTU min)	1400	1400	2350	1350	1601	1400	1400	1400
Amerex Fire Suppression	5000	5000	5295	4125	5295	5000	5000	5000
Electric Roller Curtain Sign	1100	1100	1750	795	1750	1100	1100	1100
REI Buswatch DVR System (4 Camera)	3500	3500	2748	3575	2748	3500	3500	3500
Stop Request System (w/ sign)	995	995	575	775	475	995	995	995
Diesel Option-Largest Available (GM only)	12500	12500	NA	NA	10490	12500	12500	12500
Maxon Wheelchair Lift	0	0	825	0	475	0	0	0
Pentex 200 Amp Alternator	1200	1200	975	1150	925	1200	1200	1200
RoadSpeed Limiter	975	975	665	875	665	975	975	975
Sportworks bike rack	1600	1600	1650	1950	1650	1600	1600	1600
Automatic Stop/Start System	997	997	725	975	725	997	997	997
High Quality AM/FM CD Radio, 4-speaker inst.	750	750	225	275	0	750	750	750
Kidde Automatic Fire Supression w/Methane	5000	5000	4491	4125	4491	5000	5000	5000
Cruise Control	-150	-150	0	0	0	-150	-150	-150
Apollo 250 GB DVR w/ GPS (4 camera)	6950	6950	4600	6575	4600	6950	6950	6950



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## Agenda

Item No. 13

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

August 18, 2011

### SUBJECT:

SANDAG FUND TRANSFER RECOMMENDATION

### RECOMMENDATION:

That the Board of Directors forward a request to the San Diego Association of Governments (SANDAG) to transfer funds from the Grantville Feeder Replacement Project (Capital Improvement Project [CIP] 1130200) to the Substation Standardization Project (CIP 1142100) (as shown in Attachment A - Fund Transfer Summary).

#### Budget Impact

There would be no change to the overall CIP amount; \$235,000 would be transferred from Grantville Feeder Replacement project (CIP 1130200) to the Substation Standardization Project (CIP 1142100), and the Grantville Feeder Replacement Project would be closed.

### DISCUSSION:

In January 2011, the MTS Board requested that SANDAG create a new capital improvement Project known as the Grantville Feeder Replacement Project (CIP 1130200) and fund it by transferring \$300,000 from the SANDAG Substation Standardization Project (CIP 1142100). This request was generated due to an urgent need to replace burnt feeder cable feeding current from the Grantville Substation to the overhead catenary system. It was also helpful that SANDAG had an on-call contractor (Job Order Contract) with the right expertise and specialized equipment available to do the work on short notice. The original estimate of \$300,000 was based on replacing the entire feeder cable from the substation to the catenary pole, which is a long and



complicated run. When the contractor started work, it was discovered that damage to the cables was confined to a small section of the feeder cable near the catenary connection. As a result, only one-third of the feeder cable that was in a relatively easy stretch of the run was replaced, which saved \$235,000.

Originally, when the request to transfer funding was made, it was anticipated that the loss of funds from the substation standardization would be made up by requesting the same amount in a future capital program, but now that the majority of the funds are available with this requested transfer, staff may be able to finish the substation project without having to wait for funds from a future capital program.



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Paul C. Jablonski  
Chief Executive Officer

Key Staff Contact: Russ Desai, 619.595.4908, [rushikesh.desai@sdmts.com](mailto:rushikesh.desai@sdmts.com)

AUG18-11.13.SANDAG FUND TRANSFER.RDESAI

Attachment: A. Fund Transfer Summary

## FUND TRANSFER SUMMARY

PROJECT (CIP NO.)	FY 11 Budget	Proposed Budget	Budget Change
1. Grantville Feeder Replacement Project (CIP 1130200)	\$300,000	\$65,000	-\$235,000
2. Substation Standardization Project (CIP 1142100)	\$6,179,000	\$6,414,000	\$235,000



Metropolitan Transit System

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## Agenda

Item No. 14

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

August 18, 2011

**SUBJECT:**

**JOB ORDER CONTRACTS – TROLLEY OPERATIONS**

**RECOMMENDATION:**

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute two Job Order Contracts (JOCs):

1. MTS Doc. No. PWL134.0-12 with Herzog Contracting Corporation (in substantially the same form as Attachment A); and
2. MTS Doc. No. PWL135.0-12 with ABC Construction Company, Inc. (in substantially the same form as Attachment B).

These two JOCs would piggyback on the San Diego Association of Governments' (SANDAG's) JOC contract to give MTS the ability to get any necessary work completed on the trolley operating system.

**Budget Impact**

The total contract amount would not exceed \$4,000,000 for both contracts. As individual work orders are written under each of these contracts, the funds would be encumbered from that work order project's funding source. Individual work orders exceeding the CEO's authority (\$100,000) will be brought to the Board for approval.

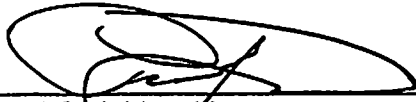
**DISCUSSION:**

JOC is a procurement process under which public agencies generate a contract specification that defines various work categories, identifies unit costs (including labor and materials for each of those categories), and invites competitive bids. This process allows for large numbers of individual projects with a single competitively bid contract. In addition, it also provides on-call contractors ready to perform a series of projects for competitive bid prices. This process works very well for repetitive maintenance and repair work and saves a lot of time and costs.



SANDAG has awarded several JOC contracts in different work disciplines. Each JOC contract's language allows other agencies to piggyback on SANDAG's JOC contract. Utilizing this provision, the MTS Board approved a JOC contract with Southland Electric in December 2010. Today, staff is proposing to enter into two new piggyback JOC contracts—one with Herzog Contracting Corporation and another with ABC Construction Company, Inc. (each contract would not exceed \$2,000,000 for three years).

These two new contracts together with previously awarded JOC with Southland Electric would give MTS the ability to get any work that may be required on the trolley operating system in a timely and efficient manner. Herzog Contracting Corporation is a highly experienced contractor with track and rail disciplines, and ABC Construction Company, Inc. is an experienced contractor in general civil construction disciplines.



Paul C. Jablonski  
Chief Executive Officer

Key Staff Contact: Russ Desai, 619.595.4908, [rushikesh.desai@sdmts.com](mailto:rushikesh.desai@sdmts.com)

AUG18-11.14.JOB ORDER CONTRACTS.RDESAI

Attachments: A. MTS Doc. No. PWL134.0-12 (Herzog Contracting Corporation)  
B. MTS Doc. No. PWL135.0-12 (ABC Construction Company, Inc.)

**DRAFT****STANDARD SERVICES AGREEMENT**

PWL134.0-12  
**CONTRACT NUMBER**

                      
**FILE NUMBER(S)**

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2011, in the State of California by and between San Diego Metropolitan Transit System, a California public agency, and the following contractor, hereinafter referred to as "Contractor":

Name: Herzog Contracting Corporation

Address: 600 South Riverside Road

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

Saint Joseph, MO 64507

Telephone: (816) 901-4076

Authorized person to sign contracts: Scott Norman

Vice President

Name

Title

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

Provide Job Order Construction (JOC) services as described in SANDAG JOC No. 5001582 in accordance with the Standard Conditions Services, Federal Requirements, MTS's Safety Program, and SANDAG JOC No. 5001582 (hereinafter "Contract Documents").

This contract shall be effective 9/1/11 through 8/31/14. The total cost of this contract shall not exceed \$2,000,000.

**SAN DIEGO METROPOLITAN TRANSIT SYSTEM**

**CONTRACTOR AUTHORIZATION**

By: \_\_\_\_\_  
 Chief Executive Officer

Firm: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_  
 Signature

By: \_\_\_\_\_  
 Office of General Counsel

Title: \_\_\_\_\_

**AMOUNT ENCUMBERED**

**BUDGET ITEM**

**FISCAL YEAR**

\$To be encumbered on JOC

FY 12-14

By: \_\_\_\_\_  
 Chief Financial Officer

Date

(\_\_\_\_ total pages, each bearing contract number)

**DRAFT**

## STANDARD SERVICES AGREEMENT

PWL135.0-12  
CONTRACT NUMBER

FILE NUMBER(S)

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2011, in the State of California by and between San Diego Metropolitan Transit System, a California public agency, and the following contractor, hereinafter referred to as "Contractor":

Name: ABC Construction Company, Inc.Address: 3120 National AvenueForm of Business: Corporation  
(Corporation, partnership, sole proprietor, etc.)San Diego, CA 92113Telephone: (619) 239-3428

Authorized person to sign contracts: Kenneth Czubernat President  
Name Title

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

Provide Job Order Construction (JOC) services as described in SANDAG JOC No. 5001431 in accordance with the Standard Conditions Services, Federal Requirements, MTS's Safety Program, and SANDAG JOC No. 5001431 (hereinafter "Contract Documents").

This contract shall be effective 9/1/11 through 8/31/14. The total cost of this contract shall not exceed \$2,000,000.

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

AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
\$To be encumbered on JOC		FY 12-14

By: \_\_\_\_\_  
Chief Financial Officer Date

(\_\_\_\_ total pages, each bearing contract number)



Metropolitan Transit System

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## Agenda

Item No. 15

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

August 18, 2011

**SUBJECT:**

**GREYHOUND TERMINAL RELOCATION**

**RECOMMENDATION:**

That the Board of Directors adopt Resolution No. 11-15 (Attachment A) approving the Greyhound Terminal Relocation Project and making related findings under the California Environmental Quality Act (CEQA).

**Budget Impact**

None.

**DISCUSSION:**

Greyhound Bus Company's (Greyhound's) current operating lease with the Pickwick Hotel (between 1<sup>st</sup> Street and Front Street at Broadway in downtown San Diego) is due to expire on October 1, 2011. To ensure no lapse in long-haul bus service to the San Diego metropolitan area, Greyhound has entered an interim short-term lease (three years) with MTS to utilize the vacant P.G. Auto Parts site for a new bus terminal. The 15,504-square-foot, triangular property (bounded by 13<sup>th</sup> Street, National Avenue, and Commercial Avenue) is currently owned by MTS. MTS is holding the site for an undetermined future development project. The lease with MTS would provide a market-rate rent of \$7,500 per month and requires Greyhound to pay all other costs.

Greyhound intends to renovate the site to facilitate its use as a bus terminal. Renovation plans have been kept minimal since this is considered an interim use for the property. The 9,547-square-foot existing building on the site would be demolished and removed. Asbestos has already been removed from the building by Greyhound in preparation of the demolition. The building's concrete slab and the related concrete- and asphalt-paved surfaces covering the remainder of the existing site would all be left intact.

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

The new Greyhound Bus Terminal would consist of prefabricated kiosks totaling approximately 1,250 square feet (see site plan—within Attachment A).

All bus access to the site would be from 13<sup>th</sup> Street turning onto National Avenue (southbound) and onto the site at the existing northern drive opening. A 26-foot-wide dedicated bus drive and parking lane parallel to National Avenue would provide up to three concurrent loading stations (average 50-ft/space) at any one time. Bus egress would be through the existing southerly drive opening on National Avenue. The proposed path of travel for buses arriving from the major arterial highways is depicted in Attachment C.

Greyhound estimates the following average daily operations at the new terminal:

1. approximately 55 to 60 total combined bus arrivals and departures per day;
2. terminal facility would be staffed and operated 24 hours per day with the vast majority of arrivals and departures occurring between 8 a.m. and 11 p.m.;
3. an average of 6 to 10 employees would be on site during the principal operating hours, and 2 to 4 employees would be on the premises at other times; and
4. between 1,100 and 1,400 passengers are estimated to arrive, depart, or transfer through this terminal daily.

Through consultation with Greyhound and Centre City Development Corporation (CCDC) staffs, it was determined that the most efficient way to review and approve the Greyhound Terminal Relocation Project is to approve the building improvements under MTS's Government Code section 53090 and 53091 authority and to then require Greyhound to obtain a Conditional Use Permit from CCDC related to its intended use of the property. Greyhound has separately obtained a demolition permit from the City of San Diego to demolish the existing building.

MTS's environmental consultant, Kimley Horn, has prepared an Environmental Consistency Evaluation (within Attachment A), which finds that Greyhound's proposed project is consistent with the Final Environmental Impact Report (FEIR) and related addendums prepared and certified by the City of San Diego and the San Diego Redevelopment Agency for the Downtown San Diego Redevelopment Plan, Community Plan, and Planned District Ordinance which govern development of downtown San Diego. None of the conditions described in CEQA Guidelines §§ 15162 and 15163 calling for preparation of a subsequent or supplemental EIR would occur as a result of Greyhound's project. Specifically, the project would not result in any increased air emissions in the downtown area because this would be the relocation of an existing use within the downtown area, and no increase in bus service is contemplated by the change in location.

By adopting Resolution No. 11-15 (within Attachment A), the Board's action would allow the Greyhound Terminal Relocation Project to proceed with long-haul bus operations beginning at the site on October 1, 2011.



Paul C. Jablonski  
Chief Executive Officer

Key Staff Contact: Karen Landers, 619.557.4512, [Karen.Landers@sdmts.com](mailto:Karen.Landers@sdmts.com)

Attachments: A. MTS Resolution No. 11-15  
B. Traffic Flow Maps (Exhibits A & B) } **Board Only Due to Volume**

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

RESOLUTION NO. 11-15

Resolution for Approval and Responsible-Agency Findings Pursuant to CEQA  
for the Greyhound Bus Terminal Project

WHEREAS, on June 15, 2011, the Metropolitan Transit System ("MTS") Board entered into a market rate lease agreement with Greyhound Bus Lines ("Lease") to facilitate relocation of the downtown Greyhound Bus Terminal from the current site at 120 West Broadway in the downtown area of the City of San Diego ("City"), to 1313 National Avenue, also located in downtown San Diego and owned and under the jurisdiction of MTS; and

WHEREAS, the lease approved by MTS for the Greyhound Bus Terminal contemplates private funding for construction and operation of the Terminal; and

WHEREAS, the relocation of the Greyhound Bus Terminal and the Lease ("Project") represent the relocation of an existing use within the downtown area, and no increase in bus service is contemplated by the change in location; and

WHEREAS, in furtherance of the implementation of the Lease approved by MTS, and to maintain the existing long-haul bus service to City residents in the downtown area, MTS desires to expeditiously move the Greyhound Bus Terminal onto the MTS property and begin operations; and

WHEREAS, MTS is a rapid transit district under California Government Code § 53090(a) and is therefore exempted under California Government Code § 53091(a) from local agency zoning and building restrictions; and

WHEREAS, on March 14, 2006, the City and the San Diego Redevelopment Agency acting as lead agency under the California Environmental Quality Act ("CEQA") prepared and certified a Final Environmental Impact Report ("FEIR") (SCH No. 2003041001) to modify the Downtown San Diego Redevelopment Plan, Community Plan, and Planned District Ordinance, which govern development of downtown San Diego; and

WHEREAS, on July 31, 2007, the City and the San Diego Redevelopment Agency prepared and certified an Addendum to the FEIR for the 11th Amendment to the Redevelopment Plan for the Centre City Redevelopment Project, Amendments to the San Diego Downtown Community Plan, Centre City Planned District Ordinance, Marina Planned District Ordinance, and Mitigation, Monitoring and Reporting Program of the FEIR for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and the Redevelopment Plan for the Centre City Redevelopment Project by Redevelopment Agency Resolution R-04193 and by the City Council Resolution R-302932; and

WHEREAS, the Project is consistent with the Redevelopment Plan, Community Plan, and Planned District Ordinance and is therefore consistent with the certified FEIR; and

WHEREAS, any action taken by MTS on the Project is part of the overall project contemplated in the FEIR; and

WHEREAS, MTS is acting as a responsible agency in this matter under CEQA § 21069 and CEQA Guidelines § 15096; and

WHEREAS, CEQA Guidelines § 15096 requires a responsible agency to consider the environmental effects of the project as shown in the FEIR and reach its own conclusions on whether and how to approve the project; and

WHEREAS, CEQA Guidelines § 15096(h) also requires the responsible agency involved to make findings for each significant effect of a project regarding the portion of the project being approved by the responsible agency; and

WHEREAS, the portion of the Project being approved by MTS is limited to the development of the Greyhound Bus Terminal consistent with the Site Plan (Exhibit A) and located at 1313 National Avenue in downtown San Diego, also identified as Assessor Parcel Number 535-612-01; and

WHEREAS, the Project will obtain a Conditional Use Permit from the Redevelopment Agency consistent with the regulations of the Community Plan and Planned District Ordinance; and

WHEREAS, on August 18, 2011, MTS held a duly noticed public meeting as prescribed by law to consider the Project; and

WHEREAS, the FEIR was presented to the MTS Board of Directors and the MTS Board of Directors reviewed and considered the information found in the Project plans and the certified FEIR, including the Findings of Fact, the Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED by the MTS Board of Directors, as follows:

1. The above recitals are true and correct and are incorporated as part of these findings.
2. The relocation of the Greyhound Bus Terminal is approved pursuant to the terms and conditions in the Lease and in conformance with the Site Plan (attached as Exhibit A). The Project includes a path of travel depicted in Exhibit A, which shows bus routes to the surrounding freeways from the Greyhound Bus Terminal that will preclude any buses from entering the neighboring Barrio Logan community.
3. The relocation of the Greyhound Bus Terminal to property owned by MTS is exempt from local agency zoning and building restrictions pursuant to California Government Code §§ 53090(a) and 53091(a).
4. MTS Board approval of the Project is expressly conditioned upon Greyhound obtaining a Conditional Use Permit from the Redevelopment Agency consistent with the regulations of the Community Plan and Planned District Ordinance.
5. The MTS Board has reviewed and considered the information presented in the FEIR and has reached its own conclusions on whether and how to approve the Project and make these responsible agency findings:
  - a. The MTS Board has determined that the FEIR prepared by the City and the San Diego Redevelopment Agency is adequate and fully analyzes the environmental impacts of the Project within the jurisdiction of the MTS. This finding is supported by the Environmental Consistency Evaluation (Exhibit B) for the Project.

- b. The FEIR found that implementation of the Redevelopment Plan, Downtown Community Plan, and Planned District Ordinance would result in significant environmental impacts. Therefore, mitigation measures were imposed to reduce those impacts to below a level of significance. Despite the applied mitigation, the lead agency found that significant impacts would remain, and a Statement of Overriding Consideration was adopted.
  - c. Pursuant to CEQA Guidelines Section 15096(g), MTS as a responsible agency is responsible for mitigating and avoiding only the direct or indirect environmental effects of those parts of the project that it decides to carry out, finance, or approve. The MTS Board hereby adopts the lead agency's Findings of Fact, the Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program for the certified EIR (SCH No. 2003041001) and applies them to the Project.
  - d. The MTS Board finds that none of the conditions described in CEQA Guidelines §§ 15162 and 15163 calling for preparation of a subsequent or supplemental EIR have occurred. Specifically, the Project will not result in any increased air emissions in the downtown area because this is the relocation of an existing use within the downtown area, and no increase in bus service is contemplated by the change in location.
  - e. With the exception of those mitigation measures set forth in the adopted Mitigation Monitoring and Reporting Plan, which are within the responsibility and jurisdiction of other public agencies and have been, or can and should be, adopted by those other agencies, the MTS Board finds that there are no feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the Project would have on the environment.
6. The Clerk of the Board is directed to file a Notice of Determination as provided in Section 15094 of the State CEQA Guidelines.

PASSED AND ADOPTED by the Board this \_\_\_\_\_ day of \_\_\_\_\_ 2011, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAINING:

\_\_\_\_\_  
Chairman  
San Diego Metropolitan Transit System

Filed by:

Approved as to form:

\_\_\_\_\_  
Clerk of the Board  
San Diego Metropolitan Transit System

\_\_\_\_\_  
Office of the General Counsel  
San Diego Metropolitan Transit System

AUG18-11.15.A11A.RESO 11-15.GREYHOUND TERMINAL RELOC.KLANDERS

Exhibits: A. Site Plan  
B. Environmental Consistency Evaluation for the Project

# GREYHOUND-CRUCERO TERMINAL RELOCATION SAN DIEGO



## HORIZONTAL, VERTICAL CONTROL AND PAVING PLAN

**THE PAUL DESIGN GROUP**  
Engineering & Planning Solutions  
995 Camino Del Mar Suite 225, Del Mar, CA 92014  
Tel: (619) 323-0945 Fax: (619) 324-9743

**www.DorlandInc.com**

1987

14th Street

## NOTES:

1. CONTRACTOR TO VERIFY ALL EXISTING UTILITIES NOT EXPLOITED ON THE TPO PRIOR TO ANY WORK.
2. COORDINATES 9-000 ARE FOR DIRECTIONS, PURPOSES ONLY. SEE FIRM, ARCHITECTURAL PLANS FOR EXACT BUILDING DIMENSIONS.

2. DIMENSIONS SHOWN ARE FOR  
DIRECTIONS, PURPOSES ONLY.  
SEE PLAN, ARCHITECTURAL PLANS  
FOR EXACT BUILDING DIMENSIONS.

national ave

13th May 1968

**A-5**

# **ENVIRONMENTAL CONSISTENCY EVALUATION**

## **METROPOLITAN TRANSIT SYSTEM PROPOSED GREYHOUND BUS TERMINAL RELOCATION**

Prepared for:  
***Metropolitan Transit System***  
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**August 2011**

# Environmental Consistency Evaluation

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## CONSISTENCY EVALUATION/SECONDARY STUDY

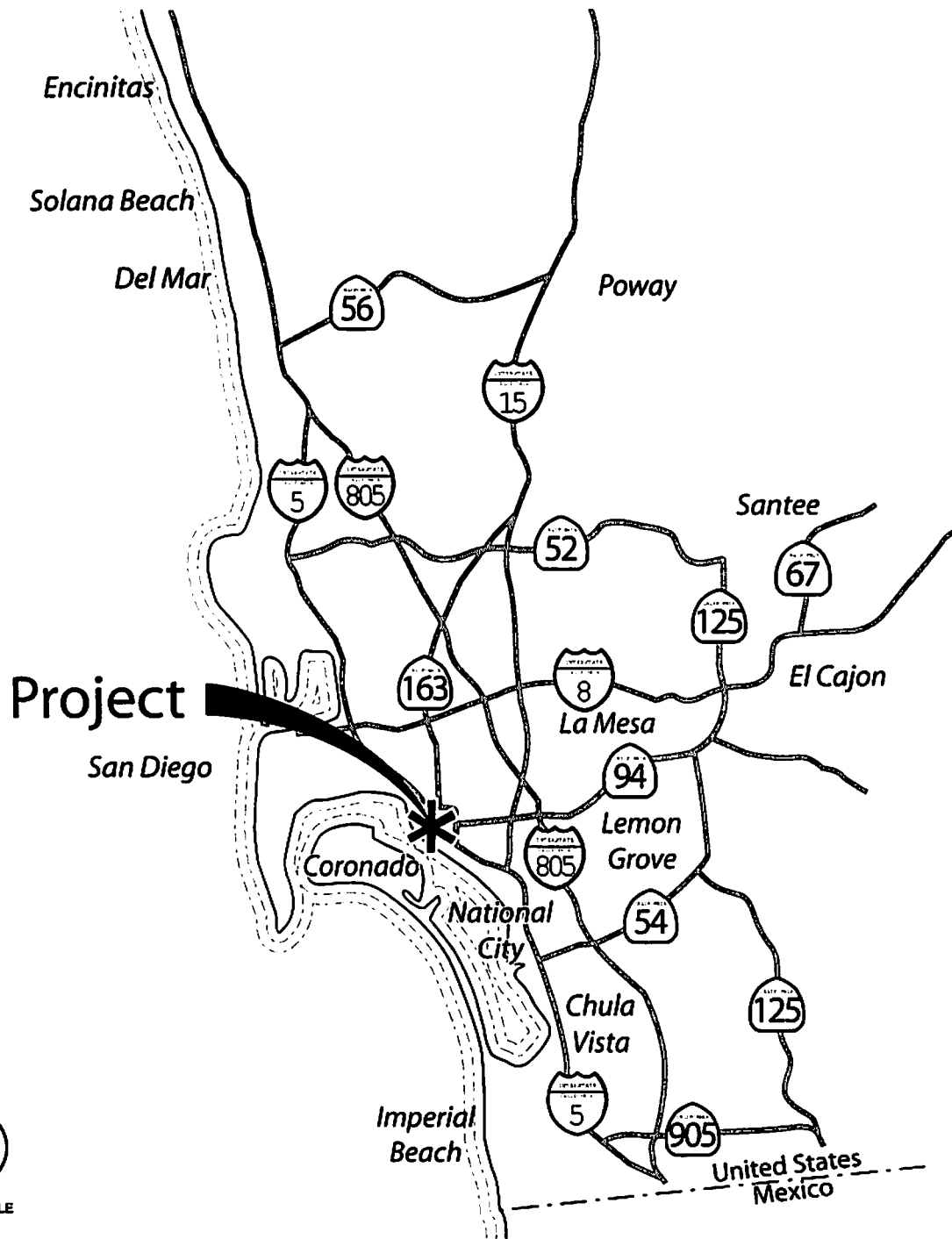
1. **PROJECT TITLE:** Greyhound Bus Terminal Relocation
2. **PROJECT SPONSOR:** BriceHouse Starboard, LLC
3. **PROJECT LOCATION:** Property bordered by Commercial Avenue to south, 13<sup>th</sup> Street to the west and National Avenue to the north and east. The site is located on the 1300 block of National Avenue adjacent to and east of the existing MTS administration building intermodal transit center located at 12<sup>th</sup> Avenue/Imperial Boulevard (see Figure 1).
4. **PROJECT SETTING:** The Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan, Centre City Planned District Ordinance (PDO), and Redevelopment Plan for the Centre City Project Area describes the existing setting of Centre City, including the East Village Redevelopment District. This description is hereby incorporated by reference. Located in the highly urbanized southeastern East Village environment, the project site is currently occupied by a vacant, one-story building with approximately 10,000 square feet of floor area formerly housing an auto parts store. The remainder of the site is paved with asphalt or concrete to accommodate parking. Areas of turf grass are located along the southern perimeter. Chain-link fencing currently surrounds the site to prevent unauthorized access to the property.

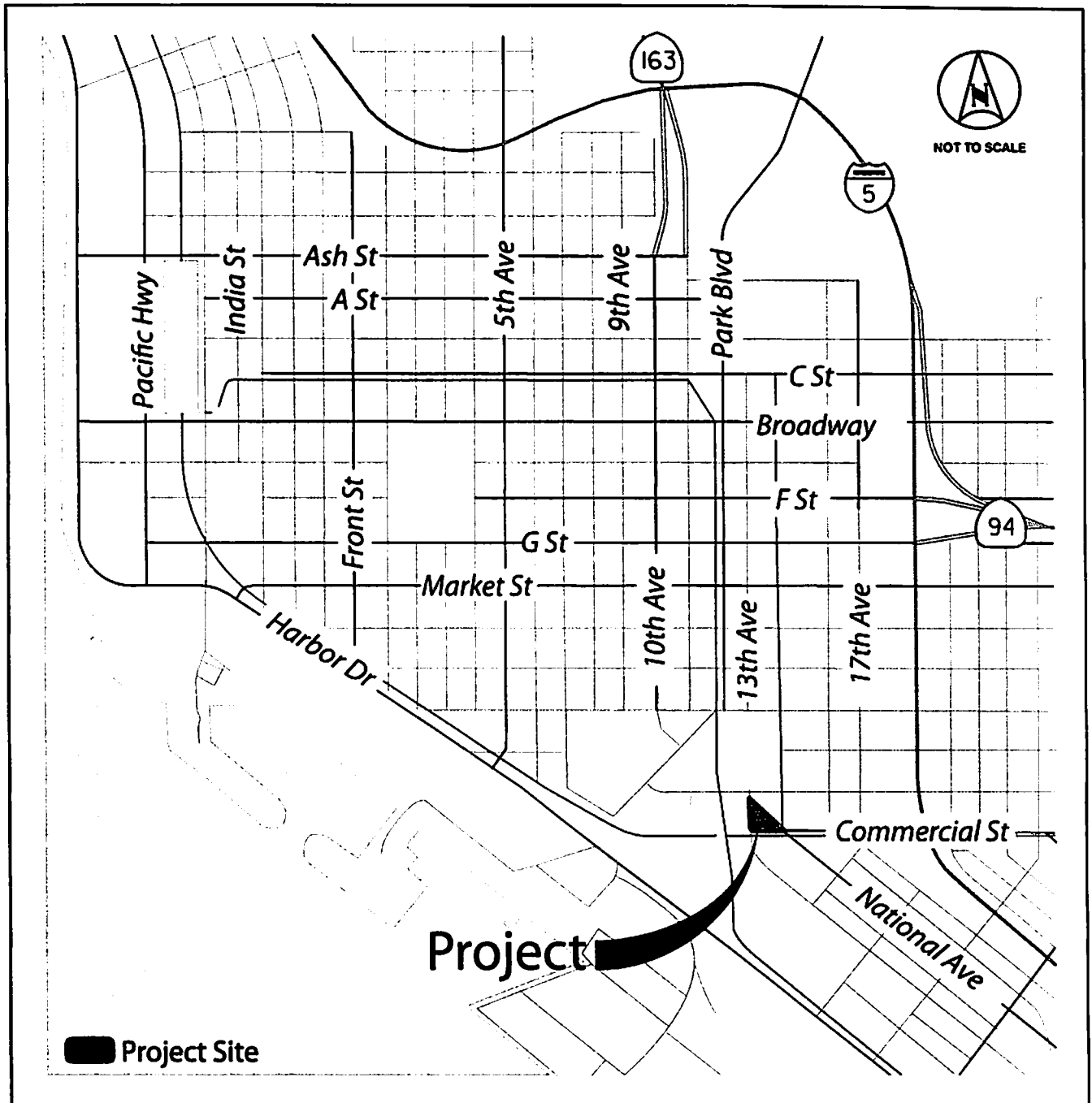
As shown in Figure 2, the subject property is triangular in shape and bordered by Commercial Avenue to south, 13<sup>th</sup> Street to the west and National Avenue to the north and east. The MTS Administration building and 12<sup>th</sup> Avenue/Imperial intermodal transit center is located west of the proposed site across 13<sup>th</sup> Street; a commercial parking lot (ACE Parking) is located to the north; an MTS Trolley supply maintenance facility is located adjacent to and south of the site. The MTS Blue Line Trolley runs within the National Boulevard corridor adjacent to the southern site boundary. Photographs of the proposed site are provided in Figures 3 and 4.

Applicable plans and policies governing the site include the Centre City Redevelopment Plan and the 11<sup>th</sup> amendment thereof; the San Diego Downtown Community Plan, the Centre City Planned District Ordinance and the 2007 amendments thereof; the East Village Focus Plan, and the Land Development Code (LDC). The project site is not located within the coastal zone. The Downtown Community Plan land use designation and PDO land use district for the project site is Mixed Commercial, which is intended to accommodate a diverse array of uses, including transportation uses. The PDO allows transportation terminals within the Mixed Commercial district as a conditional use.

5. **PROJECT DESCRIPTION:** The applicant, BriceHouse Starboard, LLC, is seeking a CEQA finding from Metropolitan Transit System (MTS) and a Conditional Use Permit (CUP) from the City of San Diego Redevelopment Department (Center City Development Corporation) (CCDC) to allow operation of a Greyhound Bus Terminal on the proposed site.

Greyhound Bus Company's current operating lease with the Pickwick Hotel (between 1st Street and Front Street @ Broadway) is due to expire on October 1st, 2011. To insure no lapse in bus service to the San Diego metropolitan area, Greyhound has entered an interim short term lease (three years) with MTS to utilize the vacant P.G. Parts site for a new bus terminal located in the 1300 block of National Avenue south of downtown San Diego within the Downtown Community Plan area.





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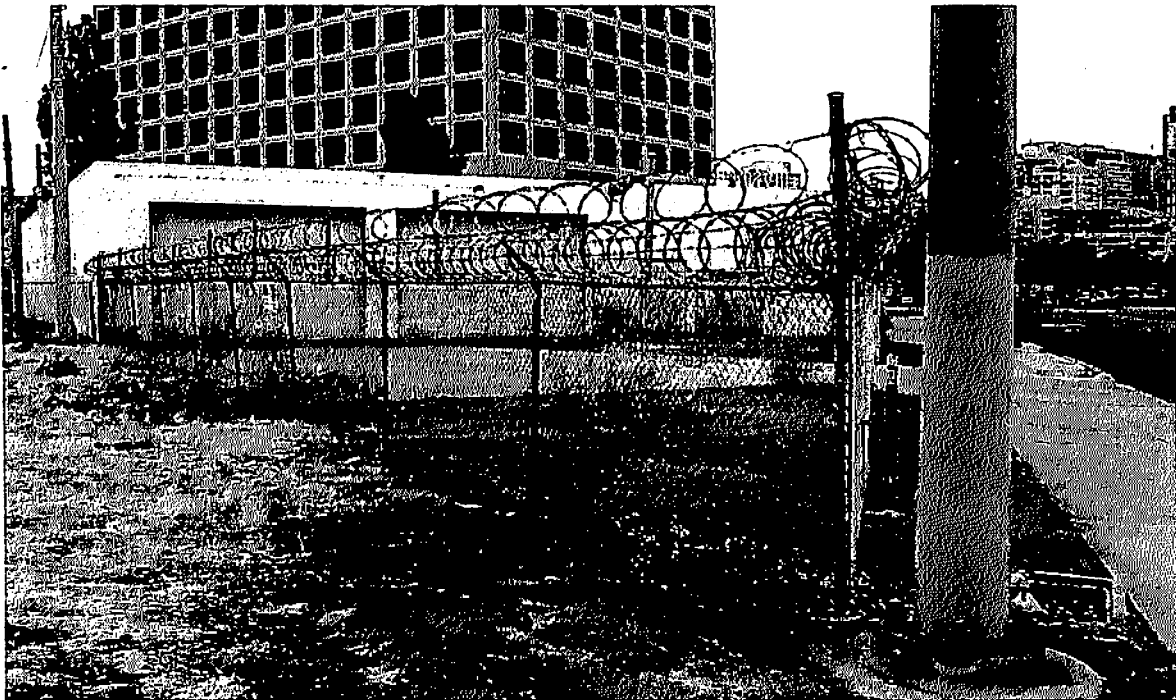
## Greyhound Bus Terminal Relocation

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Southwest Corner of 13<sup>th</sup> Street and Commercial Street looking east along southern site boundary. Proposed site is on the left.



Corner of Commercial Street and National Avenue looking west at site



Kimley-Horn  
and Associates, Inc.

Figure 3  
Site Photos 1  
A-10

Southeast corner of National Avenue and 13<sup>th</sup> Street looking southeast at site



Southeast corner of National Avenue and 13<sup>th</sup> Street looking east



## Environmental Consistency Evaluation

Planned revisions to the MTS site will be kept minimal, due to the interim intended use. The 9,547 s.f. existing building on the site is proposed to be demolished and removed, but the building's concrete slab and the related concrete and asphalt paved surfaces covering the remainder of the existing site will all be left intact. A new variable thickness asphalt overlay will be applied to the site, site drainage to remain consistent with the existing drainage patterns, but in consideration of the requirement to accommodate new modular or prefabricated "kiosk" units totaling approximately 1,250 s.f.. These kiosk units, which will be built offsite and trucked to the site once re-paving is complete, will be sized and designed to support the bus ticketing, baggage, passenger waiting and public restroom needs. Ticketed passengers will be provided a secure waiting compound (covered) with access to restroom facilities. Separate baggage facilities will allow independent access for "unaccompanied cargo" shipments that will be dispatched from the ticketing and baggage kiosk. The proposed site plan is shown in Figure 5.

Greyhound estimates the following average daily operations at the new terminal: (1) approximately 55 to 60 total combined bus arrivals and departures per day; (2) terminal facility will be staffed and operated 24-hours per day, with the vast majority of arrivals and departures occurring between 8AM and 11PM; (3) An average of 6 to 10 employees will be on site during the principal operating hours, and 2 to 4 employees on premises at other times; (4) between 1,100 and 1,400 passengers are estimated to arrive, depart or transfer through this terminal daily.

The proposed project will provide for dedicated bus circulation across the site (with three loading positions); short-term auto drop-off/pick-up on site, and one disabled bus bay for emergency parking. Circulation control will be primarily defined by painted striping, signage and low fencing.

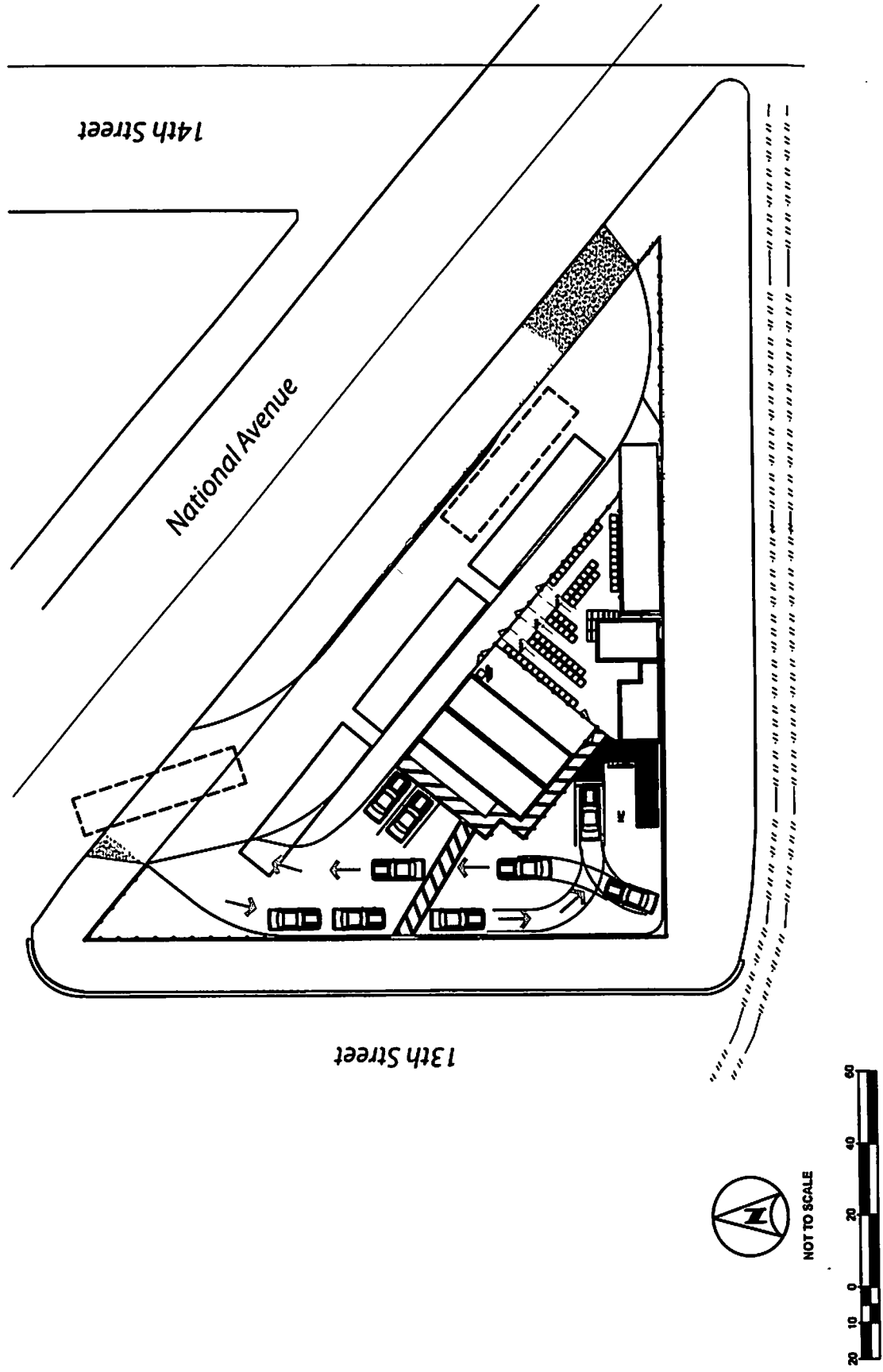
All bus access to the site will be from 13th Street, turning onto National Avenue (southbound) thence onto the site at the existing northern drive opening. A dedicated bus drive and parking lane, parallel to National Ave will provide up to three concurrent loading stations. Bus exiting will be through the existing southerly drive opening on National Ave. Both northerly and southerly drive openings will need to be enlarged and modified within the street ROW to accommodate buses entering and exiting the site.

The proposed path of travel for buses arriving from the major arterial highways will travel to the terminal, southerly and westerly from I-5 or SR-94 to Imperial Avenue and thence westerly to 13th Street and southerly to National before entering the site from National. Buses exiting the site will turn northerly onto 14th Street. Those going southbound on I-5 will continue north on 14th to J Street thence turn right onto J Street and again Right onto I-5. North-bound and east-bound buses will turn from 14th right onto Imperial and thence will go left (north) on 19th Street to enter either I-5 or SR-94.

Nominal automobile access for less than 5-minute drop-off/pick-ups will be accommodated when possible through the National Avenue's northerly driveway. Additionally, one designated handicap parking space is provided onsite for passengers needing this added convenience.

Approval of the CUP requires that MTS make certain findings regarding the project, including a finding that the project would not adversely impact applicable land use plan; would not be detrimental to public health, safety and welfare; and would comply to the maximum extent feasible with the regulations of the LDC and PDO. Thus, an evaluation of the project's potential environmental effects and compatibility with the surrounding neighborhood is required. The City of San Diego Redevelopment Department will be required to prepare a separate finding document regarding the project as the lead agency responsible for issuing the CUP and evaluating the project for compliance with the California Environmental Quality Act (CEQA).

**Greyhound Bus Terminal Relocation**



**Figure 5**  
**Site Plan**  
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## Environmental Consistency Evaluation

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**6. CEQA COMPLIANCE:** The Centre City Redevelopment Project and related activities have been addressed within the following environmental documents, which were prepared prior to preparation of this Consistency Evaluation/Secondary Study and are hereby incorporated by reference:

- Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and 10th Amendment to the Redevelopment Plan for the Centre City Project (State Clearinghouse Number 2003041001, certified by the Redevelopment Agency (Resolution No. R-04001) and the City Council (Resolution No. R-301265) on March 14, 2006.
- Addendum to the FEIR for the 11th Amendment to the Redevelopment Plan for the Centre City Redevelopment Project, Amendments to the San Diego Downtown Community Plan, Centre City Planned District Ordinance, Marina Planned District Ordinance, and Mitigation, Monitoring and Reporting Program of the FEIR for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and the Redevelopment Plan for the Centre City Redevelopment Project certified by the Redevelopment Agency by Resolution R-04193 and by the City Council by R-302932 on July 31, 2007.

The FEIR referenced herein is a "Program EIR" as described in Section 15168 of the State CEQA Guidelines. The aforementioned environmental documents are the most recent and comprehensive environmental document pertaining to development projects occurring within the Downtown Community Planning Area. These environmental documents are available for review at the office of the Centre City Development Corporation, 401 B Street, Suite 400, San Diego, CA 92101.

This Consistency Evaluation/Secondary Study has been prepared by MTS consistent with the San Diego Redevelopment Agency's amended "Procedures for Implementation of CEQA and the State CEQA Guidelines" (adopted July 17, 1990). Under these Guidelines, environmental review for subsequent specific development projects is accomplished using the Secondary Study process defined in the Agency Guidelines, as allowed by Sections 15168 and 15180 of the State CEQA Guidelines. The Consistency

Evaluation/Secondary Study includes the same evaluation criteria as the Initial Study defined in Section 15063 of the State CEQA Guidelines. Under this process, the Consistency Evaluation/Secondary Study is prepared for each subsequent specific development project to determine whether the potential impacts associated with the proposed project were anticipated in the FEIR. If MTS finds that the proposed project would not create environmental effects greater than or in addition to those evaluated in the FEIR, no new environmental documentation is required. As the lead CEQA agency, the City of San Diego Redevelopment Department will prepare a separate and independent finding regarding the proposed project under the above referenced Guidelines.

**7. PROJECT-SPECIFIC ENVIRONMENTAL ANALYSIS:** See attached Environmental Checklist and *Section 10 Evaluation of Environmental Impacts*.

**8. MITIGATION, MONITORING AND REPORTING PROGRAM:** The proposed project would not cause any significant impacts. However, mitigation measure AQ-B.1-1 included in the Mitigation Monitoring and Reporting Program (MMRP) found in Volume 1B of the FEIR would be implemented to minimize temporary emissions during project construction.

**9. DETERMINATION:** In accordance with Sections 15168 and 15180 of the CEQA Guidelines, MTS finds that the potential impacts associated with the proposed Greyhound Bus Terminal relocation

## Environmental Consistency Evaluation

within the Centre City Redevelopment Project are addressed in the FEIR prepared for the San Diego Downtown Community Plan, Centre City Planned District Ordinance and 10<sup>th</sup> Amendment to the Redevelopment Plan for the Centre City Redevelopment Project, which was certified on March 14, 2006 and the Addendum to the FEIR certified by the Redevelopment Agency by Resolution R-04193 and by the City Council by R-302932 on July 31, 2007. These documents address the potential effects of future development within the Centre City Redevelopment Project based on buildout forecasts projected from the land use designations, density bonus, and other policies and regulations governing development intensity and density. The FEIR and Addendum concluded that development would result in significant impacts related to the following issues (mitigation and type of impact shown in parentheses):

### Significant Mitigated Impacts

- Air Quality: Construction Emissions (AQ-B.1) (Direct (D))
- Land Use: Ballpark Noise (LU-B.1) (D)
- Land Use: Ballpark Lighting (LU-B.5) (D)
- Noise: Interior from Traffic Noise (NOI-B.1) (D)
- Noise: Interior from Ballpark Noise (NOI-B.2) (D)
- Paleontology: Impacts to Significant Paleontological Resources (PAL-A.1) (D)

### Significant and Not Mitigated Impacts

- Aesthetics/Visual Quality: Views of Bay And Bay Bridge (VIS-B.1) (D)
- Air Quality: Construction Emissions (AQ-B.1) (Cumulative (C))
- Air Quality: Mobile-source Emissions (C)
- Historical Resources: Historical (D/C)
- Historical Resources: Archaeological (D/C)

### Land Use: Traffic Noise (LU-B.2) (D)

- Land Use: Aircraft Noise (LU-B.3) (D)
- Land Use: Railroad Noise (LU-B.4) (D)
- Land Use: Physical Changes Related to Transient Activity (LU-B.6) (D/C)
- Noise: Traffic Noise Level Increase on Grid Streets (NOI-A.1) (D/C)
- Noise: Exterior Traffic Noise in Residential Development (NOI-C.1) (D)
- Noise: Exterior Aircraft Noise in Residential Development (NOI-C.2) (D)
- Noise: Exterior Traffic Noise in Public Parks and Plazas (NOI-D.1) (D)
- Noise: Exterior Aircraft Noise in Public Parks and Plazas (NOI-D.2) (D)
- Parking: Excessive Parking Demand (TRF-D.1) (D/C)
- Traffic: Impact on Grid Streets (TRF-A.1.1) (D)
- Traffic: Impact on Surrounding Streets (TRF-A.1.2) (D/C)
- Traffic: Impact on Freeway Ramps and Segments (TRF-A.2.1) (D/C)
- Traffic: Impact from Removal of Cedar Street Ramp (TRF-A.2.2) (D)
- Water Quality: Urban Runoff (WQ-A.1) (C)

In certifying the FEIR and approving the Downtown Community Plan, PDO and 10<sup>th</sup> Amendment to the Redevelopment Plan, the San Diego City Council and Redevelopment Agency adopted a Statement of Overriding Considerations which determined that the unmitigated impacts were acceptable in light of economic, legal, social, technological or other factors including the following.

### Overriding Considerations

- Implement Downtown's role as primary urban center
- Relieve growth pressure on outlying communities

## Environmental Consistency Evaluation

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- Organize balanced mix of uses around neighborhood centers
- Maximize employment
- Capitalize on transit opportunities

MTS has determined that the proposed activity analyzed within this Consistency Evaluation/Secondary Study is covered under the following:

- FEIR for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and 10<sup>th</sup> Amendment to the Redevelopment Plan for the Centre City Redevelopment Project, which was certified by the Redevelopment Agency by Resolution R-04001 and by the City Council by Resolution R-301265 on March 14, 2006.
- Addendum to the FEIR for the 11<sup>th</sup> Amendment to the Redevelopment Plan for the Centre City Redevelopment Project, Amendments to the San Diego Downtown Community Plan, Centre City Planned District Ordinance, Marina Planned District Ordinance, and Mitigation, Monitoring and Reporting Program of the FEIR for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and the 10<sup>th</sup> Amendment to the Redevelopment Plan for the Centre City Redevelopment Project certified by the Redevelopment Agency by Resolution R-04193 and by the City Council by R-302932 on July 31, 2007.

This activity is adequately addressed in the environmental documents noted above and the Consistency Evaluation/Secondary Study prepared for this project reveals there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered this activity as part of the previously approved project, this activity is not a separate project for purposes of review under the California Environmental Quality Act [CEQA] pursuant to CEQA Guidelines Sections 15060(c)(3), 15180, and 15378(c).

**SUMMARY OF FINDINGS:** In accordance with Public Resources Code sections 21166, 21083.3, and CEQA Guidelines sections 15168 and 15183, the following findings are derived from the environmental review documented by this Consistency Evaluation/Secondary Study and the 2006 FEIR:


1. No substantial changes are proposed in the Centre City Redevelopment Project, or with respect to the circumstances under which the Centre City Redevelopment Project is to be implemented as a result of the Greyhound Bus Terminal relocation, which will require important or major revisions in the 2006 FEIR or 2007 Addendum to the FEIR for the Project;
2. No new information of substantial importance to the project has become available which was not known or could not have been known at the time the 2006 FEIR for the Project was certified as complete, and which shows that proposed Greyhound Bus Terminal relocation will have any significant effects not discussed previously in the 2006 FEIR or 2007 Addendum to the FEIR, or that any significant effects previously examined will be substantially more severe than shown in the 2006 FEIR or 2007 Addendum to the FEIR, or that any mitigation measures or alternatives previously found not to be feasible or not previously considered would substantially reduce or lessen any significant effects of the proposed project on the environment;
3. No Negative Declaration, Subsequent EIR, or Supplement or Addendum to the 2006 FEIR is necessary or required;

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4. The development of the proposed site will have no significant effects on the environment. No new or additional project-specific mitigation measures are required.
5. The Greyhound Bus Terminal relocation and its associated activities would not create any new effects that were not adequately covered in the 2006 FEIR or 2007 Addendum to the FEIR; therefore, it is within the scope of the program approved under 2006 FEIR and 2007 Addendum to the FEIR.

The Metropolitan Transit System (MTS) administered the preparation of this Consistency evaluation/Secondary Study.

Signature of Lead Agency Representative \_\_\_\_\_ Date \_\_\_\_\_

Signature of Preparer  \_\_\_\_\_ Date 8/10/11

## Environmental Consistency Evaluation

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### 10. EVALUATION OF ENVIRONMENTAL IMPACTS

This environmental checklist evaluates the potential environmental effects of the proposed project consistent with the significance thresholds and analysis methods contained in the FEIR for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and Redevelopment Plan for the Centre City Project Area.

Based on the finding that the proposed activity is adequately addressed in the FEIR, the following table indicates how the impacts of the proposed activity relate to the conclusions of the FEIR. As a result, the impacts are classified into one of the following categories:

- Significant and Not Mitigated (SNM)
- Significant but Mitigated (SM)
- Not Significant (NS)

The checklist identifies each potential environmental effect and provides information supporting conclusions regarding the degree of impact associated with the proposed project. Where applicable, mitigation measures from the FEIR are identified and summarized in Attachment A to this Secondary Study. Some of the mitigation measures are plan-wide and not within the control of the proposed project. Other measures (AQ-B.1-1), however, are to be specifically implemented by the proposed project. Consistent with the FEIR analysis, the following issue areas would remain Significant and Not Mitigated throughout the Downtown Community Plan area even with inclusion of the proposed mitigation measures, where feasible:

- Air Quality: Mobile Source Emissions (AQ-A.1) (C)
- Water Quality: Urban Runoff (WQ-A.1) (C)
- Noise: Exterior Traffic Level Increase on Grid Streets (NOI-A.1) (C)

The following Overriding Considerations apply directly to the proposed project:

- Implement Downtown's role as primary urban center
- Relieve growth pressure on outlying communities
- Organize balanced mix of uses around neighborhood centers
- Maximize employment
- Capitalize on transit opportunities

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	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<b>1. AESTHETICS/VISUAL QUALITY:</b>						
<p>(a) Substantially disturb a scenic resource, vista or view from a public viewing area, including a State scenic highway or view corridor designated by the Community Plan?</p> <p><i>Views of scenic resources such as San Diego Bay, San Diego-Coronado Bay Bridge, Point Loma, Coronado and the downtown skyline occur within public viewing areas within and around the planning area and along view corridor streets within the planning area. No designated scenic resources exist within the downtown planning area, although the northern downtown planning area includes an approximately quarter-mile-long portion of the segment of State Route 163 from Ash Street to Interstate 8, which is eligible for designation as a California Scenic Highway.</i></p> <p><i>The proposed project would require the placement of a one-story modular building on the site and at-grade modifications to the circulation system to accommodate bus and vehicle traffic in the East Village Redevelopment District of Downtown. Project elements are described in Section 5 above. The one-story building would not block scenic views from within the East Village; specifically, from Balboa Park or Highway 94; thus, the proposed project would not contribute to significant impacts to scenic views from public viewing areas identified in the FEIR. Furthermore, the proposed project would not be located along a street or other corridor designated as a view corridor by the Downtown Community Plan. The project site is entirely covered with existing buildings and pavement and does not contain any scenic resources that could be adversely affected by the proposed project. The proposed project would not be visible from the quarter-mile-long portion of State Route 163 that is eligible for designation as a California Scenic Highway.</i></p>						
					X	X
<p>(b) Substantially incompatible with the bulk, scale, color and/or design of surrounding development?</p> <p><i>The proposed terminal building would be a modular wood-frame structure. An awning would be installed on the front of the building to serve as shelter for passengers. The bulk, scale, and design of the proposed structures is consistent with the Downtown Community Plan and PDO requirements for bulk,</i></p>						
					X	X

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	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<i>scale, and design in the surrounding area. The development regulations of the PDO were established to meet the land use and urban design goals of the Downtown Community Plan for the build-out of Downtown, including the East Village District. Thus, impacts associated with the proposed project would not be significant.</i>						
(c) Substantially affect daytime or nighttime views in the area due to lighting?  <i>The proposed project would operate 24-hours per day; and thus, would have exterior lighting for security and loading/unloading busses. The modular wood-frame unit would not create glare. It is presumed for the purpose of this consistency evaluation that the City of San Diego Light Pollution Law (Municipal Code Section 101.1300 et seq.) and applicable sections therein would be followed to protect nighttime views (e.g., astronomical activities) and light-sensitive land uses from excessive light generated by development in the downtown area. The site is surrounded by commercial and institutional uses that are not considered light sensitive. Regardless, the proposed project's conformance with these requirements would minimize direct and cumulative impacts associated with lighting. The impact would not be significant.</i>					X	X
<b>2. AGRICULTURAL RESOURCES</b>						
(a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use?  <i>Centre City and the East Village is an urbanized environment. It does not contain land designated as prime agricultural soils by the Soils Conservation Service, nor does it contain prime farmlands designated by the California Department of Conservation. Therefore, no significant impact to agricultural resources would occur.</i>					X	X
(b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?  <i>The area does not contain, nor is it near, land zoned for agricultural use or land subject to a Williamson Act Contract pursuant to Section 51201 of the California Government Code. Therefore, impacts resulting from conflicts with existing zoning for agricultural use or a Williamson Act contract</i>					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<i>would not be significant.</i>						
<b>3. AIR QUALITY</b>						
<p>(a) Conflict with or obstruct implementation of an applicable air quality plan, including the County's Regional Air Quality Strategy or the State Implementation Plan?</p> <p><i>The Regional Air Quality Strategy (RAQS) for the San Diego Air Basin (SDAB) identifies emission control measures to provide progress toward attaining the State Ambient Air Quality Standard for ozone (O<sub>3</sub>) in San Diego County. The RAQS address emissions of organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>), which are precursors to the photochemical formation of O<sub>3</sub>. The control measures focus on emissions of from stationary and area-wide sources. Emission inventories and projections in the RAQS reflect the impact of all emission sources and control measures, including mobile sources such as on-road motor vehicles. The RAQS emission inventories, control measures, and progress toward attaining the state O<sub>3</sub> standard are based in part on adopted land use plans within the San Diego region. The 2006 FEIR concludes that implementation of the Downtown Community Plan would be consistent with regional air quality planning in the region, including the RAQS.</i></p> <p><i>The proposed project would relocate the existing Greyhound Bus Terminal to the proposed site also within the Downtown Community Plan. Relocation of existing operations would not result in increased emissions of VOCs or NO<sub>x</sub> relative to operation of the facility at the existing location. As a result, the proposed project would not conflict with RAQS goal of progress toward attaining the State Ambient Air Quality Standard for O<sub>3</sub>. Direct and cumulative impacts associated with this issue are not considered significant.</i></p>					X	X
<p>(b) Expose sensitive receptors to substantial air contaminants including, but not limited to, criteria pollutants, smoke, soot, grime, toxic fumes and substances, particulate matter, or any other emissions that may endanger human health?</p> <p><i>The project would relocate the existing Greyhound Bus Terminal from its present location to the proposed site. Prior to placement of the modular building and reconfiguration of site circulation, the existing building would be demolished.</i></p>						

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	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<p><i>The building may contain compounds that were routinely used in building products, including asbestos containing materials (ACMs), lead based paint (LBP), or other harmful materials. Implementation of existing requirements for a preconstruction hazards assessment and remediation procedures if hazardous materials are present would minimize exposure to workers during the demolition process.</i></p> <p><i>Placement of the modular building would require the use of some construction equipment and vehicles. The scale of construction activity associated with the proposed project would be less than a typical new construction project anticipated by the FEIR. Moreover, no ground disturbance or excavation would occur. A new asphalt overlay would be placed over the existing surface. The FEIR concludes that the creation of dust during clearing, grading, and excavation and, to a lesser degree, the operation of construction equipment would together generate substantial emissions of particulate matter that could adversely affect sensitive receptors. Since the proposed project would involve a smaller scale of construction activity than assumed in the FEIR and would not involve any ground disturbance, grading, or excavation activities, substantial emissions of particulate matter (or other criteria air pollutants) are not anticipated during project construction. Direct and cumulative impacts associated with particulate matter emissions would not be significant.</i></p> <p><i>The proposed project would not result in long-term impacts as the project is relocating an existing use. The scope of the existing use would not increase after relocation. Project impacts associated with the generation of substantial air contaminants are discussed below in 3.c.</i></p>					X	X
<p>(c) Generate substantial air contaminants including, but not limited to, criteria pollutants, smoke, soot, grime, toxic fumes and substances, particulate matter, or any other emissions that may endanger human health?</p> <p><i>Implementation of the proposed project would relocate existing emissions sources – primarily bus exhaust, from the existing location to the proposed site. As discussed in 3(b), the</i></p>					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<p>potential release of hazardous materials such as ACMs or LBP may occur during demolition. This would be addressed through compliance with applicable requirements for hazardous materials remediation. Construction activities associated with the proposed project would be relatively small in scale and are not anticipated to result in substantial emissions of particulate matter or other criteria air pollutants. However, construction emissions are considered cumulatively significant in the FEIR. Implementation of Mitigation Measure AQ-B.1 in the FEIR would keep construction dust emissions within acceptable levels. Operation of the temporary facility would involve a several daily employee vehicle trips and trips associated with passenger pick up/drop off. These trips would transfer emissions from one location within the planning area to another. Therefore, the proposed project is not anticipated to result in a net increase in emissions from mobile sources. Direct and cumulative impacts associated with this issue are considered not significant.</p>						
<b>4. BIOLOGICAL RESOURCES</b>						
<p>(a) Substantially affect, either directly or through habitat modifications, any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by local, state or federal agencies?</p> <p><i>The downtown planning area is highly urbanized. There are no sensitive plant or animal species, habitats, or wildlife migration corridors within the area, including the proposed project site. Further, no vegetation, including ornamental street trees occur on the site. Thus, there is no bird nesting habitat on the site. No impact associated with this issue would occur.</i></p>					X	X
<p>(b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations by local, state or federal agencies?</p> <p><i>As identified in the FEIR, the Centre City Community Plan area is not within a subregion of the San Diego County Multiple Species Conservation Program (MSCP). As discussed above, no street trees occur on site; thus, the Migratory Bird Treaty Act is not applicable. The site is a paved lot; thus, there are no wetlands or riparian communities that would be</i></p>					X	X

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	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<i>impacted by the proposed project. Therefore, impacts associated with substantial adverse effects on riparian habitat or other sensitive natural communities identified in local or regional plans, policies, and regulations by local, state or federal agencies would not be significant.</i>						
<b>5. HISTORICAL RESOURCES</b>						
(a) Substantially impact a significant historical resource, as defined in § 15064.5?  <i>The proposed project would require placement of an asphalt overlay and modular building on a paved site. The project site is not listed in the inventory of national, state, or local register listed or eligible historic resources in Downtown provided in the FEIR. As a result, the proposed project would not impact a significant historical resource.</i>					X	X
(b) Substantially impact a significant archaeological resource pursuant to § 15064.5, including the disturbance of human remains interred outside of formal cemeteries?  <i>The proposed project would not involve any ground disturbance, grading, or excavation. The project would place a modular building on an asphalt pavement overlay. Therefore, there is no potential for impacts to archaeological resources, including human remains, to occur.</i>					X	X
(c) Substantially impact a unique paleontological resource or site or unique geologic feature?  <i>The proposed project would not involve ground disturbance, grading, or excavation. The project would place a modular building on an existing paved site. Therefore, there is no potential for significant impacts to paleontological resources or geologic features.</i>					X	X
<b>6. GEOLOGY AND SOILS</b>						
(a) Substantial health and safety risk associated with seismic or geologic hazards?  <i>Per the FEIR, seismic activity is considered to be a hazardous geologic condition in the Downtown Planning Area. Downtown San Diego lies within a low relief coastal plain adjacent to the San Diego Bay. Beneath any artificial fill that may occur with the planning area is the Bay Point Formation. This formation contains marine and non-marine sediments</i>					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<p>from the Late Pleistocene-age. The formation generally consists of fine- to medium-grained, thinly laminated, moderate- to well-sorted sands, with occasional clayey silts and gravels. This formation is moist to saturated and moderately to non-expansive. Depth to the formation ranges from 0 to 10 feet and thickness is approximately 120 feet.</p> <p>Under the Bay Point Formation lies the San Diego Formation. This is a marine formation that consists primarily of siltstone and sandstone, with lenses of conglomerate, marl and mudstone. Fossil shell lenses are also common. This formation is dense to very dense, locally cemented and generally non-expansive. Depth to the San Diego Formation varies by location from 0 to 120 feet and reaches a maximum thickness of 1,200 feet (Downtown Planning Area Final EIR, 2006).</p> <p>The Rose Canyon Fault Zone, part of a system extending roughly from Oceanside to the U.S./Mexico International Border, crosses Downtown in a complex pattern of active and potentially active fault traces. The Downtown Graben fault, the San Diego fault and the Downtown Special Fault Zone are also located in the Downtown Planning Area. A moderate or major earthquake on one of these regional or local faults could result in substantial seismic ground-shaking in the San Diego metropolitan area, including on the project site. Consistent with the FEIR, the project would follow construction standards for seismic safety within the California Building Code, standards within the California Code of Regulations, Title 24, and, the City of San Diego Notification of Geologic Hazard procedures. Potential impacts associated with seismic and geologic hazards are not significant.</p>						
<b>7. HAZARDS AND HAZARDOUS MATERIALS</b>						
<p>(a) Substantial health and safety risk related to onsite hazardous materials?</p> <p>As discussed in 3(b) above, hazardous materials may be encountered during demolition of the existing building. Should the presence of these materials be suspect, a pre-construction hazards assessment and mandatory remediation procedures (if needed) would be performed per measures defined in the FEIR. Compliance with applicable regulatory requirements</p>					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<i>for hazardous materials remediation would minimize substantial health and safety risks related to onsite hazardous materials.</i>						
<p>(b) Be located on or within 2,000 feet of a site that is included on a list of hazardous materials sites compiled pursuant to Government Code § 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</p> <p><i>Per MTS, the proposed project is not listed on the State of California Hazardous Waste and Substances Sites List. The County of San Diego maintains a Site Assessment Mitigation (SAM) Case Listing of known contaminated sites through the County which identified sites located within the Downtown Community Plan area in the FEIR. The SAM data is now managed by the California Water Resources Control Board Geotracker Database. The proposed site is not listed as a hazardous waste site as of a July, 2011, database search.</i></p> <p><i>Multiple sites on the SAM Case Listing are within 2,000 feet of the project site. The FEIR concludes that potentially significant impacts to human health and the environment associated with such sites in the Downtown Community Plan area would be avoided through compliance with existing mandatory federal, state, and local regulations designed to protect the public from the adverse effects of hazardous materials sites. Therefore, impacts associated with this issue are not significant.</i></p>					X	X
<p>(c) Substantial safety risk to operations at San Diego International Airport?</p> <p><i>The proposed project site is not located within the boundaries of the Airport Influence Area of the Airport Land Use Compatibility Plan for San Diego International Airport. Therefore, impacts associated with this issue would not be significant.</i></p>					X	X
<p>(d) Substantially impair implementation of an adopted emergency response plan or emergency evacuation plan?</p> <p><i>The project does not propose any features that would affect an emergency response or evacuation plan. The project would place a modular structure on an existing paved site to accommodate a Greyhound Bus Terminal. No changes would occur to the circulation system in the project vicinity. Thus,</i></p>					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<i>impacts associated with this issue would not be significant.</i>						
<b>8. HYDROLOGY AND WATER QUALITY</b>						
<p>(a) Substantially degrade groundwater or surface water quality?</p> <p><i>The proposed project site is currently developed with an existing structure and asphalt pavement. As a result, the site contributes urban runoff to Downtown storm drains and, eventually to San Diego Bay. The proposed project would replace an existing building with a modular structure to accommodate the Greyhound Bus Terminal on an asphalt lot. The volume and quality of urban runoff leaving the project site would not change as a result of the proposed project. Groundwater recharge would not change from existing conditions. Therefore, direct and cumulative impacts to the water quality of San Diego Bay are considered not significant.</i></p>					X	X
<p>(b) Substantially increase impervious surfaces and associated runoff flow rates or volumes?</p> <p><i>Urban runoff generated within the Downtown planning area is collected by storm drains that eventually discharge into San Diego Bay. The entire project site is impervious under existing conditions. The proposed project would not change the existing surface characteristics of the project site. As a result, runoff flow rates and volumes would not change as a result of the proposed project. Impacts are considered not significant.</i></p>					X	X
<p>(c) Substantially impede or redirect flows within a 100- year flood hazard area?</p> <p><i>The project site is not located within a 100-year flood hazard area. Therefore, the proposed project would not impact flow within such an area, and no significant impact would occur.</i></p>					X	X
<p>(d) Substantially increase erosion and sedimentation?</p> <p><i>The project site is currently developed with structures and covered with pavement. The proposed project would not alter the impervious surface area of the site. Site clearing would not require removal of exiting asphalt pavement. A new overlay would be placed over existing asphalt provided a circulation area for busses and vehicles. Therefore, impacts associated with a substantial increase in erosion and sedimentation would not occur. Impacts would be considered not significant.</i></p>					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<b>9. LAND USE AND PLANNING</b>						
(a) Physically divide an established community?  <i>The proposed project does not include any features or involve any infrastructure that would physically divide the East Village District of Downtown. No impact would occur with this project.</i>					X	X
(b) Substantially conflict with the City's General Plan and Progress Guide, Downtown Community Plan, Centre City PDO or other applicable land use plan, policy, or regulation?  <i>The Downtown Community Plan land use designation and PDO land use district for the project site is Mixed Commercial, which is intended to accommodate a diverse array of uses including transportation uses. The PDO allows transportation terminals within the Mixed Commercial district subject to a conditional use permit. The proposed project would be consistent with the requirements of the PDO and LDC. However, the proposed project is exempt from PDO development regulations per MTS' authority as a rapid transit district under California Government Code § § 53090(a) and 53091(a). Given the number of employees that would staff the project and the transitory nature of facility operations, no on-site parking is required or would be provided. Conflicts with applicable plans and policies would not be significant.</i>					X	X
(c) Substantial incompatibility with surrounding land uses?  <i>Use characteristics that may be incompatible with surrounding land uses include lighting, shading, industrial activities, and noise. Compliance with the City's Light Pollution Ordinance referenced herein would minimize off-site lighting impacts. As described herein, adjacent uses are not sensitive to noise and/or other operating characteristics associated with a facility such as that proposed on the site. Compatibility issues would not be significant.</i>					X	X
(d) Substantially impact surrounding communities due to sanitation and litter problems generated by transients displaced by downtown development?					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<i>The proposed project would require the demolition of an existing vacant building and placement of a modular structure on the site to serve as a Greyhound Bus Terminal facility. The site is currently fenced to prevent unauthorized access. There is no evidence to indicate that transients use the site or would be displaced by the proposed use. The project would not contribute to the displacement of transients into surrounding communities caused by the redevelopment of Downtown. Therefore, the proposed project would not result in direct and cumulative significant impacts to surrounding communities as a result of transient displacement. Transient displacement issues would not be significant.</i>						
<b>10. MINERAL RESOURCES</b>						
(a) Substantially reduce the availability of important mineral resources?  <i>The FEIR states that the viable extraction of mineral resources is limited in Centre City due to its urbanized nature and the fact that the area is not designated as having high mineral resource potential. Therefore, mineral resource impacts would not be significant.</i>					X	X
<b>11. NOISE</b>						
(a) Substantial noise generation?  <i>Noise generated by the facility would be limited to construction of the project and bus ingress/egress. The proposed project would not result in substantial noise generation from any stationary sources. It is estimated that 4-5 busses an hour during peak operations would enter/exit the facility. Noise impacts during construction would be avoided through adherence to the construction noise limitations imposed by the City's Noise Abatement and Control Ordinance. Given the nature of the land uses surrounding the proposed site, the project would not generate audible noise levels at any sensitive properties.</i>					X	X
(b) Substantial exposure of required outdoor residential open spaces or public parks and plazas to noise levels (e.g. exposure to levels exceeding 65 dB (A) CNEL)?  <i>The proposed project is a Greyhound Bus Terminal. No residential open space or public parks occur within or in</i>					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<i>proximity to the site nor would such uses be provided as part of the proposed project. Therefore, impacts associated with this criteria would not be significant.</i>						
(c) Substantial interior noise within habitable rooms (e.g. levels in excess of 45 dB (A) CNEL)?  <i>The proposed project would include a passenger waiting room and areas for employees. These rooms would be habitable relative to the definition of a sensitive receptor. Therefore, impacts would not be significant.</i>					X	X
<b>12. POPULATION AND HOUSING</b>						
(a) Substantially induce population growth in an area?  <i>The proposed project would serve as a Greyhound Bus Terminal. The project would not result in population growth. Furthermore, the project does not propose any new infrastructure or infrastructure improvements that would induce population growth. No impact to population growth would occur.</i>					X	X
(b) Substantial displacement of existing housing units or people?  <i>A vacant commercial building is currently located on the site. No housing would be removed as a result of the project. No people would be displaced as a result of the project. No impact would occur relative to this criteria.</i>					X	X
<b>13. PUBLIC SERVICES AND UTILITIES:</b>						
(a) Substantial adverse physical impacts associated with the provision of new schools?  <i>The FEIR concludes that the additional student population anticipated at buildout of the downtown would require the construction of at least one additional school. However, the proposed project would not generate any students that would warrant construction of a new school facility. Therefore, direct and cumulative impacts associated with this issue would not occur.</i>					X	X
(b) Substantial adverse physical impacts associated with the provision of new libraries?  <i>The FEIR concludes that, cumulatively, development in the downtown would generate the need for a new Main Library and possibly several smaller libraries within the downtown.</i>					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<i>The proposed project would not increase the amount of residents using library facilities in Downtown. Impacts associated with this issue would not occur.</i>						
(c) Substantial adverse physical impacts associated with the provision of new fire protection/emergency facilities?  <i>The proposed project would relocate an existing use in the Downtown Planning Area. Therefore, the proposed project would not generate additional demand for fire protection/emergency services necessitating the construction of new fire protection/emergency facilities. No impacts associated with this criteria would occur.</i>					X	X
(d) Substantial adverse physical impacts associated with the provision of new law enforcement facilities?  <i>The proposed project would relocate an existing use in the Downtown Planning Area. Therefore, the proposed project would not generate additional demand for police services necessitating the construction of new facilities. No impacts associated with this criteria would occur.</i>					X	X
(e) Substantial adverse physical impacts associated with the provision of new water transmission or treatment facilities?  <i>The FEIR concludes that new water treatment facilities would not be required to address the cumulative development of the downtown. The proposed project would relocate an existing use within the Downtown Planning Area; thus, no additional water demand would be created. The provision of new or upgraded water infrastructure would not be required as a result of the proposed project. Therefore, impacts associated with this issue would not be significant.</i>						
(f) Substantial adverse physical impacts associated with the provision of new storm water facilities?  <i>The FEIR concludes that the cumulative development of the downtown would not impact the existing downtown storm drain system. The existing site is impervious; thus, the proposed project would not increase stormwater runoff within the Downtown Planning Area. The proposed project would not create demand for new storm water facilities beyond the level contemplated in the FEIR. Direct and cumulative significant impacts associated with this issue would not occur.</i>					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<p>(g) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?</p> <p><i>The FEIR concludes that the San Diego County Water Authority (SDCWA), which includes the City of San Diego Water Department, has adequate water supplies to meet water demand within its service area, including the anticipated water demand of the Downtown Community Plan. The proposed project would not increase the overall demand for water supply in Downtown as water consumption levels associated with the proposed project are not anticipated to exceed those of the existing facility. Therefore, the proposed project would not generate additional demand for water necessitating new or expanded entitlements. Significant impacts associated with this issue would not occur.</i></p>					X	X
<p>(h) Substantial adverse physical impacts associated with the provision of new wastewater transmission or treatment facilities?</p> <p><i>The FEIR concludes that new wastewater treatment facilities would not be required to address the cumulative development of the downtown. Wastewater volumes within the Downtown Planning Area would not change from existing conditions as a result of the proposed project. While new restroom facilities would be constructed as part of the proposed project, total wastewater volumes would not change as a result of the project. Therefore, impacts associated with this issue would not be significant.</i></p>					X	X
<p>(i) Substantial adverse physical impacts associated with the provision of new landfill facilities?</p> <p><i>The proposed project would not increase the overall amount of solid waste generated in the Downtown Planning Area. The proposed project would relocate an existing use to a new location. No change in the scope of the Greyhound operation would change as a result of the project. The existing building on site would be demolished; materials would be recycled or disposed of according to applicable regulations. During operation, the proposed project would not generate additional solid waste necessitating the provision of new landfill facilities. No significant impacts associated with this issue</i></p>					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
would occur.						
<b>14. PARKS AND RECREATIONAL FACILITIES:</b>						
(a) Substantial increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?						
<i>The FEIR discusses impacts to park and recreational facilities and the maintenance thereof and concludes that buildout of the Community Plan would not result in significant impacts associated with this issue. The proposed project would not generate additional demand for parks and recreation facilities such that substantial physical deterioration of a facility would occur or be accelerated. Significant impacts associated with this criteria issue would not occur.</i>					X	X
<b>15. TRANSPORTATION/TRAFFIC</b>						
(a) Cause the LOS on a roadway segment or intersection to drop below LOS E?						
<i>FEIR Mitigation Measure TRF-A.1.1-1 requires that any project anticipated to generate more than 2,400 daily trips or 200 peak hour trips prepare a traffic study as part of the Consistency Study/Secondary Study process to identify the intersections affected by the project that would operate at LOS F and the improvements which would be required within the next 5 years to achieve an acceptable LOS (LOS E or better) or reduce congestion. The proposed project would add approximately 55 bus trips over the course of a day; employee trips and pick up/drop off trips. The total number of trips is estimated to be approximately 150-200 (which includes busses, employees and passenger pick up/drop off) trips per day which is below the threshold requiring a traffic study.</i>						
<i>However, while the overall number of trips within the Downtown Planning Area would not change, they would relocate out of the core area of Downtown. Primary bus access to/from the proposed site and Interstate 5 would occur via Commercial Street, Imperial Avenue, 14<sup>th</sup> Street, 17<sup>th</sup> Street and K Street. Proposed changes in demand on these streets are included in Table 5.2-11A and Table 5.2-11B in the FEIR. The proposed increase in bus/employee trips on these streets would be accommodated within demand projections.</i>					X	X

## Environmental Consistency Evaluation

	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<i>Significant impacts associated with this issue would not occur.</i>						
<p>(b) Cause the LOS on a freeway segment to drop below LOS E or cause a ramp delay in excess of 15 minutes?</p> <p><i>As discussed above, the number of daily and peak hour trips would not increase; however, access to the site would move south to the interchange between J Street to the north and Imperial Avenue to the south. At peak operation, the project would generate 4-5 bus trips per hour. These volumes are not anticipated to increase delay at the affected interchange ramps beyond what was anticipated in the FEIR. Impacts associated with this threshold would not be significant.</i></p>					X	X
<p>(c) Create an average demand for parking that would exceed the average available supply?</p> <p><i>Given the type of use and number of employees, no on-site parking is required. On-street parking is available on National Avenue. The proposed project would not increase the overall demand for parking in Downtown. Significant impacts associated with this issue would not occur.</i></p>					X	X
<p>(d) Substantially discourage the use of alternative modes of transportation or cause transit service capacity to be exceeded?</p> <p><i>The proposed project may generate additional demand for MTS Blue Line Trolley service; however, it is not expected to exceed capacity. The facility would maintain commercial bus service in Downtown San Diego. Significant impacts relative to this criteria would not occur.</i></p>					X	X
<b>16. MANDATORY FINDINGS OF SIGNIFICANCE</b>						
<p>(a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?</p> <p><i>As indicated in the FEIR, due to the highly urbanized nature of the downtown area, no sensitive plant or animal species, habitats, or wildlife migration corridors are located in the planning area. The project does not have the potential to</i></p>					X	X

## Environmental Consistency Evaluation

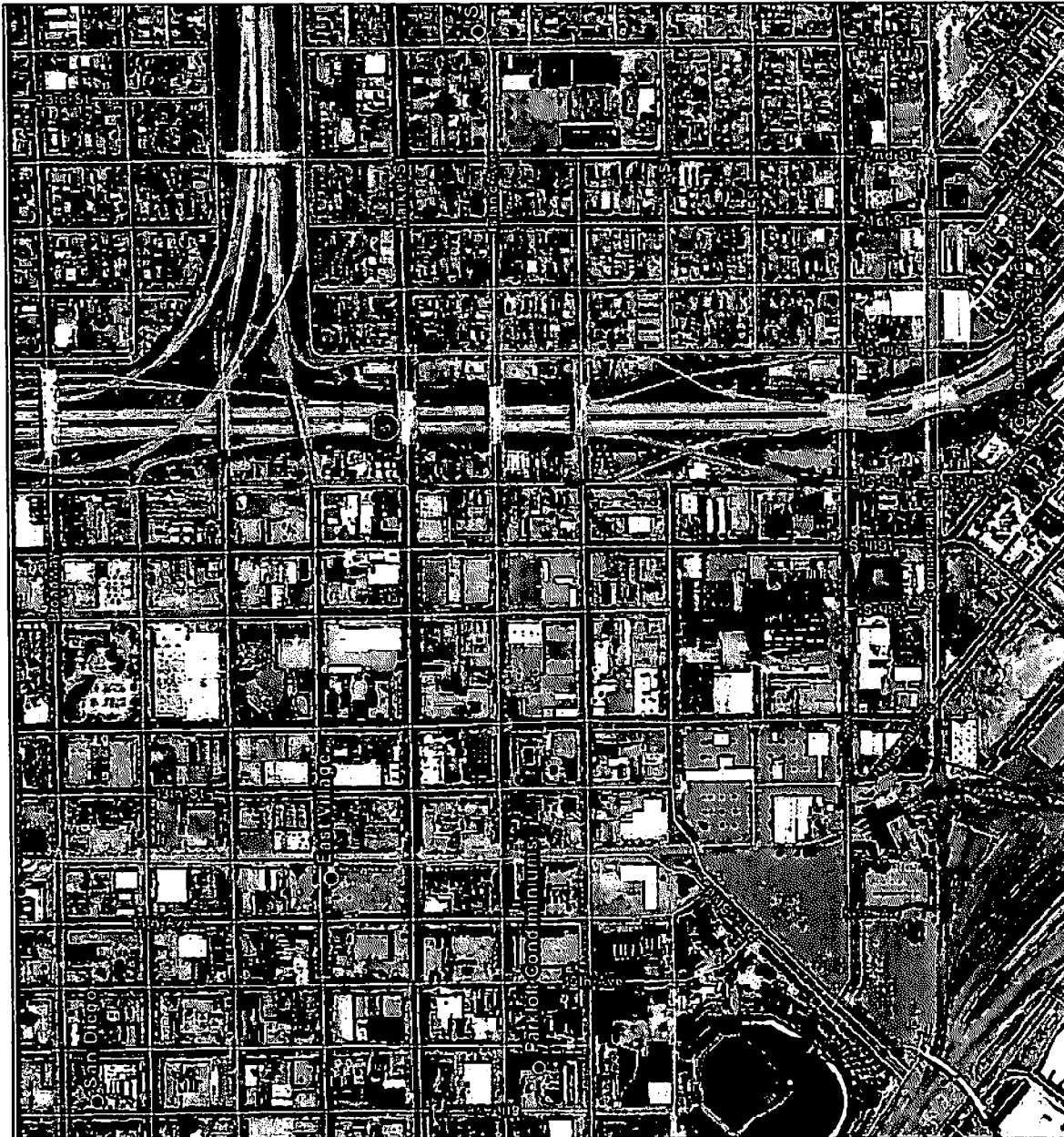
	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>Issues and Supporting Information</b>						
<i>eliminate important examples of major periods of California history or prehistory at the direct or cumulative level. No aspects of the project would substantially degrade the environment. Cumulative impacts are described in subsection 16(b) below.</i>						
<p>(b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?</p> <p><i>As acknowledged in the FEIR, implementation of the Downtown Community Plan, PDO, and Redevelopment Plan will result in cumulative impacts associated with: aesthetics/visual quality, air quality, historical and archaeological resources, physical changes associated with transient activities, noise, parking, traffic, and water quality. This project would not contribute to any cumulatively significant impacts, including those identified in the FEIR.</i></p>						<b>X</b>
<p>(c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?</p> <p><i>As described throughout this Consistency Evaluation/Secondary Study, the proposed project would not result in significant impacts.</i></p>					<b>X</b>	<b>X</b>

# EXHIBIT 'A' (ARRIVAL)

NOT TO SCALE

## LEGEND:

- ARRIVAL FROM SR-94 WESTBOUND
- ARRIVAL FROM I-5 SOUTHBOUND
- ARRIVAL FROM I-5 NORTHBOUND



GREYHOUND-CRUCERO TERMINAL  
RELOCATION SAN DIEGO

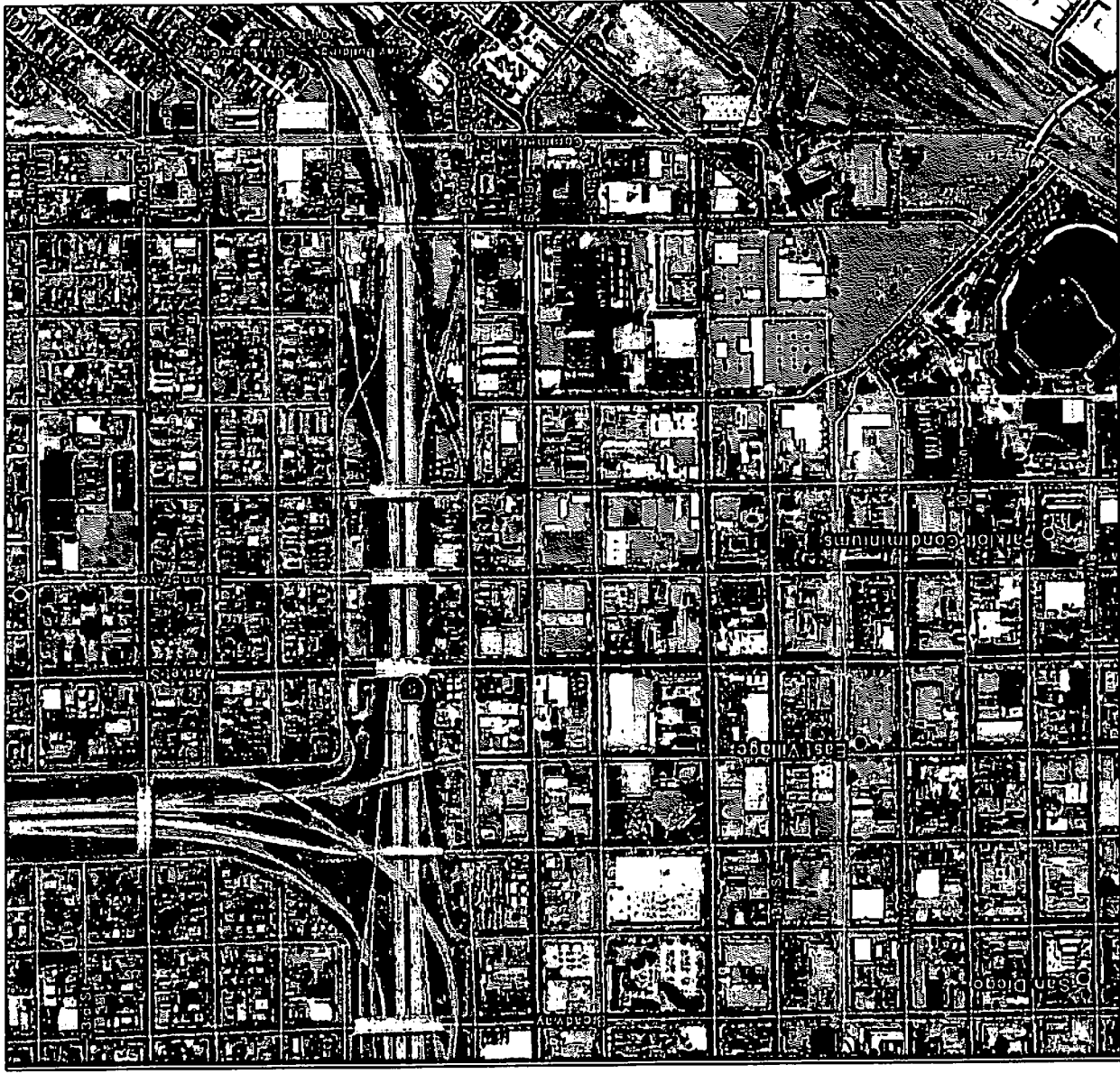
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**EXHIBIT 'B' (DEPARTMENT)**

NOT TO SCALE

**LEGEND:**

- DEPARTURE TO SR-94 EASTBOUND
- DEPARTURE TO I-5 SOUTHBOUND
- DEPARTURE TO I-5 NORTHBOUND



GREYHOUND-CRUCERO TERMINAL-  
RELOCATION SAN DIEGO

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## Agenda

Item No. 30

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

August 18, 2011

### SUBJECT:

SDTC RETIREMENT PLANS ACTUARIAL VALUATION AS OF JULY 1, 2010  
(CLIFF TELFER)

### RECOMMENDATION:

That the Board of Directors receive the San Diego Transit Corporation's (SDTC's) actuarial valuation as of July 1, 2010, and adopt a pension contribution rate of 28.105% for SDTC's retirement pension plans in FY 12.

#### Budget Impact

Approval of the action requested would result in an annual pension contribution of approximately \$9,460,000.

### DISCUSSION:

The actuarial valuation of SDTC's retirement plans as of July 1, 2010, has recently been completed (Attachment A). The purpose of the actuarial valuation is to compute the annual pension contribution rate and to provide disclosures necessary for Governmental Accounting Standards Board (GASB) Statement No. 25.

This valuation was completed on June 7, 2011, by EFI Actuaries and has produced an increase in the recommended contribution rate. The previous valuation (July 1, 2009) recommended a contribution rate of 22.708% of covered payroll. The July 2010 valuation recommends a 28.105% contribution rate. This contribution rate would be used for FY 12.



There are many factors that have an effect on the annual contribution rate. These factors include investment gains/losses, modification in plan provisions, and demographic and actuarial assumption changes. During FY 10, the plan's actuary performed an Actuarial Experience Study to review the plans assumptions and to see how closely they matched up to actual results. The actuary presented this report to the Budget Development Committee (BDC). Several changes to the plan's assumptions were proposed, and all were approved by the BDC. Several of the minor changes offset each other, but two changes had a material impact upon the contribution rate. The first and by far the most impactful revision was a change in the mortality tables for the operators and maintenance employees reflecting long longevity amongst this workforce. The second major change was a reduction in the future investment return assumption. The plan previously assumed an 8% return rate, which has been in line with the plan's long-term return history that (since inception) is 10.15%; however, the actuary and the BDC felt it was an aggressive target going forward. Therefore, the future return rate has been reduced to 7.5%, which is more in line with what other plans are currently using.

The following table details how the cost of the plan has changed since the last actuarial valuation.


	Cost in Dollars	Cost as % of Payroll
July 1, 2009	\$7,696,660	22.708%
• Changes in cost due to demographic gains/losses 7/1/09 to 7/1/10	316,725	1.471%
• Changes in cost due to gains/losses from salary increases from 7/1/09 to 7/1/10	(684,755)	(0.549)%
• Changes in cost due to entry of new hires into the plan from 7/1/09 to 7/1/10	97,886	(0.251)%
• Changes in cost due to investment gains/losses from 7/1/09 to 7/1/10	(446,079)	(1.405) %
• 7/1/10 contribution before any actuarial assumption changes	\$6,980,434	21.974%
<b>Changes in Cost Due to Recommended Revisions in Assumptions</b>		
• Changes in cost due to change in mortality actuarial assumptions	1,403,098	4.400%
• Changes in cost due to change in investment return assumption	669,661	2.100%
• Changes in cost due to change in other assumptions	(90,868)	(0.369)%
July 1, 2010	\$8,962,325	28.105%

In a separate analysis (Attachment B), staff has asked the actuary to analyze the effects of the pension obligation bonds (POBs) that were issued by MTS in 2004. The purpose of those bonds was to pay the then-current unfunded actuarial accrued liability of the SDTC retirement plans.

In reviewing the qualitative effects of the POBs the report shows that as of July 1, 2010, if the bonds had not been issued, the plan's contribution rate would have been 44% of pay instead of the 28% in the actuarial valuation. The plan's funding status would also have fallen from the current 57% to 35%.

The quantitative results show that the POBs have not achieved the savings (\$16 million to \$17.9 million) that MTS's consultants originally projected. Based upon the present value of the two payment streams (one with the POBs and one without), the POBs are projected to cost MTS \$1.7 million more over the projected 50 years (primarily due to the market loss in 2008).

Bob McCrory of EFI Actuaries will present the reports in more detail to the Board and be available for any questions.

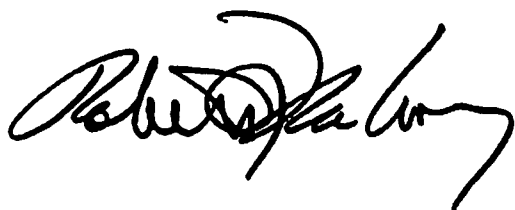
  
\_\_\_\_\_  
Paul C. Jablonski  
Chief Executive Officer

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AUG18-11.30.SDTC RETIREMENT PLAN ACTUARIAL RPT.CTELFER

Attachments: A. Actuarial Valuation of the Retirement Plans of SDTC as of 7/1/10 } Board Only  
B. Pension Obligation Bond Analysis } Due to Volume

<h1>Retirement Plans of San Diego Transit Corporation</h1>	<h2>Actuarial Review and Analysis as of July 1, 2010</h2>
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Robert T. McCrory, FSA



Gregory M. Stump, FSA

Prepared June 7, 2011

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## Summary of Results

### A Brief Summary

This actuarial review and analysis of the Retirement Plans of San Diego Transit Corporation (the Plan, the Corporation) as of July 1, 2010 has produced a significant increase in recommended contributions. Actuarial experience during the year 2009-10 Plan year was neutral, resulting in no significant change in cost. However, the Actuarial Experience Study for the period from January 1, 2006 to June 30, 2010 produced recommendations for changes in actuarial assumptions that will cause Corporation contributions to increase materially.

The table below shows how the cost of the Plan has changed since the last actuarial review as of July 1, 2009:

	<u>Cost in Dollars</u>	<u>Cost as % of Payroll</u>
July 1, 2009 (Section 3.1, Column 1)	\$7,696,660	22.708%
Change in cost due to demographic gains/losses from July 1, 2009 to July 1, 2010	316,725	1.471%
Change in cost due to gains/losses from salary increases from July 1, 2009 to July 1, 2010	(684,755)	(0.549)%
Change in cost due to entry of new hires into the Plan from July 1, 2009 to July 1, 2010	97,883	(0.251)%
Change in cost due to investment gains/losses from July 1, 2009 to July 1, 2010	(446,079)	(1.405)%
July 1, 2010 (Section 3.1, Column 2)	\$6,980,434	21.974%
Change in cost due to recommended revisions in assumptions in the Actuarial Experience Study	1,981,891	6.131%
July 1, 2010 (Section 3.1, Column 3)	\$8,962,325	28.105%

More will be said below regarding the Experience Study. The two recommendations with the largest cost impact were the revision in mortality rates, which resulted from data showing that members were living longer than expected and from changes in the assumed rates of investment return and inflation.

The percentage of payroll cost shown above is based on a member payroll of \$31.9 million projected for the 2010-11 fiscal year. We expect that the contribution rate above will become effective for the 2011-12 fiscal year. Therefore, the payroll figure actually used by the Corporation to compute its dollar contributions for the 2011-12 fiscal year will differ from this number, and the contribution rate shown above will be applied to the actual member payroll for the fiscal year.

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These computations are based on the Plan provisions and on the actuarial assumptions as of July 1, 2010. To the best of our knowledge, there have been no changes in the Plan provisions since the July 1, 2010 valuation. There were no changes to the actuarial methods in this valuation. An Actuarial Experience Study was completed prior to this valuation, and new assumptions were adopted and applied in this valuation.

We have computed the cost of the Plan as of July 1, 2010 using a five-year asset smoothing method to reduce contribution volatility. The smoothing method spreads investment gains and losses over five years. The resulting actuarial value of assets is constrained to remain within 20% of the market value.

Current Plan provisions are outlined in Section 1.1. A summary of actuarial methods and assumptions is presented in Section 1.3.

### **Purpose of the Report**

This Report presents the results of an actuarial valuation of the Retirement Plans of San Diego Transit Corporation as of July 1, 2010. The purposes of this actuarial valuation are:

- To compute the annual contribution required for the 2011-12 fiscal year to fund the Plan in accordance with actuarial principles, and
- To present those items required for disclosure under Statement No. 25 of the Governmental Accounting Standards Board (GASB).

### **Organization of the Report**

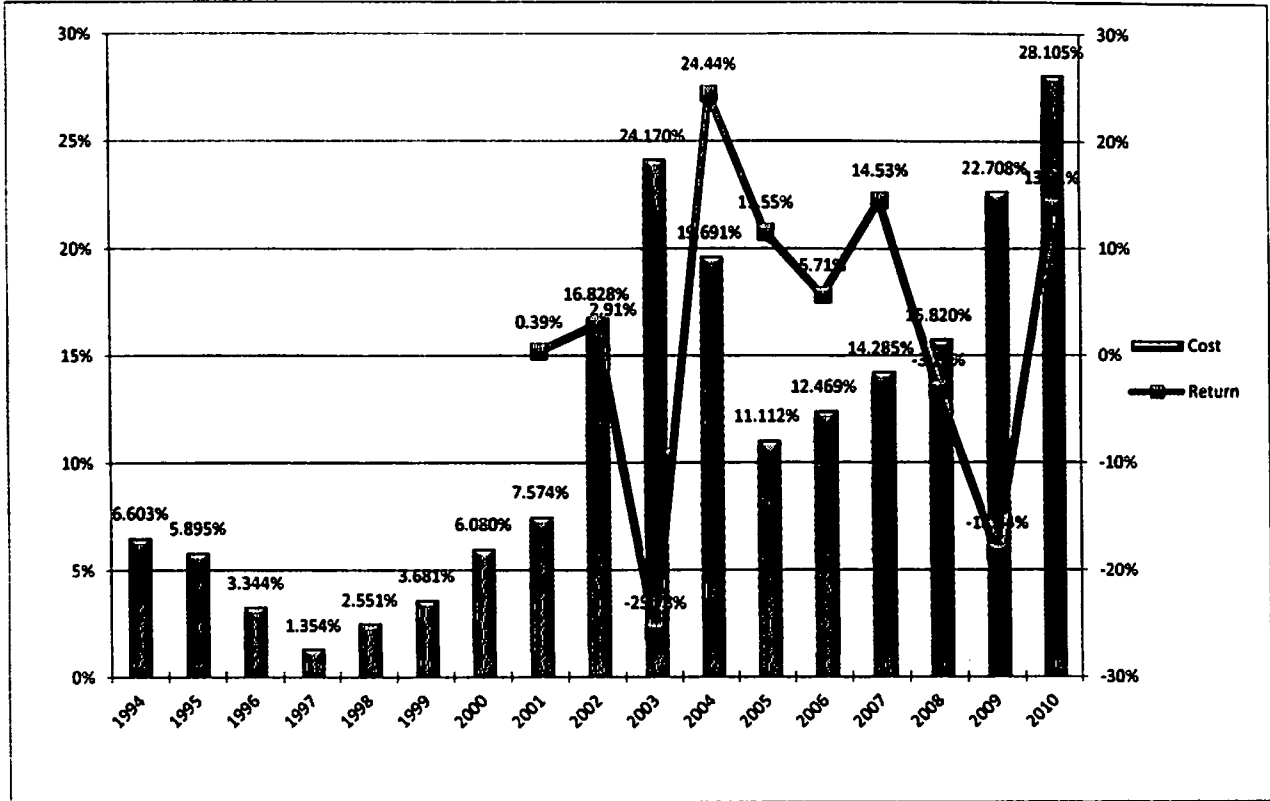
This Report is organized in five sections:

- This Summary presents the conclusions of the Report and discusses the reasons for changes since the last valuation.
- Section 1 below contains an outline of the Plan provisions on which our calculations are based, statistical data concerning Plan participants, and a summary of the actuarial assumptions employed to compute liabilities and costs.
- Section 2 presents information concerning Plan assets, including an income statement from July 1, 2009 to June 30, 2010.
- Section 3 contains the actuarial calculation of liabilities and Plan cost.
- Section 4 contains pension plan information required under Statement No. 25 of the Governmental Accounting Standards Board.

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## Plan Cost

As shown above, the Plan cost has increased both in dollar terms and as a percentage of active members' payroll. The graph below shows the history of Plan costs and asset returns since the July 1, 1994 actuarial valuation.



We note in the graph above that the Plan cost increased from the July 1, 1997 actuarial valuation to January 1, 2003. These increases in cost were due to Plan improvements combined with actuarial losses from investments. The decline in costs after January 1, 2003 was the result of asset gains in 2003 combined with the large contribution from a Pension Obligation Bond in 2004.

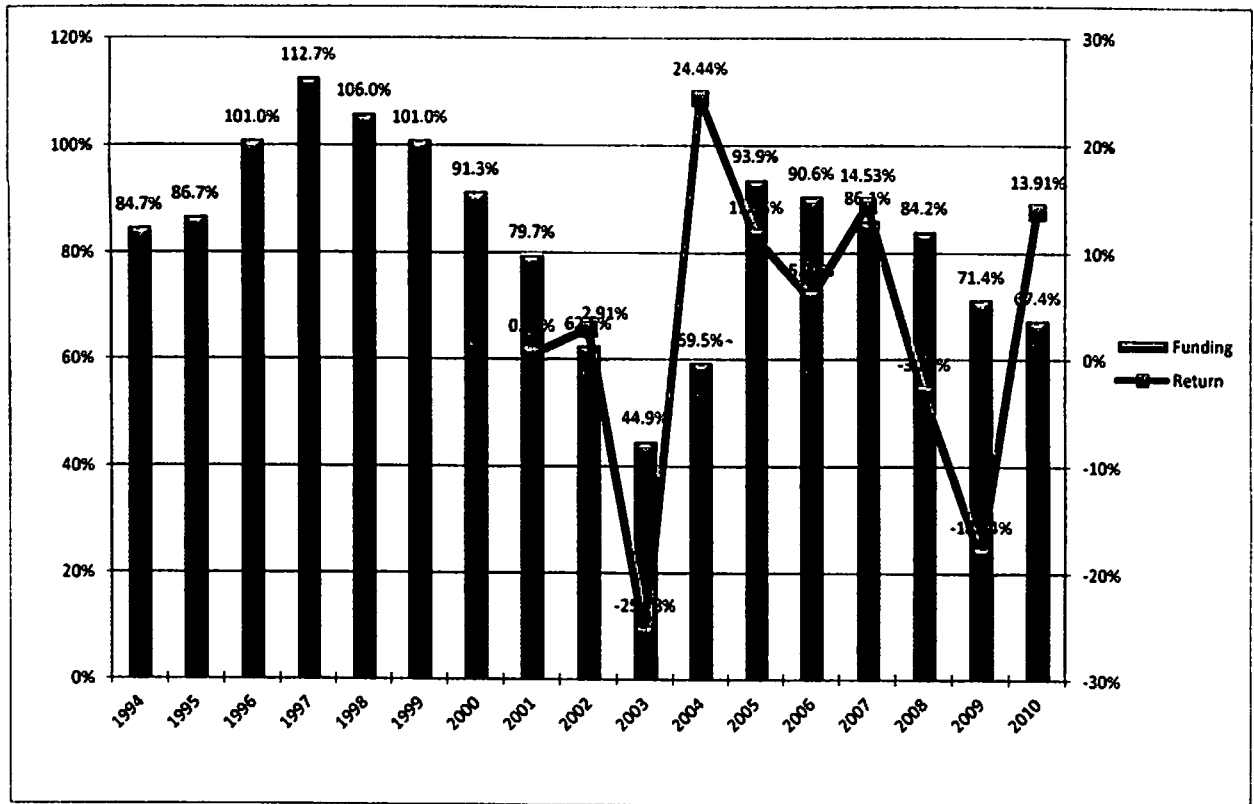
Costs have been increasing since January 1, 2005 due to investment losses as well as unexpectedly high rates of retirement in 2007 and 2008. The unfavorable investment climate since July 1, 2008 has caused further actuarial losses, and a significant increase in the Plan cost.

The annual rates of asset return on a market value basis are shown on the red line. Any return over 8% resulted in a gain, and any return lower than 8% resulted in an actuarial loss. Note in the graph that investment losses translate directly into cost increases.

The graph below shows the history of the Plan's funded ratio since 1994. Again, the asset return is shown as well, and we note that the funded ratio declines whenever returns on assets are below the 8% actuarial assumption.

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Over the past year the funded ratio declined from 71.4% to 67.4%. However, this funded ratio is computed using the actuarial (smoothed) value of Plan assets. If the market value of assets were used, the funded ratio would be just 56.7%.



This brings up an interesting point: The funded ratio that would be necessary to have just enough assets in the Plan to cover inactive liabilities – those for retired, disabled, and vested terminated members and their beneficiaries – would be 60.5%. Therefore, the current market value of Plan assets is just shy of covering the inactive liabilities, and essentially nothing has been set aside to fund benefits for active members. This is a result of the changes in assumptions based on Plan experience.

Therefore, the most important consideration as we move forward is to rebuild the Plan's asset base so that future benefits for active members are being properly funded. This will take additional employer contributions and a more favorable investment market than we have seen recently.

#### Change in Plan Cost from July 1, 2009 to July 1, 2010

The following is an analysis of the changes in Plan cost since July 1, 2009.

- Demographic experience was about neutral.

The demographic experience of the Plan from July 1, 2009 to July 1, 2010 – rates of retirement, death, disability, and termination – produced a small actuarial loss, the effect of which was to increase the cost of the Plan by \$316,725 annually.

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- Salary increases were lower than expected.

During the 2009-10 plan year, salaries for Plan members increased at a rate slightly below our assumptions. Much of this resulted from overall wage inflation below our assumption of 3.5% annually. As a result, liabilities and costs increased less than assumed, and the Plan cost decreased by \$685,000 or 0.549% of payroll.

- New members joined the Plan.

During 2009-10, 46 newly hired employees became Plan members. As a result, Plan costs decreased as a percentage of payroll by 0.251%, but increased in dollar terms, by \$97,883, as a result of the \$750,000 of additional covered payroll.

- Investment returns higher than the actuarial assumption.

As can be seen in Section 2.1, the return on Plan assets on a market value basis was approximately 13.9% during the 2009-10 fiscal year, over 5% above the 8% assumed return. However, much of the gain is deferred for up to five years under the actuarial smoothing method used to reduce cost volatility. In addition, this gain serves to offset some of the investment losses from the 2007-08 and 2008-09 fiscal years.

The combination of the return on market value during the 2009-10 fiscal year and the operation of the actuarial smoothing method caused a cost decrease of 1.405% of pay, or \$450,000.

- Changes in assumptions due to experience study results.

An Actuarial Experience Study was completed reviewing demographic assumptions over the period from January 1, 2006 through June 30, 2010. This study resulted in recommended changes to the demographic and economic assumptions. These changes in assumptions produced an increase in Plan cost of 6.131% of pay, or almost \$2 million.

The results of the Actuarial Experience Study are summarized in the table below. The primary causes of the increased cost were the reduction in the assumed rates of inflation and investment return, reflecting less optimism concerning investment results, and data indicating that Plan members are living longer after retirement.

In summary, the principal reason for the increase in Plan cost since July 1, 2009 was principally due to the changes in actuarial assumptions; actuarial experience during the 2009-10 year was roughly in accord with assumptions.

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Assumption	Experience	Recommendation	Plan Cost (% Pay)
<b>Service Retirement</b>	More retirements than expected for ATU, especially for ages 55-61. Retirements were close to expected for IBEW, and less than expected for Clerical/Non-Contract, mainly between ages 55-61.	New sets of retirement rates are proposed for ATU, Clerical and Non-Contract members, primarily for ages 55 to 61, bringing assumptions more in line with recent experience.	+ 0.1%
<b>Termination</b>	Termination experience among ATU/IBEW members was close to expected. Termination experience for Clerical/Non-Contract members was also close to that assumed, but age/service profile was different than expected.	Propose new termination rates for Clerical and Non-Contract members that more closely match the age and service profile of recent terminations. No changes proposed to current assumptions for ATU/IBEW.	+ 0.1%
<b>Disability</b>	Significantly fewer than expected disabilities for ATU/IBEW, even when including 10 years of experience. Disabilities were close to expected for Clerical/Non-Contract members.	Reduce single disability rate for ATU/IBEW from 0.85% to 0.70%. No changes proposed to current disability assumption for Clerical/Non-Contract.	+ 0.0%
<b>Mortality</b>	Fewer deaths than expected for ATU/IBEW, especially when measured on benefit-weighted basis. More deaths than expected for Clerical/Non-Contract members.	Propose use of RP-2000 tables for ATU/IBEW, with age adjustments for female retirees and male disabled members. No change in current assumption is proposed for Clerical/Non-Contract members. (currently 1994 GAM, unisex).	+ 4.4%
<b>Longevity and Promotion Pay Increases</b>	Review of actual longevity and promotion increases show a pattern of steep increases in early years, with gradual, steady increases in later years.	Propose new rates for ATU, Clerical and Non-Contract to more accurately reflect actual experience, as well as expected pay progression described in most recent ATU/IBEW contracts.	- 0.6%
<b>Economic Assumptions</b>	Current inflation assumption (3.5%) is high. Return assumption (8.0%) is optimistic.	Reduce inflation and pay growth assumption to 3.0%. Reduce return assumption to 7.5%.	+ 2.1%
		<b>Total Change in Contribution Rate</b>	<b>+ 6.1%</b>

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### **Future Plan Costs**

The method used to smooth the impact of market fluctuations on Plan cost – the actuarial smoothing of assets – serves to cushion the Plan cost from the full impact of market losses. During 2009-10, the return on the market value of Plan assets was 13.91%, while the return on the smoothed actuarial value of assets was 11.51%. The remaining portion of the 2009-10 market gains have not yet been recognized, and will emerge during the next five years.

When combined with investment losses in 2007-08 and 2008-09, the actuarial value of assets used to compute the Corporation contribution is about 19% higher than market value. The difference between actuarial and market values is caused by investment losses that have not yet been recognized. As these losses are reflected in the smoothed value of Plan assets, there will be upward pressure on the Plan cost.

If the Plan cost had been computed based on the market value of assets as of June 30, 2010, the Corporation contribution would have been 34.567% of pay, or \$11.0 million.

### **Conclusion**

This report has been prepared using generally accepted actuarial methods and assumptions. If there are any questions about this report, please feel free to contact us. We enjoy being of service to you and we look forward to doing so in the future.

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## **Section 1:**

### **Summary of Plan Provisions, Member Statistics, and Actuarial Assumptions**

## 1.1: Brief Outline of Plan Provisions

### Definitions

#### *Average Monthly Final Earnings*

Average Monthly Final Earnings means the average monthly compensation during the consecutive months that produces a Participant's highest average compensation, computed by dividing the Compensation Earnable for such period by the number of months in such period.

- For ATU, IBEW, and Clerical Participants, the averaging period is thirty-six (36) consecutive months.
- For Non-Contract Participants, the number of consecutive months is twelve (12).

Those months during which the Participant did not receive Compensation from the Employer equivalent to one half the regular working days will be excluded. The average is then based on that portion of the averaging period remaining after the excluded months.

#### *Compensation*

Compensation means the remuneration for services paid by the Employer. The monetary value of board, lodgings, fuel, car allowance, laundry or other advantages furnished to a Participant is not included.

#### *Compensation Earnable*

Compensation Earnable is the Compensation actually received by a Participant during a period of employment. For ATU and Non-Contract Participants, any bonus or retroactive wage increases are treated as compensation when received rather than when the services are performed. For IBEW Participants, Compensation Earnable is limited to 2,140 hours of straight time equivalent hours in any 12-month period.

In addition, the value of any vacation or sick leave accumulated but unused when benefits begin is excluded from Compensation Earnable and from Average Monthly Final Earnings.

#### *Credited Years of Service*

In general, Credited Years of Service is continuous Service with the San Diego Transit Corporation and its predecessor company from the last date of employment through the date of retirement, death, disability, or other termination of service.

As of November 10, 1997, part-time ATU employees receive one Credited Year of Service for every 2,080 Hours of Service worked as a part-time employee after December 1, 1990.

For Non-Contract Participants, Credited Years of Service includes any year commencing on or after July 1, 1982 in which the Participant completes at least 1,000 Hours of Service. In addition, Credited Years of Service for Non-Contract Participants will exclude any period of Service after the Participant's Normal Retirement Date.

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A Participant who is disabled and recovers from disability and reenters the Plan as an active Participant will not receive Credited Years of Service for the period of disability.

## **Participation**

All full-time and certain part-time ATU and IBEW employees become Participants on their date of hire. All Non-Contract employees become Participants after earning one Credited Year of Service.

## **Retirement Benefit**

### ***Eligibility***

Clerical and Non-Contract members are eligible for normal service retirement upon attaining age 63 and completing five or more years of service and eligible for early service retirement upon attaining age 53 and completing five or more years of service.

ATU and IBEW members are eligible for normal service retirement upon attaining age 63 (65 for IBEW) and completing five or more years of service and eligible for early service retirement upon attaining age 55 and completing five or more years of service.

### ***Benefit Amount***

The monthly service retirement benefit is the Participant's Average Monthly Final Earnings multiplied by the percentage figures shown in the tables below.

- For ATU and Clerical Participants terminating prior to October 1, 2005, ATU/Clerical Table A-1 is used; for ATU and Clerical Participants terminating on and after October 1, 2005, ATU/Clerical Table A-2 is used. Prior to January 1, 2006, the benefit from the table is limited to 60%.
- For IBEW Participants terminating prior to January 1, 2008, IBEW Table A-1 is used; for IBEW Participants terminating on and after January 1, 2008, IBEW Table A-2 is used.
- For Non-Contract participants terminating prior to July 1, 2000, Non-Contract Table A-1 is used; for Non-Contract participants terminating on and after July 1, 2000, Non-Contract Table A-2 is used.

For Participants with fractions of a year of age or service, the Participant's age or service will be rounded to the completed quarter year, and the percentage multiplier will be computed from the table using interpolation.

ATU participants who are active as from November 10, 1997 to December 31, 1998 and from November 10, 1997 to December 31, 1999 receive an additional 2.5% and 2.5%, respectively. However, the multiplier from Table A-1 or A-2, as augmented by the additional 2.5% increments, is still limited to 60% prior to January 1, 2006 and 70% thereafter.

Non-Contract Participants who are active as of July 1, 1994 and July 1, 1995 receive an additional 6% and 2%, respectively. However, the benefit multiplier, as augmented by the additional 6% and 2% increments, is still limited to 60% under Table A-1 and 70% under Table A-2.

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A Participant who is disabled and recovers from disability and reenters the Plan as an active Participant will have this benefit amount reduced by the actuarial equivalent of the benefits paid during the period of disability.

***Form of Benefit***

The normal form of benefit is an annuity payable for the life of the Participant, with no continuation of benefits to a beneficiary after death. The retirement benefit will be paid as a 50% Joint and Survivor benefit actuarially equivalent to the normal form for participants who have been married for at least one year. Otherwise, the normal form will be paid.

The ATU and IBEW benefits have been amended from time to time to remove the actuarial reduction in benefits for previously retired Participants whose spouses have died before them. However, these adjustments are retroactive only, and they do not apply to benefits paid to currently active Participants.

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ATU/Clerical Table A-1

Credited Years Of Service	Age at Retirement								
	55	56	57	58	59	60	61	62	63+
5	5.9%	6.3%	6.7%	7.2%	7.8%	8.3%	8.9%	9.5%	10.1%
6	7.1%	7.5%	8.1%	8.7%	9.3%	10.0%	10.7%	11.4%	12.1%
7	8.2%	8.8%	9.4%	10.1%	10.9%	11.7%	12.4%	13.3%	14.1%
8	9.4%	10.1%	10.8%	11.6%	12.4%	13.3%	14.2%	15.1%	16.1%
9	10.6%	11.3%	12.1%	13.0%	14.0%	15.0%	16.0%	17.0%	18.1%
10	11.8%	12.6%	13.5%	14.4%	15.5%	16.7%	17.8%	18.9%	20.1%
11	12.9%	13.8%	14.8%	15.9%	17.1%	18.3%	19.5%	20.8%	22.2%
12	14.1%	15.1%	16.2%	17.3%	18.6%	20.0%	21.3%	22.7%	24.2%
13	15.3%	16.3%	17.5%	18.8%	20.2%	21.7%	23.1%	24.6%	26.2%
14	16.5%	17.6%	18.9%	20.2%	21.7%	23.3%	24.9%	26.5%	28.2%
15	17.6%	18.9%	20.2%	21.7%	23.3%	25.0%	26.7%	28.4%	30.2%
16	18.8%	20.1%	21.5%	23.1%	24.8%	26.7%	28.4%	30.3%	32.2%
17	20.0%	21.4%	22.9%	24.5%	26.4%	28.3%	30.2%	32.2%	34.3%
18	21.2%	22.6%	24.2%	26.0%	27.9%	30.0%	32.0%	34.1%	36.3%
19	22.3%	23.9%	25.6%	27.4%	29.5%	31.7%	33.8%	36.0%	38.3%
20	23.5%	25.2%	26.9%	28.9%	31.0%	33.3%	35.5%	37.9%	40.3%
21	24.7%	26.4%	28.3%	30.3%	32.6%	35.0%	37.3%	39.7%	42.3%
22	25.9%	27.7%	29.6%	31.8%	34.1%	36.7%	39.1%	41.6%	44.3%
23	27.0%	28.9%	31.0%	33.2%	35.7%	38.3%	40.9%	43.5%	46.3%
24	28.2%	30.2%	32.3%	34.6%	37.2%	40.0%	42.6%	45.4%	48.4%
25	29.4%	31.4%	33.7%	36.1%	38.8%	41.7%	44.4%	47.3%	50.4%
26	30.6%	32.7%	35.0%	37.5%	40.3%	43.3%	46.2%	49.2%	52.4%
27	31.7%	34.0%	36.4%	39.0%	41.9%	45.0%	48.0%	51.1%	54.4%
28	32.9%	35.2%	37.7%	40.4%	43.4%	46.7%	49.8%	52.0%	56.4%
29	34.1%	36.5%	39.1%	41.9%	45.0%	48.3%	50.0%	55.0%	58.4%
30	35.3%	37.7%	40.4%	43.4%	46.5%	50.0%	51.0%	55.5%	60.0%
31	36.5%	39.0%	41.7%	44.8%	48.1%	51.0%	51.5%	56.0%	60.0%
32	37.6%	40.2%	43.1%	46.2%	49.6%	51.5%	52.0%	56.5%	60.0%
33	38.8%	41.5%	44.4%	47.6%	50.0%	52.0%	52.5%	57.0%	60.0%
34	40.0%	42.8%	45.8%	49.1%	51.0%	52.5%	53.0%	57.5%	60.0%
35 or more	41.2%	44.0%	47.1%	50.0%	51.5%	53.0%	53.5%	58.0%	60.0%

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ATU/Clerical Table A-2

Credited Years Of Service	Age at Retirement										
	Clerical		55	56	57	58	59	60	61	62	63+
	53	54									
5	8.71%	9.33%	10.00%	10.26%	10.52%	10.78%	11.05%	11.31%	11.57%	11.83%	12.09%
6	10.45%	11.20%	12.00%	12.31%	12.62%	12.94%	13.26%	13.57%	13.88%	14.20%	14.51%
7	12.19%	13.06%	14.00%	14.36%	14.73%	15.09%	15.47%	15.83%	16.20%	16.56%	16.93%
8	13.94%	14.93%	16.00%	16.42%	16.83%	17.25%	17.68%	18.10%	18.51%	18.93%	19.34%
9	15.68%	16.79%	18.00%	18.47%	18.94%	19.40%	19.89%	20.36%	20.83%	21.29%	21.76%
10	17.42%	18.66%	20.00%	20.52%	21.04%	21.56%	22.10%	22.62%	23.14%	23.66%	24.18%
11	19.16%	20.53%	22.00%	22.57%	23.14%	23.72%	24.31%	24.88%	25.45%	26.03%	26.60%
12	20.90%	22.39%	24.00%	24.62%	25.25%	25.87%	26.52%	27.14%	27.77%	28.39%	29.02%
13	22.65%	24.26%	26.00%	26.68%	27.35%	28.03%	28.73%	29.41%	30.08%	30.76%	31.43%
14	24.39%	26.12%	28.00%	28.73%	29.46%	30.18%	30.94%	31.67%	32.40%	33.12%	33.85%
15	26.13%	27.99%	30.00%	30.78%	31.56%	32.34%	33.15%	33.93%	34.71%	35.49%	36.27%
16	27.87%	29.86%	32.00%	32.83%	33.66%	34.50%	35.36%	36.19%	37.02%	37.86%	38.69%
17	29.61%	31.72%	34.00%	34.88%	35.77%	36.65%	37.57%	38.45%	39.34%	40.22%	41.11%
18	31.36%	33.59%	36.00%	36.94%	37.87%	38.81%	39.78%	40.72%	41.65%	42.59%	43.52%
19	33.10%	35.45%	38.00%	38.99%	39.98%	40.96%	41.99%	42.98%	43.97%	44.95%	45.94%
20	34.84%	37.32%	40.00%	41.04%	42.08%	43.12%	44.20%	45.24%	46.28%	47.32%	48.36%
21	36.58%	39.19%	42.00%	43.09%	44.18%	45.28%	46.41%	47.50%	48.59%	49.69%	50.78%
22	38.32%	41.05%	44.00%	45.14%	46.29%	47.43%	48.62%	49.76%	50.91%	52.05%	53.20%
23	40.07%	42.92%	46.00%	47.20%	48.39%	49.59%	50.83%	52.03%	53.22%	54.42%	55.61%
24	41.81%	44.78%	48.00%	49.25%	50.50%	51.74%	53.04%	54.29%	55.54%	56.78%	58.03%
25	43.55%	46.65%	50.00%	51.30%	52.60%	53.90%	55.25%	56.55%	57.85%	59.15%	60.45%
26	45.29%	48.52%	52.00%	53.35%	54.70%	56.06%	57.46%	58.81%	60.16%	61.52%	62.87%
27	47.03%	50.38%	54.00%	55.40%	56.81%	58.21%	59.67%	61.07%	62.48%	63.88%	65.29%
28	48.78%	52.25%	56.00%	57.46%	58.91%	60.37%	61.88%	63.34%	64.79%	66.25%	67.70%
29	50.52%	54.11%	58.00%	59.51%	61.02%	62.52%	64.09%	65.60%	67.11%	68.61%	70.00%
30	52.26%	55.98%	60.00%	61.56%	63.12%	64.68%	66.30%	67.86%	69.42%	70.00%	70.00%
31	54.00%	57.85%	62.00%	63.61%	65.22%	66.84%	68.51%	70.00%	70.00%	70.00%	70.00%
32	55.74%	59.71%	64.00%	65.66%	67.33%	68.99%	70.00%	70.00%	70.00%	70.00%	70.00%
33	57.49%	61.58%	66.00%	67.72%	69.43%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
34	59.23%	63.44%	68.00%	69.77%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
35 or more	60.97%	65.31%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%

Att. A, AI 30, 8/18/11

IBEW Table A-1

Credited Years Of Service	Age at Retirement										
	55	56	57	58	59	60	61	62	63	64	65+
5	5.2%	5.5%	5.9%	6.3%	6.7%	7.2%	7.8%	8.3%	8.9%	9.5%	10.1%
6	6.2%	6.6%	7.1%	7.5%	8.1%	8.7%	9.3%	10.0%	10.7%	11.4%	12.1%
7	7.2%	7.7%	8.2%	8.8%	9.4%	10.1%	10.9%	11.7%	12.4%	13.3%	14.1%
8	8.2%	8.8%	9.4%	10.1%	10.8%	11.6%	12.4%	13.3%	14.2%	15.1%	16.1%
9	9.3%	9.9%	10.6%	11.3%	12.1%	13.0%	14.0%	15.0%	16.0%	17.0%	18.1%
10	10.2%	11.0%	11.8%	12.6%	13.5%	14.4%	15.5%	16.7%	17.8%	18.9%	20.1%
11	11.2%	12.1%	12.9%	13.8%	14.8%	15.9%	17.1%	18.3%	19.5%	20.8%	22.2%
12	12.3%	13.2%	14.1%	15.1%	16.2%	17.3%	18.6%	20.0%	21.3%	22.7%	24.2%
13	13.3%	14.3%	15.3%	16.3%	17.5%	18.8%	20.2%	21.7%	23.1%	24.6%	26.2%
14	14.4%	15.4%	16.5%	17.6%	18.9%	20.2%	21.7%	23.3%	24.9%	26.5%	28.2%
15	15.4%	16.5%	17.6%	18.9%	20.2%	21.7%	23.3%	25.0%	26.7%	28.4%	30.2%
16	16.4%	17.6%	18.8%	20.1%	21.5%	23.1%	24.8%	26.7%	28.4%	30.3%	32.2%
17	17.5%	18.7%	20.0%	21.4%	22.9%	24.5%	26.4%	28.3%	30.2%	32.2%	34.3%
18	18.5%	19.8%	21.2%	22.6%	24.2%	26.0%	27.9%	30.0%	32.0%	34.1%	36.3%
19	19.6%	20.9%	22.3%	23.9%	25.6%	27.4%	29.5%	31.7%	33.8%	36.0%	38.3%
20	20.6%	22.0%	23.5%	25.2%	26.9%	28.9%	31.0%	33.3%	35.5%	37.9%	40.3%
21	21.6%	23.1%	24.7%	26.4%	28.3%	30.3%	32.6%	35.0%	37.3%	39.7%	42.3%
22	22.7%	24.2%	25.9%	27.7%	29.6%	31.8%	34.1%	36.7%	39.1%	41.6%	44.3%
23	23.7%	25.3%	27.0%	28.9%	31.0%	33.2%	35.7%	38.3%	40.9%	43.5%	46.3%
24	24.8%	26.4%	28.2%	30.2%	32.3%	34.6%	37.2%	40.0%	42.6%	45.4%	48.4%
25	25.8%	27.5%	29.4%	31.4%	33.7%	36.1%	38.8%	41.7%	44.4%	47.3%	50.4%
26	26.9%	28.6%	30.6%	32.7%	35.0%	37.5%	40.3%	43.3%	46.2%	49.2%	52.4%
27	27.9%	29.7%	31.7%	34.0%	36.4%	39.0%	41.9%	45.0%	48.0%	51.1%	54.4%
28	29.0%	30.9%	32.9%	35.2%	37.7%	40.4%	43.4%	46.7%	49.8%	52.0%	56.4%
29	30.0%	32.0%	34.1%	36.5%	39.1%	41.9%	45.0%	48.3%	50.0%	55.0%	58.4%
30	31.1%	33.1%	35.3%	37.7%	40.4%	43.4%	46.5%	50.0%	51.0%	55.5%	60.0%
31	32.1%	34.2%	36.5%	39.0%	41.7%	44.8%	48.1%	51.0%	51.5%	56.0%	60.0%
32	33.2%	35.3%	37.6%	40.2%	43.1%	46.2%	49.6%	51.5%	52.0%	56.5%	60.0%
33	34.3%	36.5%	38.8%	41.5%	44.4%	47.6%	50.0%	52.0%	52.5%	57.0%	60.0%
34	35.4%	37.6%	40.0%	42.8%	45.8%	49.1%	51.0%	52.5%	53.0%	57.5%	60.0%
35 or more	36.5%	38.7%	41.2%	44.0%	47.1%	50.0%	51.5%	53.0%	53.5%	58.0%	60.0%

Att. A, AI 30, 8/18/11

**IBEW Table A-2**

Credited Years Of Service	Age at Retirement								
	55	56	57	58	59	60	61	62	63+
5	10.00%	10.26%	10.52%	10.78%	11.05%	11.31%	11.57%	11.83%	12.09%
6	12.00%	12.31%	12.62%	12.94%	13.26%	13.57%	13.88%	14.20%	14.51%
7	14.00%	14.36%	14.73%	15.09%	15.47%	15.83%	16.20%	16.56%	16.93%
8	16.00%	16.42%	16.83%	17.25%	17.68%	18.10%	18.51%	18.93%	19.34%
9	18.00%	18.47%	18.94%	19.40%	19.89%	20.36%	20.83%	21.29%	21.76%
10	20.00%	20.52%	21.04%	21.56%	22.10%	22.62%	23.14%	23.66%	24.18%
11	22.00%	22.57%	23.14%	23.72%	24.31%	24.88%	25.45%	26.03%	26.60%
12	24.00%	24.62%	25.25%	25.87%	26.52%	27.14%	27.77%	28.39%	29.02%
13	26.00%	26.68%	27.35%	28.03%	28.73%	29.41%	30.08%	30.76%	31.43%
14	28.00%	28.73%	29.46%	30.18%	30.94%	31.67%	32.40%	33.12%	33.85%
15	30.00%	30.78%	31.56%	32.34%	33.15%	33.93%	34.71%	35.49%	36.27%
16	32.00%	32.83%	33.66%	34.50%	35.36%	36.19%	37.02%	37.86%	38.69%
17	34.00%	34.88%	35.77%	36.65%	37.57%	38.45%	39.34%	40.22%	41.11%
18	36.00%	36.94%	37.87%	38.81%	39.78%	40.72%	41.65%	42.59%	43.52%
19	38.00%	38.99%	39.98%	40.96%	41.99%	42.98%	43.97%	44.95%	45.94%
20	40.00%	41.04%	42.08%	43.12%	44.20%	45.24%	46.28%	47.32%	48.36%
21	42.00%	43.09%	44.18%	45.28%	46.41%	47.50%	48.59%	49.69%	50.78%
22	44.00%	45.14%	46.29%	47.43%	48.62%	49.76%	50.91%	52.05%	53.20%
23	46.00%	47.20%	48.39%	49.59%	50.83%	52.03%	53.22%	54.42%	55.61%
24	48.00%	49.25%	50.50%	51.74%	53.04%	54.29%	55.54%	56.78%	58.03%
25	50.00%	51.30%	52.60%	53.90%	55.25%	56.55%	57.85%	59.15%	60.45%
26	52.00%	53.35%	54.70%	56.06%	57.46%	58.81%	60.16%	61.52%	62.87%
27	54.00%	55.40%	56.81%	58.21%	59.67%	61.07%	62.48%	63.88%	65.29%
28	56.00%	57.46%	58.91%	60.37%	61.88%	63.34%	64.79%	66.25%	67.70%
29	58.00%	59.51%	61.02%	62.52%	64.09%	65.60%	67.11%	68.61%	70.00%
30	60.00%	61.56%	63.12%	64.68%	66.30%	67.86%	69.42%	70.00%	70.00%
31	62.00%	63.61%	65.22%	66.84%	68.51%	70.00%	70.00%	70.00%	70.00%
32	64.00%	65.66%	67.33%	68.99%	70.00%	70.00%	70.00%	70.00%	70.00%
33	66.00%	67.72%	69.43%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
34	68.00%	69.77%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
35 or more	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%

Att. A, AI 30, 8/18/11

Non-Contract Table A-1

Credited Years Of Service	Age at Retirement										
	53	54	55	56	57	58	59	60	61	62	63+
5	5.2%	5.5%	5.9%	6.3%	6.7%	7.2%	7.8%	8.3%	8.9%	9.5%	10.1%
6	6.2%	6.6%	7.1%	7.5%	8.1%	8.7%	9.3%	10.0%	10.7%	11.4%	12.1%
7	7.2%	7.7%	8.2%	8.8%	9.4%	10.1%	10.9%	11.7%	12.4%	13.3%	14.1%
8	8.2%	8.8%	9.4%	10.1%	10.8%	11.6%	12.4%	13.3%	14.2%	15.1%	16.1%
9	9.3%	9.9%	10.6%	11.3%	12.1%	13.0%	14.0%	15.0%	16.0%	17.0%	18.1%
10	10.2%	11.0%	11.8%	12.6%	13.5%	14.4%	15.5%	16.7%	17.8%	18.9%	20.1%
11	11.2%	12.1%	12.9%	13.8%	14.8%	15.9%	17.1%	18.3%	19.5%	20.8%	22.2%
12	12.3%	13.2%	14.1%	15.1%	16.2%	17.3%	18.6%	20.0%	21.3%	22.7%	24.2%
13	13.3%	14.3%	15.3%	16.3%	17.5%	18.8%	20.2%	21.7%	23.1%	24.6%	26.2%
14	14.4%	15.4%	16.5%	17.6%	18.9%	20.2%	21.7%	23.3%	24.9%	26.5%	28.2%
15	15.4%	16.5%	17.6%	18.9%	20.2%	21.7%	23.3%	25.0%	26.7%	28.4%	30.2%
16	16.4%	17.6%	18.8%	20.1%	21.5%	23.1%	24.8%	26.7%	28.4%	30.3%	32.2%
17	17.5%	18.7%	20.0%	21.4%	22.9%	24.5%	26.4%	28.3%	30.2%	32.2%	34.3%
18	18.5%	19.8%	21.2%	22.6%	24.2%	26.0%	27.9%	30.0%	32.0%	34.1%	36.3%
19	19.6%	20.9%	22.3%	23.9%	25.6%	27.4%	29.5%	31.7%	33.8%	36.0%	38.3%
20	20.6%	22.0%	23.5%	25.2%	26.9%	28.9%	31.0%	33.3%	35.5%	37.9%	40.3%
21	21.6%	23.1%	24.7%	26.4%	28.3%	30.3%	32.6%	35.0%	37.3%	39.7%	42.3%
22	22.7%	24.2%	25.9%	27.7%	29.6%	31.8%	34.1%	36.7%	39.1%	41.6%	44.3%
23	23.7%	25.3%	27.0%	28.9%	31.0%	33.2%	35.7%	38.3%	40.9%	43.5%	46.3%
24	24.8%	26.4%	28.2%	30.2%	32.3%	34.6%	37.2%	40.0%	42.6%	45.4%	48.4%
25	25.8%	27.5%	29.4%	31.4%	33.7%	36.1%	38.8%	41.7%	44.4%	47.3%	50.4%
26	26.9%	28.6%	30.6%	32.7%	35.0%	37.5%	40.3%	43.3%	46.2%	49.2%	52.4%
27	27.9%	29.7%	31.7%	34.0%	36.4%	39.0%	41.9%	45.0%	48.0%	51.1%	54.4%
28	29.0%	30.9%	32.9%	35.2%	37.7%	40.4%	43.4%	46.7%	49.8%	52.0%	56.4%
29	30.0%	32.0%	34.1%	36.5%	39.1%	41.9%	45.0%	48.3%	50.0%	55.0%	58.4%
30	31.1%	33.1%	35.3%	37.7%	40.4%	43.4%	46.5%	50.0%	51.0%	55.5%	60.0%
31	32.1%	34.2%	36.5%	39.0%	41.7%	44.8%	48.1%	51.0%	51.5%	56.0%	60.0%
32	33.2%	35.3%	37.6%	40.2%	43.1%	46.2%	49.6%	51.5%	52.0%	56.5%	60.0%
33	34.3%	36.5%	38.8%	41.5%	44.4%	47.6%	50.0%	52.0%	52.5%	57.0%	60.0%
34	35.4%	37.6%	40.0%	42.8%	45.8%	49.1%	51.0%	52.5%	53.0%	57.5%	60.0%
35 or more	36.5%	38.7%	41.2%	44.0%	47.1%	50.0%	51.5%	53.0%	53.5%	58.0%	60.0%

Att. A, AI 30, 8/18/11

Non-Contract Table A-2

Credited Years Of Service	Age at Retirement										
	53	54	55	56	57	58	59	60	61	62	63+
5	8.71%	9.33%	10.00%	10.26%	10.52%	10.78%	11.05%	11.31%	11.57%	11.83%	12.09%
6	10.45%	11.20%	12.00%	12.31%	12.62%	12.94%	13.26%	13.57%	13.88%	14.20%	14.51%
7	12.19%	13.06%	14.00%	14.36%	14.73%	15.09%	15.47%	15.83%	16.20%	16.56%	16.93%
8	13.94%	14.93%	16.00%	16.42%	16.83%	17.25%	17.68%	18.10%	18.51%	18.93%	19.34%
9	15.68%	16.79%	18.00%	18.47%	18.94%	19.40%	19.89%	20.36%	20.83%	21.29%	21.76%
10	17.42%	18.66%	20.00%	20.52%	21.04%	21.56%	22.10%	22.62%	23.14%	23.66%	24.18%
11	19.16%	20.53%	22.00%	22.57%	23.14%	23.72%	24.31%	24.88%	25.45%	26.03%	26.60%
12	20.90%	22.39%	24.00%	24.62%	25.25%	25.87%	26.52%	27.14%	27.77%	28.39%	29.02%
13	22.65%	24.26%	26.00%	26.68%	27.35%	28.03%	28.73%	29.41%	30.08%	30.76%	31.43%
14	24.39%	26.12%	28.00%	28.73%	29.46%	30.18%	30.94%	31.67%	32.40%	33.12%	33.85%
15	26.13%	27.99%	30.00%	30.78%	31.56%	32.34%	33.15%	33.93%	34.71%	35.49%	36.27%
16	27.87%	29.86%	32.00%	32.83%	33.66%	34.50%	35.36%	36.19%	37.02%	37.86%	38.69%
17	29.61%	31.72%	34.00%	34.88%	35.77%	36.65%	37.57%	38.45%	39.34%	40.22%	41.11%
18	31.36%	33.59%	36.00%	36.94%	37.87%	38.81%	39.78%	40.72%	41.65%	42.59%	43.52%
19	33.10%	35.45%	38.00%	38.99%	39.98%	40.96%	41.99%	42.98%	43.97%	44.95%	45.94%
20	34.84%	37.32%	40.00%	41.04%	42.08%	43.12%	44.20%	45.24%	46.28%	47.32%	48.36%
21	36.58%	39.19%	42.00%	43.09%	44.18%	45.28%	46.41%	47.50%	48.59%	49.69%	50.78%
22	38.32%	41.05%	44.00%	45.14%	46.29%	47.43%	48.62%	49.76%	50.91%	52.05%	53.20%
23	40.07%	42.92%	46.00%	47.20%	48.39%	49.59%	50.83%	52.03%	53.22%	54.42%	55.61%
24	41.81%	44.78%	48.00%	49.25%	50.50%	51.74%	53.04%	54.29%	55.54%	56.78%	58.03%
25	43.55%	46.65%	50.00%	51.30%	52.60%	53.90%	55.25%	56.55%	57.85%	59.15%	60.45%
26	45.29%	48.52%	52.00%	53.35%	54.70%	56.06%	57.46%	58.81%	60.16%	61.52%	62.87%
27	47.03%	50.38%	54.00%	55.40%	56.81%	58.21%	59.67%	61.07%	62.48%	63.88%	65.29%
28	48.78%	52.25%	56.00%	57.46%	58.91%	60.37%	61.88%	63.34%	64.79%	66.25%	67.70%
29	50.52%	54.11%	58.00%	59.51%	61.02%	62.52%	64.09%	65.60%	67.11%	68.61%	70.00%
30	52.26%	55.98%	60.00%	61.56%	63.12%	64.68%	66.30%	67.86%	69.42%	70.00%	70.00%
31	54.00%	57.85%	62.00%	63.61%	65.22%	66.84%	68.51%	70.00%	70.00%	70.00%	70.00%
32	55.74%	59.71%	64.00%	65.66%	67.33%	68.99%	70.00%	70.00%	70.00%	70.00%	70.00%
33	57.49%	61.58%	66.00%	67.72%	69.43%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
34	59.23%	63.44%	68.00%	69.77%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%
35 or more	60.97%	65.31%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%	70.00%

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ATU and IBEW Participants may elect an Alternative Retirement Formula if they terminate employment before early retirement but after 10 years of credited service or were hired between April 1, 1968 and March 31, 1971 and desire to retire at their Normal Retirement Date. These Participants are eligible for a deferred benefit commencing at age 65 based on Table B.

Table B

Credited Years Of Service	Percentage
10	20.1%
11	22.2%
12	24.2%
13	26.2%
14	28.2%
15	30.2%
16	32.2%
17	34.3%
18	36.3%
19	38.3%
20	40.3%
21	42.3%
22	44.3%
23	46.3%
24	48.4%
25	50.4%
26	52.4%
27	54.4%
28	56.4%
29	58.4%
30	60.4%
31	62.5%
32	64.5%
33	66.5%
34	68.5%
35 or more	70.5%

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## **Disability Retirement Benefit**

### ***Eligibility***

A Participant is eligible for a Disability Retirement Benefit if:

- The Participant has earned five Credited Years of Service (ATU, IBEW, Clerical and Non-Contract), and
- The Participant is unable to perform the duties of his or her job with the Corporation, cannot be transferred to another job with the Corporation, and has submitted satisfactory medical evidence of permanent disqualification from his or her job.

### ***Benefit Amount***

The Disability Retirement Benefit is a monthly benefit equal to the lesser of:

1.  $1\frac{1}{2}\%$  times Credited Years of Service at Disability Retirement Date times the Participant's Average Monthly Final Earnings; and
2. The Normal Retirement Benefit calculated using the Average Monthly Final Earnings at Disability Retirement Date and the projected Credited Years of Service to Normal Retirement Date.

The benefit is reduced by 50% of the amount of any earned income from other sources in excess of 50% of the Participant's Average Monthly Earnings during the 12 months prior to disability; this reduction applies to all IBEW and Non-Contract Participants, but only to ATU Participants hired after June 30, 1983.

### ***Form of Benefit***

The normal form of benefit is an annuity commencing at disability and payable for the life of the Participant, with no continuation of benefits to a beneficiary after death. The Disability Retirement Benefit will be paid as a 50% Joint and Survivor benefit actuarially equivalent to the normal form for participants who have been married for at least one year. Otherwise, the normal form will be paid.

The ATU and IBEW benefits have been amended from time to time to remove the actuarial reduction in benefits for previously retired Participants whose spouses have died before them. However, these adjustments are retroactive only, and they do not apply to benefits paid to currently active Participants.

## **Pre-Retirement Death Benefit**

### ***Eligibility***

A vested Participant is entitled to elect coverage of a pre-retirement spouse's benefit.

For years a Participant is age 55 or under, the cost of the coverage is paid by the Company. For the years a Participant is over age 55 and has elected this coverage the cost of this coverage is paid by the Participant in the form of a reduced benefit upon retirement. The reduction is 3.5¢ per \$10 of monthly benefit for each year of coverage.

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There is no cost for this benefit for any ATU, Clerical, or Non-Contract Participant whose monthly benefit commences after November 27, 1990. There is no cost for this benefit for any IBEW Participant whose monthly benefit commences after December 3, 1996.

In order for the spouse to be eligible for this benefit, the participant must be married to the spouse for one year prior to death, unless death occurs from accidental causes.

### ***Benefit Amount***

For a Participant who is eligible to retire at death, the pre-retirement death benefit is 50% of the benefit that would have been payable had the Participant retired immediately prior to his or her death and elected to receive a 50% Joint and Survivor annuity.

For a Participant who dies before being eligible to retire, the pre-retirement death benefit is 50% of the benefit that would have been payable had the Participant survived to his or her earliest retirement date, retired, elected to receive a 50% Joint and Survivor annuity, and died immediately.

### ***Form of Benefit***

For a Participant who is eligible to retire at death, the death benefit begins when the Participant dies and continues for the life of the surviving spouse.

For a Participant who dies before being eligible to retire, the death benefit begins when the Participant would have reached his or her earliest retirement data and continues for the life of the surviving spouse.

## **Termination Benefit**

### ***Eligibility***

A Participant is eligible for a termination benefit after earning five years of service.

### ***Benefit Amount***

The termination benefit is computed in the same manner as the Normal Retirement Benefit, but it is based on Credited Years of Service and Average Monthly Final Earnings on the date of termination.

Effective July 1, 2000, Non-Contract participants who terminate prior to eligibility for early service retirement will have their benefits actuarially reduced if they begin receiving benefits before normal retirement age.

### ***Form of Benefit***

The Participant will be eligible to commence benefits at the later of termination and earliest retirement eligibility age.

The normal form of benefit is an annuity payable for the life of the Participant, with no continuation of benefits to a beneficiary after death. The retirement benefit will be paid as a 50% Joint and Survivor benefit actuarially equivalent to the normal form for participants who have been married for at least one year. Otherwise, the normal form will be paid.

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The ATU and IBEW benefits have been amended from time to time to remove the actuarial reduction in benefits for previously retired Participants whose spouses have died before them. However, these adjustments are retroactive only, and they do not apply to benefits paid to currently active Participants.

## **Cost of Living Adjustments**

### ***Eligibility***

An annual Cost of Living Adjustment (COLA) has been added for Non-Contract Participants who were actively employed on or after June 30, 1999. One time only (ad hoc) COLAs were granted to ATU and IBEW Participants in 1991 and 1992.

### ***Benefit Amount***

For Non-Contract Participants, the cumulative COLA is the increase in the Consumer Price Index (CPI) since the Participant began receiving benefits.

The COLA is subject to the following limits for Non-Contract Participants:

- The cumulative COLA cannot exceed 2% compounded annually for all years since the Participant's benefits began;
- The annual COLA is zero if the CPI increase in that year is less than 1%;
- The annual COLA is limited 6% of the initial benefit amount in any year; and
- A Participant's benefit cannot be reduced below the benefit level when payments commenced.

## **Voluntary Early Retirement Program**

The Plan provided enhanced benefits to ATU participants who voluntarily elected early retirement during the window period from January 1, 1998 through February 20, 1998.

The Plan provided enhanced benefits to certain IBEW participants who voluntarily elected early retirement during the window period from July 1, 2004 through December 31, 2004.

## **DROP Program**

The Plan provided DROP benefits to a number of ATU participants who elected retirement from July 1, 2002 through December 31, 2002.

## **Funding**

The Corporation pays the entire cost of the Plan.

## **Changes in Plan Provisions**

There have been no changes in Plan provisions since the prior review.

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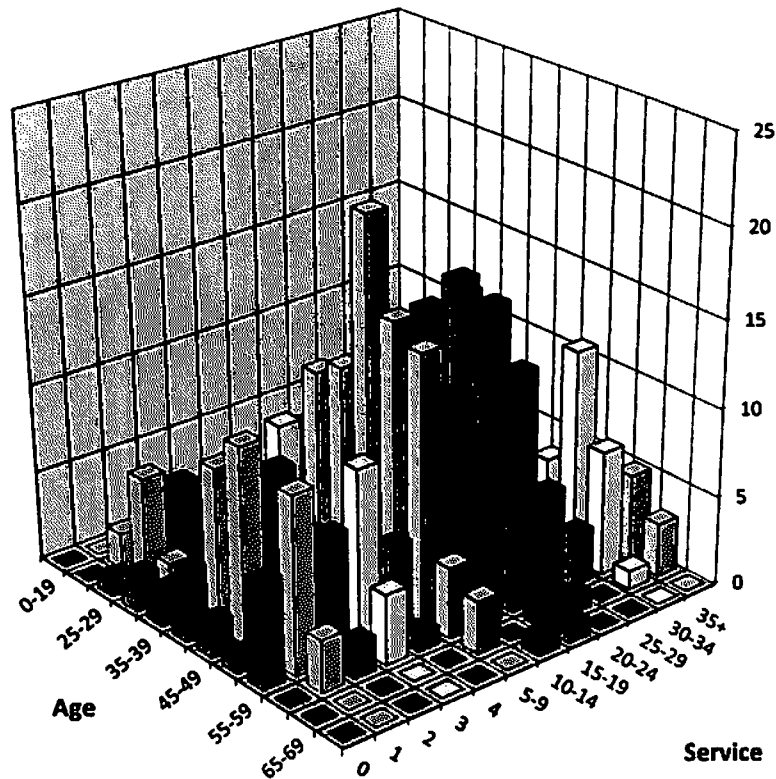
## 1.2: Participant Data as of July 1, 2010

Active Participants	Drivers	Mechanics	Clerical	Admin	Chula Vista	Total
Number	498	175	26	72	0	771
Average Age	49.27	46.19	50.08	51.30	0.00	48.79
Average Service	11.09	14.50	10.09	17.08	0.00	12.39
Average Pay	\$41,289	\$42,972	\$39,363	\$65,063	\$0	\$43,826

Inactive Participants	Drivers	Mechanics	Clerical	Admin	Chula Vista	Total
<b>Service Retired</b>						
Number	350	60	26	88	3	527
Average Age	68.34	68.57	74.56	64.23	67.42	67.98
Average Benefit	\$19,056	\$17,233	\$11,515	\$33,303	\$4,732	\$20,774
<b>Beneficiaries</b>						
Number	80	16	4	24	0	124
Average Age	73.66	74.90	73.63	65.54	0.00	72.24
Average Benefit	\$5,675	\$6,295	\$3,984	\$15,467	\$0	\$7,595
<b>Disabled</b>						
Number	90	13	3	2	0	108
Average Age	64.53	61.95	71.85	60.71	0.00	64.35
Average Benefit	\$8,857	\$12,863	\$6,101	\$7,437	\$0	\$9,237
<b>Terminated Vested</b>						
Number	155	52	22	30	11	270
Average Age	52.07	51.34	52.49	50.82	52.04	51.82
Average Benefit	\$6,487	\$5,553	\$7,123	\$15,873	\$2,738	\$7,249

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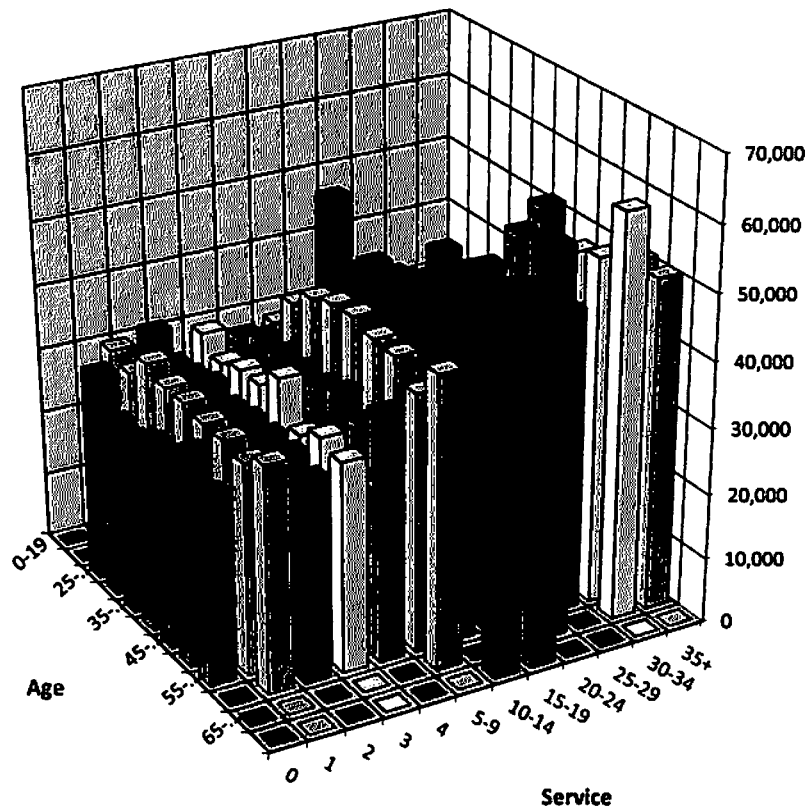
**Active Drivers  
by Age and Service  
as of July 1, 2010**



Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	0	2	4	0	0	0	0	0	0	0	0	0	6
25-29	1	6	5	4	1	3	0	0	0	0	0	0	20
30-34	2	2	5	4	3	7	1	0	0	0	0	0	24
35-39	2	2	7	5	3	11	7	0	0	0	0	0	37
40-44	4	9	7	10	3	12	10	4	2	0	0	0	61
45-49	2	11	9	4	3	21	14	12	15	0	0	0	91
50-54	1	4	6	5	4	16	16	17	15	4	5	0	93
55-59	6	10	7	10	5	15	12	12	12	1	12	2	104
60-64	0	3	2	4	1	4	10	5	6	3	7	5	50
65-69	0	0	0	0	0	3	0	2	1	0	1	3	10
70+	0	0	0	0	0	0	1	1	0	0	0	0	2
Total	18	49	52	46	23	92	71	53	51	8	25	10	498

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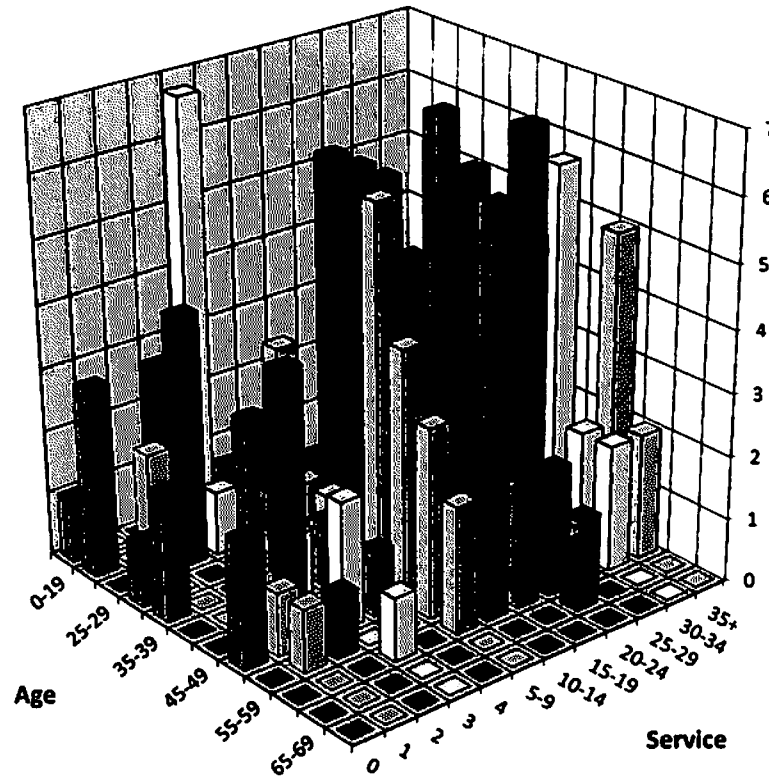
**Active Drivers  
Payroll by Age and Service  
as of July 1, 2010**



Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	0	32,295	33,737	0	0	0	0	0	0	0	0	0	33,256
25-29	32,089	31,081	30,933	34,642	32,828	33,786	0	0	0	0	0	0	32,300
30-34	26,926	34,899	31,607	32,241	34,817	39,039	53,936	0	0	0	0	0	35,096
35-39	26,748	33,562	32,633	33,544	34,473	41,995	44,863	0	0	0	0	0	37,734
40-44	28,798	33,687	31,371	33,679	34,360	43,241	48,096	44,507	47,778	0	0	0	38,546
45-49	26,487	33,023	32,029	37,017	34,364	43,707	48,501	47,023	46,881	0	0	0	41,978
50-54	32,499	32,974	32,104	30,952	35,593	42,606	47,779	47,184	49,599	53,454	45,574	0	43,958
55-59	28,877	32,278	31,987	33,090	33,687	42,322	47,371	48,557	48,366	59,411	51,507	49,898	41,951
60-64	0	34,506	30,760	32,021	37,492	39,260	47,783	47,013	50,710	45,836	52,801	51,105	45,349
65-69	0	0	0	0	0	44,416	0	48,306	58,800	0	61,520	50,635	50,209
70+	0	0	0	0	0	0	44,284	41,752	0	0	0	0	43,018
Total	28,520	32,911	31,961	33,345	34,573	42,175	47,648	47,180	48,749	51,342	51,083	50,723	41,289

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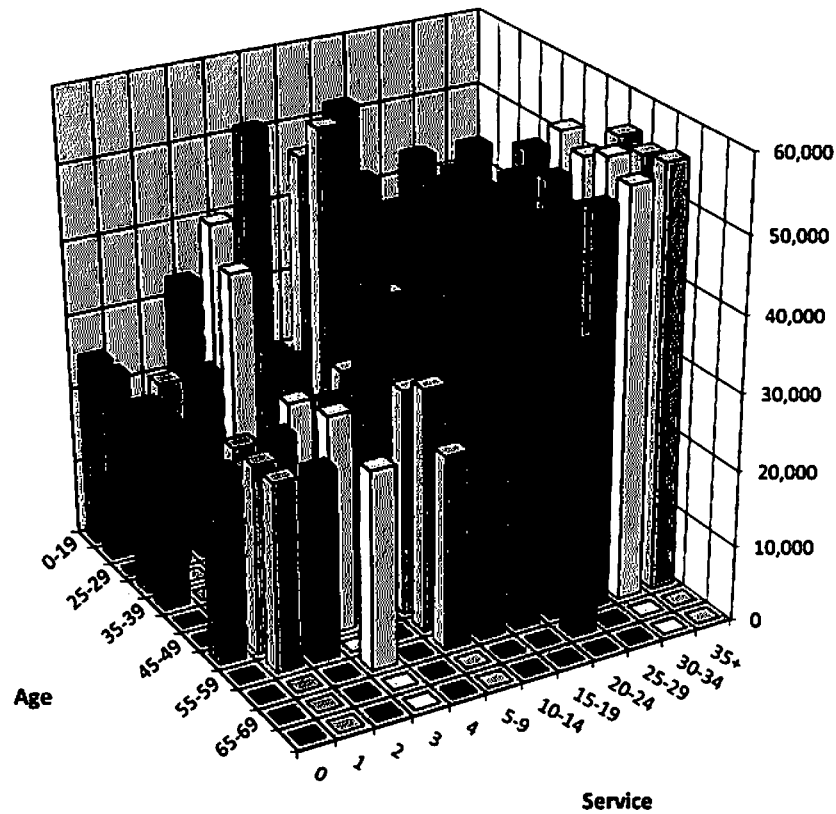
**Active Mechanics  
by Age and Service  
as of July 1, 2010**



Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	1	0	0	0	0	0	0	0	0	0	0	0	1
20-24	3	0	3	7	1	0	0	0	0	0	0	0	14
25-29	0	2	4	1	2	3	1	0	0	0	0	0	13
30-34	1	0	0	0	1	1	6	0	0	0	0	0	9
35-39	2	0	0	0	0	1	6	3	0	0	0	0	12
40-44	0	0	0	1	1	1	6	1	3	0	0	0	13
45-49	0	1	4	0	0	6	5	7	6	4	1	0	34
50-54	2	1	0	2	1	4	4	2	5	5	6	1	33
55-59	0	1	1	0	0	3	4	6	7	1	2	5	30
60-64	0	0	0	1	0	2	3	2	2	1	2	2	15
65-69	0	0	0	0	0	0	0	0	1	0	0	0	1
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	9	5	12	12	6	21	35	21	24	11	11	8	175

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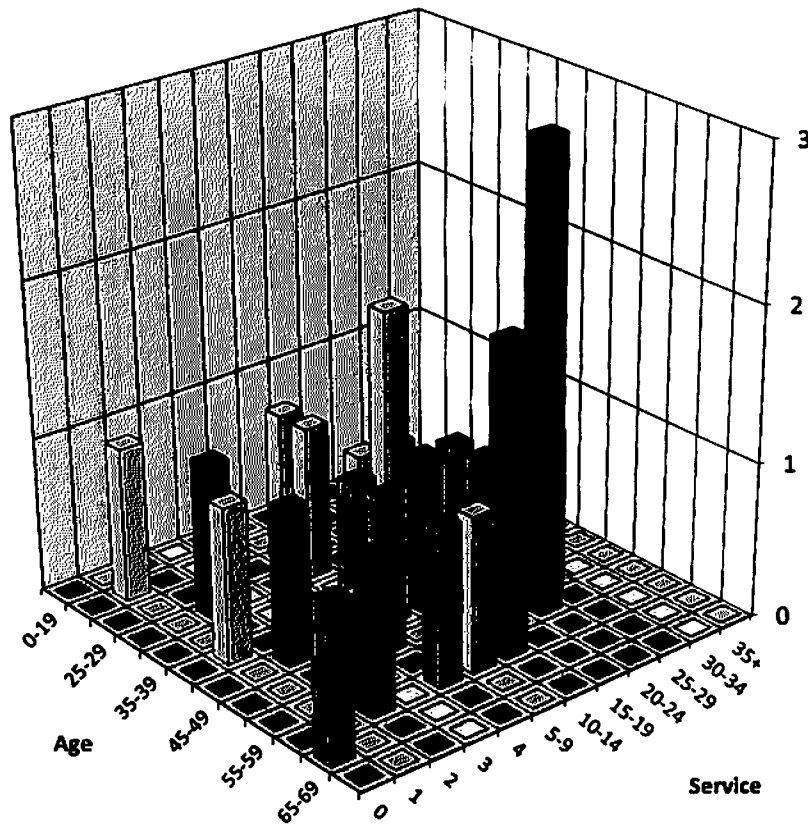
### Active Mechanics Payroll by Age and Service as of July 1, 2010



Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	24,897	0	0	0	0	0	0	0	0	0	0	0	24,897
20-24	24,897	0	35,253	42,128	52,998	0	0	0	0	0	0	0	37,739
25-29	0	24,897	25,031	37,432	25,478	50,582	55,793	0	0	0	0	0	34,296
30-34	24,897	0	0	0	26,144	55,793	48,070	0	0	0	0	0	43,917
35-39	24,897	0	0	0	0	26,144	45,895	51,865	0	0	0	0	42,242
40-44	0	0	0	26,144	24,897	24,897	48,239	49,902	53,829	0	0	0	44,366
45-49	0	24,897	24,897	0	0	39,986	48,607	53,268	46,763	54,320	55,793	0	45,117
50-54	24,897	24,897	0	28,713	44,634	29,675	38,926	52,847	53,436	52,258	54,202	55,793	44,434
55-59	0	24,897	24,897	0	0	31,892	40,103	42,839	49,819	49,902	55,793	55,062	44,948
60-64	0	0	0	26,144	0	25,521	37,933	43,720	52,847	52,138	53,965	55,793	43,718
65-69	0	0	0	0	0	0	0	0	37,539	0	0	0	37,539
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	24,897	24,897	27,531	36,837	33,272	36,377	45,199	48,978	50,050	52,783	54,593	55,336	42,972

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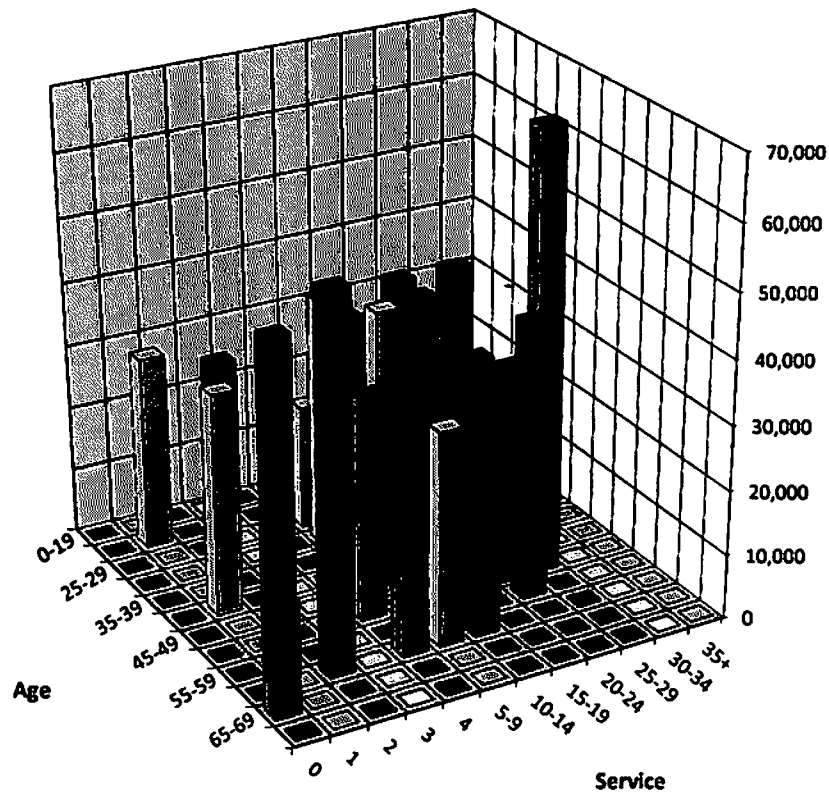
**Active Clerical Members  
Age and Service  
as of July 1, 2010**



Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	0	1	0	0	0	0	0	0	0	0	0	0	1
25-29	0	0	0	0	0	1	0	0	0	0	0	0	1
30-34	0	0	1	0	0	1	0	0	0	0	0	0	2
35-39	0	0	0	0	0	0	0	0	0	0	0	0	0
40-44	0	1	0	0	0	1	1	0	0	0	0	0	3
45-49	0	0	1	0	1	2	1	1	0	0	0	0	6
50-54	0	0	0	0	1	0	0	1	1	1	0	0	4
55-59	0	0	0	0	0	0	0	0	3	0	0	0	3
60-64	0	0	1	0	1	1	2	0	0	0	0	0	5
65-69	1	0	0	0	0	0	0	0	0	0	0	0	1
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	1	2	3	0	3	6	4	2	4	1	0	0	26

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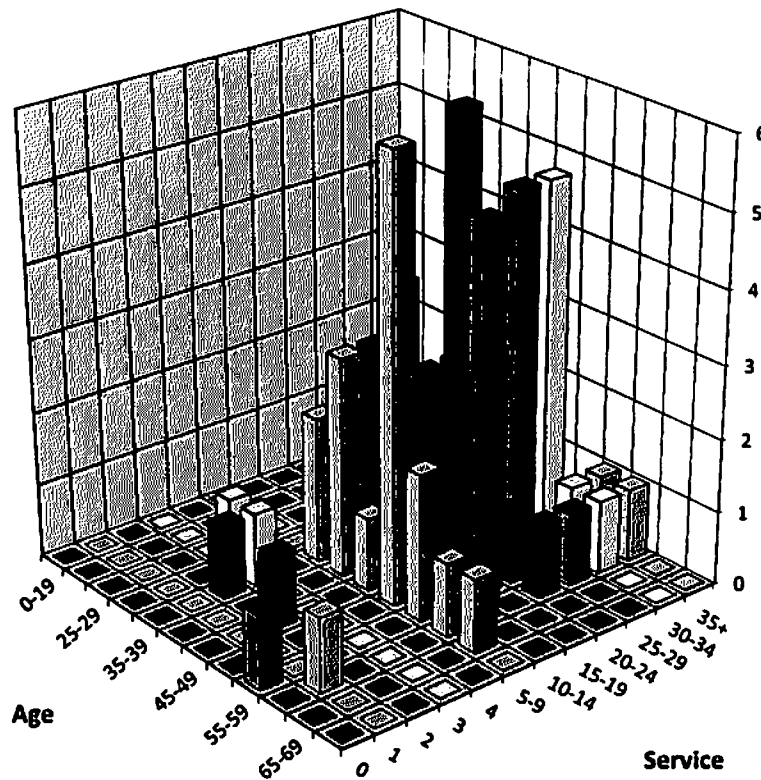
**Active Clerical Members  
Payroll by Age and Service  
as of July 1, 2010**



Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	0	30,337	0	0	0	0	0	0	0	0	0	0	30,337
25-29	0	0	0	0	0	19,568	0	0	0	0	0	0	19,568
30-34	0	0	32,877	0	0	39,044	0	0	0	0	0	0	35,961
35-39	0	0	0	0	0	0	0	0	0	0	0	0	0
40-44	0	34,330	0	0	0	39,025	45,088	0	0	0	0	0	39,481
45-49	0	0	43,904	0	43,803	43,906	44,606	47,827	0	0	0	0	44,659
50-54	0	0	0	0	34,356	0	0	36,250	33,691	68,685	0	0	43,246
55-59	0	0	0	0	0	0	0	0	42,993	0	0	0	42,993
60-64	0	0	57,483	0	34,727	33,046	35,311	0	0	0	0	0	39,176
65-69	17,368	0	0	0	0	0	0	0	0	0	0	0	17,368
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>17,368</b>	<b>32,334</b>	<b>44,755</b>	<b>0</b>	<b>37,629</b>	<b>36,416</b>	<b>40,079</b>	<b>42,039</b>	<b>40,668</b>	<b>68,685</b>	<b>0</b>	<b>0</b>	<b>39,363</b>

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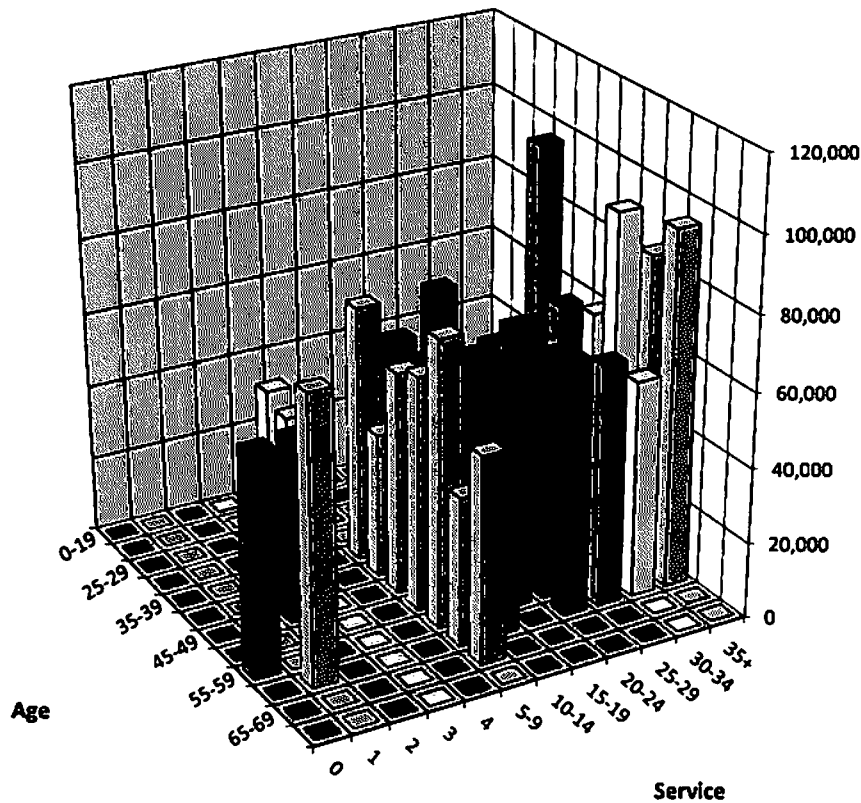
**Active Administrative Members  
by Age and Service  
as of July 1, 2010**



Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	0	0	0	0	0	0	0	0	0	0	0	0	0
25-29	0	0	0	0	0	0	0	0	0	0	0	0	0
30-34	0	0	0	1	0	0	0	0	0	0	0	0	1
35-39	0	0	1	1	0	2	1	0	0	0	0	0	5
40-44	0	0	0	0	0	3	3	0	0	0	0	0	6
45-49	0	0	1	0	0	1	4	0	6	1	0	0	13
50-54	0	0	0	0	0	6	3	3	3	5	5	0	25
55-59	1	0	0	0	0	2	3	5	1	0	1	1	14
60-64	0	1	0	0	0	1	1	0	1	1	1	1	7
65-69	0	0	0	0	0	1	0	0	0	0	0	0	1
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	1	1	2	2	0	16	15	8	11	7	7	2	72

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**Active Administrative Members  
Payroll by Age and Service  
as of July 1, 2010**



Service / Age	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30-34	35+	Total
0-19	0	0	0	0	0	0	0	0	0	0	0	0	0
20-24	0	0	0	0	0	0	0	0	0	0	0	0	0
25-29	0	0	0	0	0	0	0	0	0	0	0	0	0
30-34	0	0	0	46,768	0	0	0	0	0	0	0	0	46,768
35-39	0	0	28,167	43,706	0	68,713	57,789	0	0	0	0	0	53,418
40-44	0	0	0	0	0	38,586	55,744	0	0	0	0	0	47,165
45-49	0	0	49,095	0	0	59,301	78,624	0	57,928	109,907	0	0	67,721
50-54	0	0	0	0	0	62,446	58,560	66,166	68,830	71,977	67,848	0	66,179
55-59	59,010	0	0	0	0	76,242	69,679	74,526	64,958	0	97,760	84,760	74,331
60-64	0	76,003	0	0	0	39,437	57,451	0	67,181	64,459	57,781	95,056	65,338
65-69	0	0	0	0	0	54,829	0	0	0	0	0	0	54,829
70+	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	59,010	76,003	38,631	45,237	0	58,369	65,446	71,391	62,382	76,322	70,683	89,908	65,063

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### Changes in Plan Membership Drivers

	Actives	Vested Terminations	Disabled	Retired	DROP	Beneficiaries	Total Participants
January 1, 2009	545	146	94	329	0	78	1,192
New Entrants	35	-	-	-	-	-	35
Rehires	1	(1)	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	(20)	(7)	-	27	-	1	1
Vested Terminations	(14)	14	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	-	-	-	(3)	-	3	0
Transfers	(3)	-	-	-	-	-	( 3)
Died, Without Beneficiary, and Other Terminations	(46)	-	(2)	(3)	-	(1)	( 52)
Beneficiary Deaths	-	-	-	-	-	(1)	( 1)
Data Corrections	-	3	(2)	-	-	-	1
July 1, 2010	498	155	90	350	0	80	1,173

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### Changes in Plan Membership Mechanics

	Actives	Vested Terminations	Disabled	Retired	DROP	Beneficiaries	Total Participants
January 1, 2009	177	50	14	57	0	18	316
New Entrants	9	-	-	-	-	-	9
Rehires	-	-	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	(3)	(1)	-	4	-	-	0
Vested Terminations	-	-	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	-	-	-	-	-	-	0
Transfers	1	-	-	-	-	-	1
Died, Without Beneficiary, and Other Terminations	(9)	(2)	-	(1)	-	-	( 12)
Beneficiary Deaths	-	-	-	-	-	(2)	( 2)
Data Corrections	-	5	(1)	-	-	-	4
July 1, 2010	175	52	13	60	0	16	316

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### Changes in Plan Membership Clerical

	Actives	Vested Terminations	Disabled	Retired	DROP	Beneficiaries	Total Participants
January 1, 2009	28	22	3	25	0	4	82
New Entrants	1	-	-	-	-	-	1
Rehires	-	-	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	(1)	-	-	1	-	-	0
Vested Terminations	(1)	1	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	-	-	-	-	-	-	0
Transfers	(1)	-	-	-	-	-	( 1)
Died, Without Beneficiary, and Other Terminations	-	-	-	-	-	-	0
Beneficiary Deaths	-	-	-	-	-	-	0
Data Corrections	-	(1)	-	-	-	-	( 1)
July 1, 2010	26	22	3	26	0	4	81

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### Changes in Plan Membership Non-Contract

	Actives	Vested Terminations	Disabled	Retired	DROP	Beneficiaries	Total Participants
January 1, 2009	71	31	2	85	0	22	211
New Entrants	1	-	-	-	-	-	1
Rehires	-	-	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	(1)	(2)	-	3	-	1	1
Vested Terminations	-	-	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	(1)	-	-	-	-	1	0
Transfers	3	-	-	-	-	-	3
Died, Without Beneficiary, and Other Terminations	(1)	-	-	-	-	-	( 1)
Beneficiary Deaths	-	-	-	-	-	(1)	( 1)
Data Corrections	-	1	-	-	-	1	2
July 1, 2010	72	30	2	88	0	24	216

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### Changes in Plan Membership Chula Vista

	Actives	Vested Terminations	Disabled	Retired	DROP	Beneficiaries	Total Participants
January 1, 2009	0	11	0	3	0	0	14
New Entrants	-	-	-	-	-	-	0
Rehires	-	-	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	-	-	-	-	-	-	0
Vested Terminations	-	-	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	-	-	-	-	-	-	0
Transfers	-	-	-	-	-	-	0
Died, Without Beneficiary, and Other Terminations	-	-	-	-	-	-	0
Beneficiary Deaths	-	-	-	-	-	-	0
Data Corrections	-	-	-	-	-	-	0
July 1, 2010	0	11	0	3	0	0	14

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### Changes in Plan Membership Total of All Groups

	Actives	Vested Terminations	Disabled	Retired	DROP	Beneficiaries	Total Participants
January 1, 2009	821	260	113	499	0	122	1,815
New Entrants	46	-	-	-	-	-	46
Rehires	1	(1)	-	-	-	-	0
Disabilities	-	-	-	-	-	-	0
Retirements/DRO	(25)	(10)	-	35	-	2	2
Vested Terminations	(15)	15	-	-	-	-	0
Died, With Beneficiaries' Benefit Payable	(1)	-	-	(3)	-	4	0
Transfers	-	-	-	-	-	-	0
Died, Without Beneficiary, and Other Terminations	(56)	(2)	(2)	(4)	-	(1)	( 65)
Beneficiary Deaths	-	-	-	-	-	(4)	( 4)
Data Corrections	-	8	(3)	-	-	1	6
July 1, 2010	771	270	108	527	0	124	1,800

### 1.3: Actuarial Methods and Assumptions

#### Actuarial Method

Annual contributions to the Retirement Plans of San Diego Transit Corporation (the Plan) are computed under the Aggregate Entry Age Actuarial Cost Method.

Under this Cost Method, Plan benefits are assumed to accrue ratably over the years from each Participant's Plan entry date to date of retirement, termination, disability, or death. At each valuation date, the actuarial present value of the benefits accrued to date is computed. This comprises the Actuarial Accrued Liability. The excess of the Actuarial Accrued Liability over Plan assets is the Unfunded Actuarial Accrued Liability, and this liability is amortized over a fixed number of years.

Amounts may be added to or subtracted from the Unfunded Actuarial Accrued Liability due to Plan amendments, changes in actuarial assumptions, and actuarial gains and losses.

The Normal Cost is obtained in three steps as follows:

1. The single sum present value of all future benefit payments to be made by the Plan to its present members and beneficiaries is determined. From this present value is subtracted the sum of:
  - a. The actuarial value of the assets in the Plan Trust Fund,
  - b. The Unfunded Actuarial Accrued Liability, and
  - c. The present value of any future contributions to be made by active members.
2. The remainder is divided by the present value of all future pay that the present members are expected to receive during their future working lifetime. The resulting quotient is a normal cost accrual rate per dollar of active member payroll.
3. The Normal Cost is obtained by multiplying the normal cost accrual rate per dollar of earnings by the total covered payroll projected for the upcoming year and adding any allowance for administrative expense.

The total Plan cost is the sum of the Normal Cost and the amortization of the Unfunded Actuarial Accrued Liability.

In the valuation as of July 1, 1999, the entire Actuarial Accrued Liability had been funded. A new Unfunded Actuarial Accrued Liability was created as of April 1, 2000, primarily as a result of improvements in Plan benefits. Therefore, beginning with the April 1, 2000 actuarial valuation, all sources of the Unfunded Actuarial Accrued Liability are combined and amortized as a level dollar payment over a rolling 30-year period.

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## Actuarial Assumptions

### Valuation Date

All assets and liabilities are computed as of July 1, 2010.

### Rate of Return

The annual rate of return on all Plan assets is assumed to be 7.50% net of expenses. The prior assumption was 8.00%

### Cost of Living

The cost of living as measured by the Consumer Price Index (CPI) is assumed to increase at the rate of 3.00% per year. The prior assumption was 3.50%

### Pay for Benefits

In most cases, pay for benefits is based on each member's pay during the year preceding the valuation date. Special procedures are used in some cases, as noted below for full-time Participants.

<u>Unit</u>	<u>Pay for Continuing Participants</u>	<u>Pay for New Participants</u>
Drivers	The larger of gross pay or 1,800 hours times the member's hourly rate	
Mechanics	2,150 hours times the member's hourly rate	
Clerical	Gross pay	The larger of gross pay or 2,100 hours times the member's hourly rate
Non-Contract	Gross pay	The larger of gross pay or 2,080 hours times the member's hourly rate

Part-time Participants are assumed to work 1,040 hours in the calculations shown above.

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## Increases in Pay

Assumed pay increases for active Participants consist of increases due to inflation (cost of living adjustments) and those due to longevity and promotion.

Based on an analysis of pay levels and service for the Drivers, we assume that pay increases due to longevity and promotion will be 7.5% per year for the first nine years of service and 0.5% per year thereafter.

Based on an analysis of pay levels and service for the Mechanics, we assume that pay increases due to longevity and promotion will be 7.5% per year for the first ten years of service and 0.5% per year thereafter.

Based on an analysis of pay levels and service for the Clerical Participants, we assume that pay increases due to longevity and promotion will be 11.0% per year for the first three years of service and 0.5% per year thereafter.

Based on an analysis of pay levels and service for the Non-Contract Participants, we assume that pay increases due to longevity and promotion will be 9.0% per year for the first eight years of service and 0.25% thereafter.

In addition, annual adjustments in pay due to inflation will equal the CPI, for an additional annual increase of 3.0%.

## Active Participant Mortality

Mortality rates were reviewed in the Actuarial Experience Study for 2006-2010.

Current rates of mortality for active Drivers and Mechanics are given by the RP2000 Combined Healthy Tables set forward one year for females.

Prior rates of mortality for active Drivers and Mechanics were given by the UP-1984 Mortality Table published by the Society of Actuaries.

Rates of mortality for active Clerical and Non-Contract Participants are given by the 1994 Group Annuity Mortality (GAM) Table, weighting male rates by 50% and female rates by 50%. These rates remain unchanged.

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#### **Retired Participant Mortality**

Mortality rates were reviewed in the Actuarial Experience Study for 2006-2010.

Current rates of mortality for active Drivers and Mechanics are given by the RP2000 Combined Healthy Tables set forward one year for females.

Prior rates of mortality for active Drivers and Mechanics were given by the UP-1984 Mortality Table published by the Society of Actuaries.

Rates of mortality for active Clerical and Non-Contract Participants are given by the 1994 Group Annuity Mortality (GAM) Table, weighting male rates by 50% and female rates by 50%. These rates remain unchanged.

#### **Disabled Participant Mortality**

Mortality rates were reviewed in the Actuarial Experience Study for 2006-2010.

Current rates of mortality for active Drivers and Mechanics are given by the RP2000 Combined Healthy Tables set forward seven years for disabled males.

Prior rates of mortality for disabled Drivers and Mechanics were given by the PBGC Mortality Table for Members Not Receiving Social Security Benefits, weighting male rates by 75% and female rates by 25%.

Rates of mortality for disabled Clerical and Non-Contract Participants are given by the PBGC Mortality Table for Female Members Receiving Social Security Benefits. These rates remain unchanged.

#### **Disability**

Disability rates were reviewed in the Actuarial Experience Study for 2006-2010.

Among Drivers and Mechanics, 0.70% of Participants eligible for a disability benefit are assumed to become disabled each year. Prior assumptions assumed 0.85% of Drivers and Mechanics became disabled each year. For Clerical and Non-Contract Participants, the figure remains at 0.20%.

Disabled Participants are assumed not to return to active service.

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## Service Retirement

Retirement rates were reviewed in the Actuarial Experience Study for 2006-2010.

Retirement among Participants eligible to retire is assumed to occur at the ages shown in the following table:

<u>Age</u>	<u>ATU</u>		<u>IBEW</u>	<u>Clerical/Non</u>	
	<u>Prior</u>	<u>Current</u>		<u>Prior</u>	<u>Current</u>
53	0%	0%	0%	15%	15%
54	0%	0%	0%	15%	15%
55	5%	10%	5%	30%	15%
56	5%	10%	5%	30%	15%
57	5%	10%	5%	30%	15%
58	5%	10%	5%	30%	15%
59	10%	10%	10%	30%	15%
60	10%	15%	10%	30%	15%
61	10%	15%	10%	30%	15%
62	30%	30%	30%	60%	60%
63	30%	30%	30%	60%	60%
64	30%	30%	30%	60%	60%
65	55%	40%	55%	60%	60%
66	30%	30%	30%	60%	60%
67	30%	30%	30%	60%	60%
68	30%	30%	30%	60%	60%
69	30%	30%	30%	60%	60%
70+	100%	100%	100%	100%	100%

## Plan Expenses

No allowance for Plan administrative expenses has been included in the annual cost calculated.

## Family Composition

All Participants are assumed to be married. Male spouses are assumed to be four years older than their wives.

## Employment Status

No future transfers among member groups are assumed.

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## Termination

Termination rates were reviewed in the Actuarial Experience Study for 2006-2010.

Rates of termination for all Participants from causes other than death, disability, and service retirement are shown in the tables below. In each age group, the rate is shown at the central age. The rates are not applied to Participants eligible to retire.

There were no changes in the ATU and IBEW termination rates. The table below shows the assumed termination rates for ATU and IBEW members.

Age	0-1 Years	2-3 Years	4-9 Years	10+ Years
20-24	25.0%	14.0%	8.0%	1.3%
25-29	25.0%	14.0%	8.0%	1.3%
30-34	25.0%	14.0%	8.0%	1.3%
35-39	25.0%	14.0%	8.0%	1.3%
40-44	25.0%	14.0%	8.0%	1.3%
45-49	25.0%	14.0%	8.0%	1.3%
50-54	25.0%	14.0%	8.0%	1.3%
55+	25.0%	14.0%	8.0%	0.0%

The table below shows the assumed termination rates for Non-Contract members.

Age	0-3 Years Service		4-9 Years Service		10+ Years Service	
	Prior	Current	Prior	Current	Prior	Current
20-24	20.0%	20.0%	7.0%	10.0%	5.0%	3.0%
25-29	20.0%	20.0%	7.0%	10.0%	5.0%	3.0%
30-34	20.0%	20.0%	7.0%	10.0%	5.0%	3.0%
35-39	20.0%	20.0%	7.0%	10.0%	5.0%	3.0%
40-44	20.0%	20.0%	7.0%	10.0%	5.0%	3.0%
45-49	20.0%	20.0%	7.0%	10.0%	5.0%	3.0%
50-54	20.0%	20.0%	7.0%	10.0%	5.0%	3.0%
55-59	20.0%	20.0%	7.0%	10.0%	0.0%	3.0%
60+	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

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### Termination (Continued)

The table below shows the assumed termination rates for Clerical members.

<u>Age</u>	<u>Prior</u>	<u>Current</u>
20-24	40.00%	25.00%
25-29	28.43%	11.00%
30-34	20.21%	13.00%
35-39	14.37%	17.00%
40-44	10.21%	12.00%
45-49	7.26%	8.00%
50-52	5.16%	5.00%
53-54	0.00%	5.00%
55+	0.00%	0.00%

### Actuarial Value of Plan Assets

Actuarial gains and losses from Plan investments over the four years prior to the valuation date are recognized at the rate of 20% per year in computing the actuarial value of Plan assets. The actuarial value of assets is constrained to within 20% of market value.

### Changes in Actuarial Methods and Assumptions

There have been no changes in actuarial methods since the prior review. Changes in assumptions based on the recent Experience Study are noted above.

### Participant Data

Data on active and inactive Members and their beneficiaries as of the valuation date was supplied by the Plan Administrator on electronic media. As is usual in studies of this type, Member data was neither verified nor audited.

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## Section 2:

### Asset Information

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## 2.1: Income Statement: July 1, 2009 through June 30, 2010

	<u>Market</u>	<u>Expected</u>
Balance July 1, 2009	\$120,163,602	\$120,163,602
Employer Contributions	5,674,021	5,674,021
Investment Income	16,170,202	9,529,082
Net Benefit Payments	(12,569,699)	(12,569,699)
Other Expenses	(878,494)	(878,494)
Balance June 30, 2010	\$128,559,632	\$121,918,512
Estimated Return	13.91%	8.00%

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## 2.2: Computation of Actuarial Value of Assets

<u>Plan Year<sup>1</sup></u>	<u>Assumed Earnings</u>	<u>Actual Earnings</u>	<u>Unexpected Earnings</u>	<u>Phase-In Factor</u>	<u>Phase-In Adjustment<sup>2</sup></u>
2006-07	12,165,718	21,767,825	9,602,107	0.2	1,920,422
2007-08	13,356,916	(5,265,896)	(18,622,812)	0.4	(7,449,125)
2008-09	12,356,225	(27,844,238)	(40,200,463)	0.6	(24,120,278)
2009-10	9,529,082	16,170,202	6,641,120	0.8	5,312,896
Total Adjustment					(24,336,085)
Market Value June 30, 2010					128,559,632
Actuarial Value June 30, 2010 (Market Value less Total Adjustment, within 80%/120% Corridor of Market Value)					152,895,717
Ratio to Market Value					118.93%

<sup>1</sup> Five year asset smoothing was reset as of July 1, 2006 due to the change in valuation date from January 1 to July 1. 2006-07 and future investment gains and losses will be recognized over a period of five years.

<sup>2</sup> Phase-in factor times unexpected earnings

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### **Section 3:**

### **Actuarial Computations**

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### 3.1: Computation of Annual Contribution

	<u>July 1, 2009</u>	<u>July 1, 2010 Prior to Change in Assumptions</u>	<u>July 1, 2010 After Change in Assumptions</u>
(1) <u>Active Actuarial Accrued Liability</u>			
ATU	42,666,776	39,826,177	47,504,345
IBEW	15,626,873	16,693,542	19,115,555
Clerical	2,616,711	2,330,803	2,312,432
Non-Contract	<u>22,373,590</u>	<u>21,226,172</u>	<u>20,561,423</u>
Total	83,283,950	80,076,694	89,493,755
(2) <u>Active Projected Actuarial Liability</u>			
ATU	55,577,287	51,426,482	60,343,374
IBEW	19,118,049	20,132,164	23,312,292
Clerical	2,983,649	2,658,024	2,677,681
Non-Contract	<u>23,833,752</u>	<u>22,579,813</u>	<u>22,427,214</u>
Total	101,512,737	96,796,483	108,760,561
(3) <u>Inactive Actuarial Liability</u>			
ATU	64,292,228	68,400,298	77,211,819
IBEW	11,258,745	11,677,455	13,099,839
Clerical	3,095,279	3,368,851	3,513,292
Non-Contract	<u>40,159,226</u>	<u>41,478,905</u>	<u>43,502,122</u>
Total	118,805,478	124,925,509	137,327,072
(4) Total Actuarial Accrued Liability (1) + (3)	202,089,428	205,002,203	226,820,827
(5) Assets	144,196,322	152,895,717	152,895,717
(6) Unfunded Actuarial Accrued Liability (UAAL) (4) – (5)	57,893,106	52,106,486	73,925,110
(7) 30-Year Amortization of Unfunded Accrued Liability	4,761,570	4,285,635	5,822,633
(8) Total Projected Actuarial Liability (2) + (3)	220,318,215	221,721,992	246,087,633
(9) Present Value of Future Normal Costs (8) – (4)	18,228,787	16,719,789	19,266,806
(10) Present Value of Future Member Payroll Normal Cost (% of Member Payroll)	261,246,991	243,890,323	244,347,736
(11) (9) / (10)	6.978%	6.855%	7.885%
(12) Projected Member Payroll Normal Cost (\$)	33,893,666	31,766,390	31,888,597
(13) (11) X (12)	2,364,967	2,177,730	2,514,414
(14) Total Cost (7) + (13)	7,126,537	6,463,365	8,337,047
(15) Total Cost (Interest Adjusted) (14) X 1.08 (Prior); X 1.075 (New)	7,696,660	6,980,434	8,962,326
(16) Cost (% Member Payroll) (15) / (12)	22.708%	21.974%	28.105%

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## **Section 4:**

### **Disclosure Information**

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## 4.1: Schedules of Funding Status and Employer Contributions Required Under GASB Statement No. 25

The Governmental Accounting Standards Board (GASB) Statements No. 25 and 27 relate to the disclosure of pension liabilities on a public employer's financial statements. For accounting periods beginning after June 15, 1996, information required under these statements must be prepared for a public employer who seeks compliance with generally accepted accounting principles (GAAP) on behalf of its public employee retirement system.

GASB Statement No. 25 requires preparation of schedules of funding status and employer contributions, as well as the disclosure of plan provisions, actuarial assumptions, and other information.

The required schedules are shown below. In each case, we have relied upon information from our files and contained in the reports of prior actuaries employed by the employer in completing the schedules. While we have no reason to believe the information in our files or in prior actuaries' reports is inaccurate, we strongly recommend that employer personnel verify the schedules below before they are included in Plan or employer financial statements.

### Schedule of Funding Status

Actuarial Valuation Date	Actuarial Value of Assets	Actuarial Accrued Liability	Unfunded Actuarial Accrued Liability	Funded Ratio	Covered Payroll	Unfunded Liability as a Percent of Payroll
7/1/94	41,150,550	48,598,130	7,447,580	85%	30,446,521	24%
7/1/95	43,088,223	49,675,115	6,586,892	87%	30,097,199	22%
7/1/96	52,287,086	51,786,729	(500,357)	101%	29,501,808	-2%
7/1/97	61,387,821	54,474,874	(6,912,947)	113%	32,932,552	-21%
7/1/98	65,958,070	62,203,756	(3,754,314)	106%	34,371,069	-11%
7/1/99	70,915,059	70,205,508	(709,551)	101%	36,705,306	-2%
4/1/00	76,603,624	83,858,909	7,255,285	91%	39,890,376	18%
1/1/01	75,196,033	94,343,205	19,147,172	80%	40,510,107	47%
1/1/02	74,859,876	119,777,766	44,917,890	62%	38,245,667	117%
1/1/03	56,330,528	125,584,398	69,253,870	45%	34,944,956	198%
1/1/04	78,667,471	132,307,053	53,639,582	59%	36,236,639	148%
1/1/05	152,877,022	162,878,929	10,001,907	94%	34,858,941	29%
1/1/06	153,083,086	168,877,304	15,794,218	91%	34,958,968	45%
7/1/07	160,696,946	186,611,461	25,914,515	86%	33,026,594	78%
7/1/08	164,759,680	195,624,156	30,864,476	84%	33,251,305	93%
7/1/09	144,196,322	202,089,428	57,893,106	71%	33,893,666	171%
7/1/10	152,895,717	226,820,827	73,925,110	67%	31,888,597	232%

- In the valuation as of January 1, 2002, the Plan's assumptions were modified to incorporate the results of an actuarial experience study for the years 1997-2000. As a result of these assumption changes and a minor benefit improvement, Plan liabilities and costs increased significantly.

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- In the valuation as of January 1, 2004, the Actuarial Value of Assets was changed from the market value to a five-year smoothing method. In 2004, a Pension Obligation Bond was issued, and subsequently \$76 million was contributed to the Plan, which is reflected in the January 1, 2005 asset value.
- In the valuation as of July 1, 2010, the Plan's assumptions were modified to incorporate the results of an actuarial experience study for the years 2006-2010. As a result of these assumption changes, Plan liabilities and costs increased.

### Schedule of Employer Contributions

Year Ending	Annual Required Contribution	Actual Contribution	Percentage Contributed
6/30/96	1,774,262	1,774,262	100%
6/30/97	986,683	986,683	100%
6/30/98	446,001	446,001	100%
6/30/99	876,786	876,786	100%
6/30/00	1,351,090	1,351,090	100%
12/31/01	3,068,323	3,068,323 (Est)	100%
12/31/02	6,436,083	6,436,083 (Est)	100%
12/31/03	5,880,631	4,691,246	80%
12/31/04 <sup>1</sup>	7,135,333	76,282,335	1,069%
12/31/05 <sup>2</sup>	3,884,661	1,800,066	46%
6/30/07 <sup>3</sup>	4,575,781	4,575,781	100%
6/30/08 <sup>4</sup>	4,655,668	4,655,668	100%
6/30/09	5,275,088	5,275,088	100%
6/30/10	5,674,021	5,674,021	100%

The table below summarizes certain information about this actuarial report.

Valuation date	July 1, 2010
Actuarial cost method	Aggregate entry age normal
Amortization method	Level dollar open
Remaining amortization period	30 Years
Asset valuation method	Market value less unrecognized investment gains or losses during the prior four years, phased in at 20% per year, but required to be within 20% of market value
Actuarial assumptions:	
Investment rate of return*	7.50%
Projected salary increases*	3.50 – 10.50% for drivers and mechanics 3.25 - 12.00% for administrative members 3.50 - 14.00% for clerical members
*Includes inflation at	3.00%
Cost of living adjustments	Up to 2% annually for certain Non-Contract members only

<sup>1</sup> Based on 1/1/04 contribution percentage multiplied by 2005 projected payroll

<sup>2</sup> Based on 1/1/05 contribution percentage multiplied by 2006 projected payroll

<sup>3</sup> Based on 1/1/06 contribution percentage multiplied by 2007 projected payroll

<sup>4</sup> Based on 1/1/06 contribution percentage multiplied by 2007-08 projected payroll

ROBERT T. MCCRORY | *Executive Vice President*

June 29, 2011

Mr. Clifford J. Telfer  
Vice President of Finance and Administration  
San Diego Transit  
1255 Imperial Avenue, Suite 1000  
San Diego, CA 92101

Re: Pension Obligation Bond

Dear Cliff:

This letter concerns the Pension Obligation Bond (POB, the Bond) that San Diego Transit Corporation (SDTC) issued in 2004. The purpose of this Bond was to pay the then-current unfunded actuarial accrued liability of the Retirement Plans for Employees of San Diego Transit (the Plan).

We have analyzed the effects of the Bond on the Plan and on SDTC since its issue. During our review we have encountered both qualitative and quantitative effects. These are discussed below.

### **Qualitative Effects**

As a first step in evaluating the impact of the Bond, we analyzed the actual past and expected future cost and funded ratio of the Plan with and without the Bond. The results of this analysis are shown in Graphs 1 and 2 below.

In Graph 1, we show the projected SDTC actuarial contributions to the Plan from January 1, 2004 forward. The horizontal axis is time, projected 50 years into the future from the latest actuarial valuation as of June 30, 2010. The vertical axis represents SDTC Plan contributions as a percentage of member payroll.

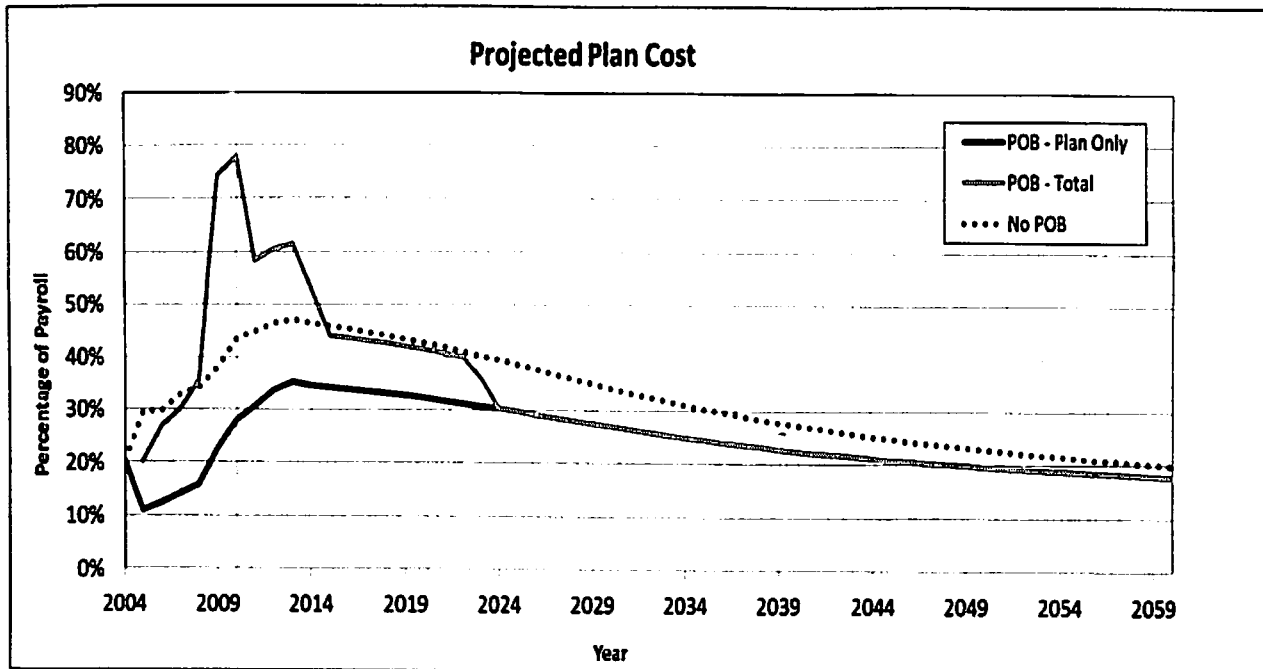
The solid blue line shows the employer contribution to the Plan after issuance of the Bond. Prior to June 30, 2010, actual contributions made to the Plan are shown. After that date, the blue line represents projected contributions assuming all actuarial assumptions are met. In particular, it is assumed that Plan assets earn 7.5% per year and that active membership in the Plan remains steady.

The solid blue line represents only Plan contributions; bond payments are not included. However, bond payments – both principal and interest – are included in the solid green line, showing the total SDTC cost for the Plan contributions and for bond principal and interest. The full bond repayments schedule is included, to the best of our knowledge.

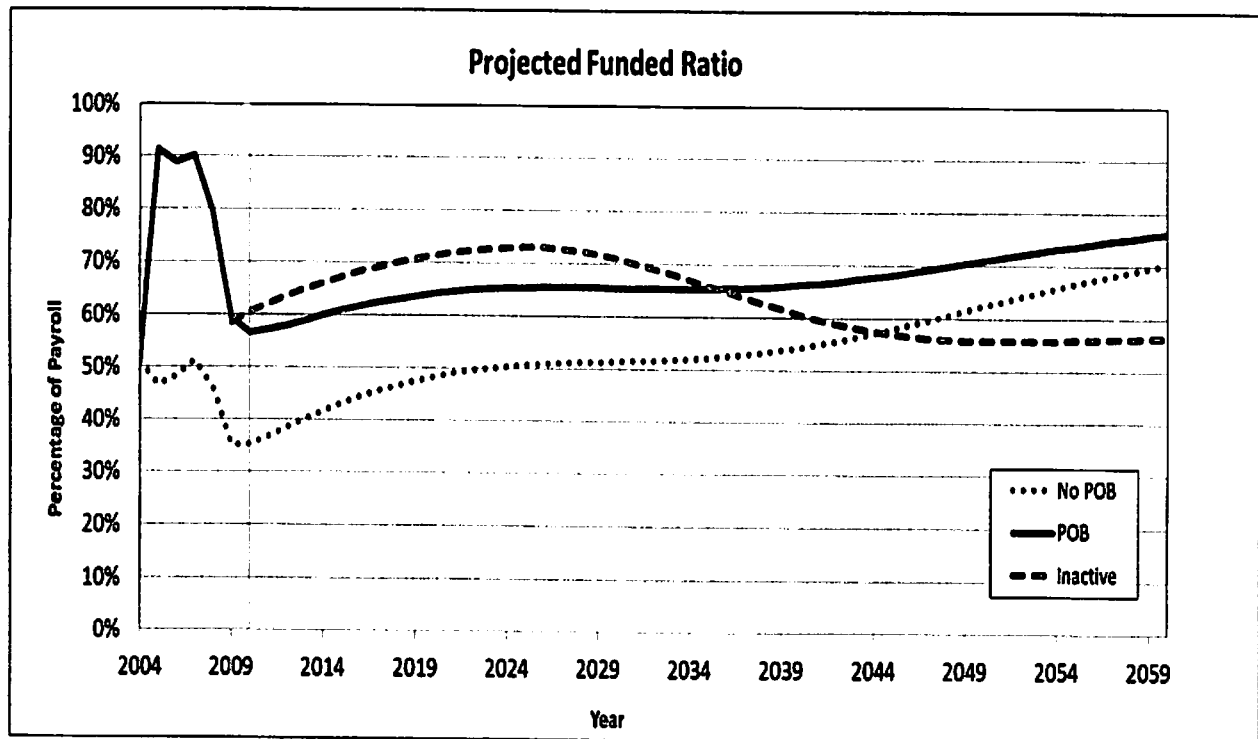
The dotted red line reflects an estimate of past and future projected contributions if the Bond had not been issued. We have assumed that the actuarial cost would have been contributed by SDTC in all years.

Mr. Clifford J. Telfer  
June 29, 2011

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Graph 1: Projection of Plan cost from January 1, 2004  
Actual contributions are shown before June 30, 2010, projected contributions after.



Graph 2: Projection of Plan funded ratio from January 1, 2004  
Actual funded ratios are used before June 30, 2010, projected funded ratios after.

Mr. Clifford J. Telfer  
June 29, 2011

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Graph 2 presents the past and projected Plan funded ratio, with and without the Bond. Again, the horizontal axis is time, projected 50 years into the future from the latest actuarial valuation as of June 30, 2010. The vertical axis represents the funded ratio, represented here as the ratio of the actuarial (smoothed) value of assets to the actuarial accrued liability.

In Graph 2 the solid blue line represents the funded ratio after the issue of the Bond, while the dotted red line shows the estimated funded ratio if the Bond had not been issued. The dashed bright red line represents the Inactive Funded Ratio, the funding level necessary to cover the liabilities for Plan members who have already retired, become disabled, terminated, and the beneficiaries of those who have died.

It is worthwhile to remember that there have been a number of significant Plan changes since the Bond was issued. Specifically:

- Benefits for ATU, IBEW, and clerical Plan members were improved to a 2% at 55 formula in 2004.
- Actuarial assumptions were changed. The rate of return assumption, which is the most critical in terms of Plan funding and cost, has been reduced from 8.5% in 2004 to 8% and then to 7.5% effective July 1, 2010. In addition, there were other changes in assumptions from an actuarial experience study for the period from January 1, 2006 through June 30, 2010.
- The Plan's fiscal year was changed from a calendar year to July 1 – June 30, effective July 1, 2007.
- The Bond was refinanced and the payment schedule was restructured in August, 2005 and October, 2009.
- While not constituting a Plan change, the losses of 2008 in the investment markets had a major effect on Plan cost and funding. From January 1, 2004 through June 30, 2010 the compound average return on Plan assets was about 2.6%, well below the 8.5% and 8% actuarial assumptions in place during those years.

Referring to Graphs 1 and 2, we see that if the Bond had not been issued, Plan cost as of July 1, 2010 would be about 44% of pay, compared with the 28% in the actuarial valuation as of that date. The funded ratio, which is about 57% as of July 1, 2010, would be 35% had the Bond not been issued. Therefore, the infusion of assets via the POB did prevent the funding of the Plan from declining to distressing levels.

However, due to the 2008 investment losses, the return on Plan investments has been below the borrowing rate on the bonds, producing an overall loss that is quantified below.

If we look at the combined Plan and Bond costs in Graph 1, we see peaks in the outlay due to the pattern of Bond payments. On average, however, the combined post-Bond cost is comparable to the Plan cost without the Bond, with a slightly higher cost and higher funding ratio because of the Bond issue. We quantify these effects on the next page.

Mr. Clifford J. Telfer  
June 29, 2011

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## Quantitative Results

We can quantify the financial impact of the Bond in two ways:

- We can compare the present value as of January 1, 2004 of two streams of payments: The Plan contribution had the Bond not been issued, and the Plan contribution after the Bond issue added to the principal and interest payments required by the Bond. In each case we include payments from 2004 to June 30, 2061, the end of our projection, and we assume the return on Plan assets will be the actuarial assumption of 7.5% annually.

In the former case, the present value of Plan contributions without the Bond would be \$174.5 million, while in the latter case the present value of Plan and Bond costs was \$176.2 million, for a loss of \$1.7 million. This is well below the savings of \$16.0 to \$17.9 million projected by UBS when the Bond was issued. Most of the difference is due to the investment losses of 2008.

- We measure the internal rate of return (IRR) of the net cash flows arising from the issue of the Bond. These cash flows include Bond proceeds and payments and the reduction in Plan contributions. For the period ending June 30, 2061 the IRR is 6.35%.

Therefore, with the benefit of hindsight we see that issuing the Pension Obligation Bond in 2004 had a slightly negative effect, when measured quantitatively. However, it should be noted that the quantitative measures assume that the Plan's earnings will average the actuarial rate of 7.5%; if this return is not realized, the quantitative results would be likely to be less favorable. Regardless of the purely quantitative measurements, the Bond proceeds have improved Plan funding.

We hope this is helpful. Please let me know if you have any questions or would like to discuss this further.

Sincerely,



Robert T. McCrory, FSA  
Executive Vice President



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San Diego, CA 92101-7490  
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## Agenda

Item No. 31

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

August 18, 2011

### SUBJECT:

ITEM BID PROTEST APPEAL HEARING (MTS IFB NO. L1016.0-11 - FURNISH AND  
INSTALLATION OF A LIGHT RAIL VEHICLE WHEEL-SCANNING MEASUREMENT  
SYSTEM)

### RECOMMENDATION:

That the Board of Directors deny a protest (Attachment A) filed by International  
Electronic Machines (IEM) Corporation in response to MTS's Standard Invitation for Bids  
(IFB) for a Light Rail Vehicle (LRV) Wheel-Scanning Measurement System.

#### Budget Impact

N/A.

### DISCUSSION:

Pursuant to MTS Board Policy No. 52 and Section 1.44 "Protest Procedures" of MTS's  
IFB, a bidder may file a protest after the opening of bids. The protesting party *"must  
demonstrate or establish a clear violation of a specific law or regulation ..."*

#### Time Line of Events

- On May 19, 2011, MTS Procurement Department staff held a bid opening for the  
LRV Wheel-Scanning Measurement System IFB. A total of two bids were  
received—one was from KLD Labs, Inc. for \$493,305.38, and the other one was  
from IEM for \$501,253.95. KLD was determined to be the lowest responsive and  
responsible bidder.

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

- A Notice of Intent to Award the contract to KLD was issued on June 2, 2011.
- On June 7, 2011, IEM filed a formal protest with MTS, which was denied by a letter dated June 23, 2011.
- On June 28, 2011, IEM filed a request for reconsideration with the Chief Executive Officer (CEO).
- On June 30, 2011, the CEO denied the request for reconsideration.
- On July 6, 2011, IEM requested an appeal hearing before the Board.

This agenda item is IEM's appeal hearing. Pursuant to Policy No. 52, IEM is entitled to appear and be heard before the Board prior to final award. The Board's decision regarding the protest must be in writing and will constitute a final administrative decision for purposes of judicial review pursuant to Section 1094.6 of the Code of Civil Procedure.

#### The Issue Presented

IEM alleges that KLD's bid was nonresponsive and should be thrown out. (Documents submitted by IEM in support of its protest are attached as Attachment A.) A representative from IEM will also appear and speak during this agenda item.

#### Staff Recommendation and Background Discussion

Staff recommends that IEM's protest be denied. All MTS and Federal Transit Administration (FTA) procedures were followed in this procurement. The determination that the KLD bid is "responsive" is directly supported by several FTA publications. If the Board decides that IEM's protest has merit, then staff recommends that all bids be rejected, and the entire procurement be rebid.

MTS's IFB process includes the following steps:

- Step 1: IFB solicitation is advertised, mailed out to vendor list, and posted to MTS's Web site.
- Step 2: Question and answer period (during bid preparation period).
- Step 3: Bids are submitted by specified date/time.
- Step 4: Bids are reviewed and evaluated by the contracting officer to ensure bidders are in compliance with the bid requirements. (*Responsiveness Question*)
- Step 5: The lowest responsive bidder is reviewed for responsibility to determine if the bidder is qualified to complete the work required, is financially acceptable, and has no integrity issues. (*Responsibility Question*)
- Step 6: Contracting officer issues a Notice of Intent to Award to the lowest responsive, responsible bidder.

- **Step 7:** MTS Board agenda item – authorize award of contracts over \$100K.
- **Step 8:** Execute contract and issue a Notice to Proceed to contractor.

At issue in this protest is the fact that when KLD submitted its bid, it completed a Contractor Debarment Certification Form for itself as the prime contractor. It did not submit the same form for each of its subcontractors at the time of bid. After it was identified as the lowest, responsive bidder, KLD submitted the subcontractor certification forms to MTS Procurement Department staff. MTS Procurement Department staff found KLD to be a responsible bidder after completing the following:

- review the Contractor/Subcontractor certifications;
- check KLD and its subcontractors against the debarment and suspension lists;
- review KLD's references;
- review the status of the licenses required to complete the work; and
- review KLD's financial condition.

IEM's protest alleges that because KLD failed to submit the Debarment Certification/Eligibility Forms for its subcontractors at the time of bid, KLD's bid should be deemed nonresponsive. MTS staff determined that a failure to submit the Subcontractor Debarment Form at the time of bid was not a basis to deem a bid nonresponsive. Instead, the debarment forms are required to be submitted before contract award. These forms are necessary for MTS to make a determination that a bidder is "responsible." The distinction between a "responsive bid" and a "responsible bidder" are well established in the procurement context.

#### **Definition of "Responsive Bid"**

A responsive bid is one that meets all the terms, conditions, and specifications of the bid. The bid must comply with the content requirements of the bidding documents. In other words, the bidder must do what the bid documents say they must do whether that includes pricing in a certain way, attending a mandatory prebid conference, or submitting a bid bond. Other examples where a bid may be considered nonresponsive include:

- Bid is incomplete
- Bid is not signed
- Bid is late
- Discrepancies in the bid

#### **Definition of a "Responsible Bid/Bidder"**

A responsible bid is one where the bidder has the overall capability to satisfactorily perform the contract. A responsible bidder will be one that has the financial resources, employees, facilities, and references to ensure that it will perform the contract. Examples where a bidder may be considered not responsible include:

- Poor references
- Bidder does not have proper business registration or licenses
- Banned from working with other agencies
- Not qualified as a foreign corporation (debarred or suspended)
- Questions about financial capability to perform

## Formal and Informal FTA Documents Support the MTS Staff Recommendation

1. MTS procurements that use federal funds are considered “federally assisted” procurements. These are governed by the following requirements:
  - a. FTA Master Agreement (contains standard terms and conditions between FTA and MTS for projects using FTA funds)
  - b. Master Agreement refers MTS to FTA Circular 4220.1F “Third-Party Contracting Guidance”
  - c. Master Agreement applies debarment and suspension rules and procedures set forth in 2 CFR Parts 180 and 1200
2. Submission of Eligibility Form at time of bid is preferred, but not REQUIRED.
  - a. Submission of form at time of bid is not required by MTS IFB documents
  - b. Submission of form at time of bid is not required by FTA rules
3. Various FTA guidelines state that failure to submit the Eligibility Form at the time of bid is not a basis to find the bid nonresponsive:
  - a. FTA Best Practices Procurement Manual 4.3.3.2.1 directly states:

*“Even though you request this certification form from all offerors, failure to receive it with a bid (in the sealed bidding method of procurement) is not a responsiveness question – this goes to a contractor’s responsibility and may be received and talked about after bids are received. It must be received prior to award.”*
  - b. 2 CFR Part 180.300 does not REQUIRE certification. The regulation lets MTS decide how to verify that a contractor and subcontractors are eligible (i.e., not excluded or disqualified).
  - c. FTA FAQ regarding “Certifications for Third-Party Contractors” and “Bid Mistakes” provides that if an agency mistakenly omits the Debarment/ Eligibility Form from its solicitation:

*“Information about a prospective contractor’s suspension and debarment status may be obtained after bids and proposals are submitted.”*
  - d. FTA FAQ regarding “Representations and Certifications” provides that the only certification that is REQUIRED at the time of bid is the Buy America Compliance Certification:

*“If the certification was for other matters, then you may accept the certification after the receipt of proposals. However, you need to determine that the matter affected by the certificate would not have a monetary impact or otherwise affect the success of the contract before you accept a late certification.”*

- e. 4220.1F (Page VI-22) requires that FTA-assisted contract awards be made only to "responsible" contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract. *"Responsibility is a procurement issue that is determined by the recipient after receiving bids or proposals and before making contract award."* The list of items falling under the "responsibility" determination in 4220.1F includes debarment/suspension status.
- f. 49 U.S.C. Section 5325 (j) Awards to Responsible Contractors:
  - (1) In general. Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.
  - (2) Criteria. Before making an award to a contractor under paragraph (1), a recipient shall consider the:
    - (A) integrity of the contractor;
    - (B) contractor's compliance with public policy;
    - (C) contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(l)(2); and
    - (D) contractor's financial and technical resources.

The Rules and Provisions Cited by IEM Do Not Apply to MTS

In the documents submitted by IEM, several provisions are cited as supporting the contention that KLD's failure to submit the Subcontractor Eligibility Form at the time of bid rendered the bid nonresponsive. Staff has reviewed each of these provisions and determined that they do not apply to MTS or provide a basis to grant IEM's protest.

- 1. The Federal Acquisition Regulation (FAR) 48 CFR Chapter 1 does not apply to federally assisted procurements absent federal laws or regulations to the contrary. (4220.1F, page II-8)
  - a. The only provision of FAR expressly applicable to MTS procurements is the cost principal section in Part 31.
- 2. The Department of Transportation (DOT) Acquisition Regulation (TAR) 48 CFR 1252.237-71 does not apply to MTS or "federally-assisted" procurements. This regulation applies to procurements conducted directly by DOT agencies.
  - a. Even if it applied, Section 1252.237-71 would not support the protest in this case because it expressly contemplates obtaining similar certifications for subcontractors after bids are received:  
*1252.237-71 Certification of data.*

As prescribed in (TAR) 48 CFR 1213.7101 and 1237.7003, insert the following provision:

**CERTIFICATION OF DATA  
(APR 2005)**

**NOTICE:** *The Secretary of Transportation has determined that this certification shall be retained in accordance with Section 4301(b)(1)(B)(i)(II) of the Federal Acquisition Reform Act (Public Law 104-106, 41 U.S.C. 425, note) and DOT Memorandum dated July 17, 1996.*

- (a) *The offeror represents and certifies that to the best of its knowledge and belief, the information and/or data (e.g., company profile; qualifications; background statements; brochures) submitted with its offer is current, accurate, and complete as of the date of its offer.*
- (b) *The offeror understands that any inaccurate data provided to the Department of Transportation may subject the offeror, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) enforcement action for false claims or statements pursuant to the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801-3812 and 49 CFR Part 31 and/or; (3) termination for default under any contract resulting from its offer and/or; (4) debarment or suspension.*
- (c) *The offeror agrees to obtain a similar certification from its subcontractors.*

*Signature:* \_\_\_\_\_

*Date:* \_\_\_\_\_

*Typed Name and Title:* \_\_\_\_\_

*Company Name:* \_\_\_\_\_

*This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. 1001.*

- 3. IEM quotes language from a San Diego Association of Governments (SANDAG) solicitation that purports to require a "Bidder's Statement of Subcontractor Eligibility" at the time of bid. SANDAG procurement policies and practices are not binding on MTS. MTS's IFB does not contain this requirement. Instead, MTS's IFB solicitation puts bidders on notice that they will be required to comply with the federal debarment and suspension requirements. This means that the

bidder and its subcontractors cannot be on the debarment or suspension lists ("excluded or disqualified"). By signing and submitting its bid, the Bidder agrees to comply with the debarment rules. It does not require that this evidence be submitted at the time of bid.

### Conclusion

Based on the above analysis, staff recommends that the Board deny IEM's protest and adopt the findings in Attachment B.

In the event that the Board decides to grant IEM's protest, then staff recommends that all bids received in response to the Wheel-Scanning Measurement System IFB be rejected and staff be directed to resolicit this procurement. If the KLD bid is deemed nonresponsive, then MTS will have only received one responsive bid, which does not provide an accurate basis to review the bid.



Paul C. Jablonski  
Chief Executive Officer

Key Staff Contact: Karen Landers, 619.557.4512, [Karen.Landers@sdmts.com](mailto:Karen.Landers@sdmts.com)

AUG18-11.31.IEM BID PROTEST.KLANDERS

Attachments: A. IEM Outline  
B. Findings } Board Only Due to Volume

SDMTS Board Of Directors Meeting, August 18, 2011  
Robert P. Cogan, Continuum Law, San Diego, Attorney for IEM  
Statement of IEM's Position. (The attachments include supporting authority.)

Protest by International Electronic Machines Corporation (IEM) of Award Pursuant to  
MTS IFB No. L1016.0-11 Regarding Notice of Award to KLD Labs, Inc. (KLD).

Issue Presented

Was KLD's bid responsive?

IEM's Position

KLD was nonresponsive. IEM was responsive and should receive the award

Undisputed Facts

1. Bids were submitted by IEM and KLD.
2. The IFB required (p. 81) a Statement of Eligibility Form for any subcontractors.
3. IEM's bid included the required forms.
4. The KLD bid did not include any Subcontractor's Statement of Eligibility forms.

Rules

1. The project uses FTA funding; DOT regulations apply.
2. Department of Transportation Acquisition Regulation 1252.237-71 - Certification of Data requires a complete submission.
3. The regulation takes precedence over FTA "Best Practices," which the FTA itself calls suggestions.

Discussion

SDMTS points to FTA "Best Practices" in maintaining that KLD's missing information goes to responsibility and not responsiveness. If FTA "Best Practices" support this position, then they are contrary to regulation.

Congressional Research Service Report R40633 describes how "responsibility versus responsiveness" is applicable to scenarios other than the present procurement.

There is a clear statement by a local agency interpreting the significance of a missing subcontractor certification as to "completeness" and responsiveness of a submission. San Diego Association of Governments (SANDAG) is unequivocal in its bid package. (See, e.g., IFB 50001826 opened July 20, 2011.)

"A Bid shall be considered responsive when it is in strict and full accordance with all material terms of the Instructions to Bidders, including but not limited to the full execution and, where appropriate, signature of the following forms located in Part B, Bid Booklet: . . . Bidder's Statement of Subcontractor's Eligibility – Completed, signed."

Conclusion

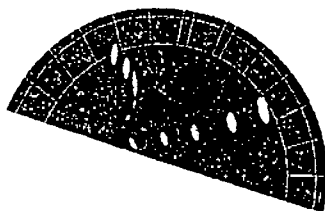
The only clear authority as to interpretation of "complete" submission requires subcontractor's eligibility to be established as of the time of bid submission. Therefore, KLD was not responsive. IEM should receive the award.



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High Technology, Life  
Sciences, Government  
Contracting, Industry,  
Academia, and the Arts

ROBERT P. COGAN  
Principal Attorney

July 22, 2011

Via Email  
Karen Landers, Esq.  
General Counsel  
San Diego Metropolitan Transit System  
1255 Imperial Ave., Suite 1000  
San Diego, CA 92101-7490

Re: Request for Hearing; Protest by International Electronic Machines Corporation  
(IEM) of Award Pursuant to MTS IFB No. L1016.0-11

Dear Ms. Landers

Thank you for the courtesy and promptness of the response by Mr. Jablonski to our request for reconsideration. I appreciate your setting up a conference for July 29 at your office.

I am providing this summary of IEM's position in advance.

SDMTS' position is based solely on §4.3.3.2.1 of the FTA Best Practices Procurement Manual. It is submitted, for the reasons stated below, that the Manual does not provide a basis for dismissing IEM's protest.

The Preface of the Manual states:

The Manual consists of suggested procedures, methods, and examples which FTA encourages.

These are based on the Federal acquisition process, Comptroller General Decisions, and "Best Practices" of grantees and others in the industry.

Please Note, Suggested Procedures Are Not Mandatory. (Emphasis in original).

This Manual does not have the force of a regulation. It only states suggestions. To the extent that anything in the Manual is inconsistent with a regulation, the regulation would govern.

The DOT Acquisition Regulation (TAR) specifically addresses certification of data. Complete documentation in support of certifications is required at the time of submission of a bid. The governing regulation here is:

**1252.237-71 Certification of data.**

As prescribed in (TAR) 48 CFR 1213.7101 and 1237.7003, insert the following provision:

**Certification of Data (APR 2005)**

Notice: The Secretary of Transportation has determined that this certification shall be retained in accordance with Section 4301(b)(1)(B)(i)(II) of the Federal Acquisition Reform Act (Public Law 104-106, 41 U.S.C. 425, note) and DOT Memorandum dated July 17, 1996.

(a) The offeror represents and certifies that to the best of its knowledge and belief, the information and/or data (e.g., company profile; qualifications; background statements; brochures) submitted with its offer is current, accurate, and complete as of the date of its offer.

(b) The offeror understands that any inaccurate data provided to the Department of Transportation may subject the offeror, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) enforcement action for false claims or statements pursuant to the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801-3812 and 49 CFR part 31 and/or; (3) termination for default under any contract resulting from its offer and/or; (4) debarment or suspension.

(c) The offeror agrees to obtain a similar certification from its subcontractors.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Typed Name and Title: \_\_\_\_\_

\_\_\_\_\_  
Company Name: \_\_\_\_\_

\_\_\_\_\_  
This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. 1001.

July 22, 2011

Page 3

Under the express and unequivocal words of paragraph (a) of this provision, the offeror must certify that information submitted with its offer is complete as of the date of its offer. This TAR provision does not recognize the possibility of "filling in the blanks" after a bidder is selected.

Responsiveness determinations focus upon whether bids conform in all material respects to agencies' invitations for bids. 48 C.F.R. § 14.404-2(a) ("Any bid that fails to conform to the essential requirements of the invitation for bids shall be rejected."). While responsibility is determined when the contract is awarded, responsiveness is determined when the bid is opened. This difference in timing means that a contractor that was not responsible at the time of bid opening could become so prior to the time of contract award. *See, e.g., LORS Med. Corp., Comp. Gen. B-259829.2* (April 25, 1995) (contractor responsible by the time of award because it had adequate financial resources after forming a joint venture subsequent to bid opening). The same is not true with respect to responsiveness: a bid that is not responsive at the time when bids are opened cannot later become so. *Responsibility Determinations under the Federal Acquisition Regulation: Legal Standards and Procedures*, Report 7-5700, Congressional Research Service (January 20, 2011). (Copy attached)

The SDMTS letter of June 30 emphasizes that responsibility may be shown by the date of award. However, there must be a good reason why non-responsiveness is being excused.

In the example above, a joint venture must be formed to establish responsibility. As a practical matter, it would be unreasonable to require the joint venture to be in existence at the time of a bid opening. Significant financial, legal, and management commitments are needed to form a joint venture. It would be both a very harsh and a nonsensical requirement to make the parties form the joint venture when they face a reasonable probability that they will not be awarded a contract. In addition to the expense of forming a joint venture, the parties will incur even further expense to unwind the joint venture if a contract not is awarded.

It is respectfully submitted that in the present situation, the principle of responsibility versus responsiveness has been misapplied. Certification of Bidder Eligibility, e.g., not being debarred, is a totally different matter from responsibility. There is no reason to delay the submission of the Certification of Bidder Eligibility.

An award can be announced a joint venture that does not yet exist. The joint venture can be formed between announcement of the award and signing the contract. However, if the bidder is not eligible, e.g., debarred, as of announcement of the award, becoming "not debarred" cannot be accomplished by the date of contract award. There is no action that can be taken by the contractor or subcontractor to become eligible.

The SDMTS needs to know if the bidder is eligible to receive the award. Under the rationale proposed by SDMTS, the notice of award must be made in the dark. There is virtually no extra expense in connection with obtaining certifications from subcontractors as of the date of bid submission. Very little time must be spent by a bidder to fill in the certification forms and be responsive.

The system proposed by SDMTS requires taking the risk of expense and delay if the bidder is not eligible. The level of risk is not material since taking the risk is unnecessary. It is simple and virtually cost-free to eliminate the risk completely.

There is no benefit to SDMTS to allow a response to be incomplete in terms of certification, and there is no downside risk to bidders of having to be responsive regarding the subject certifications. There is no public policy in favor of SDMTS taking a completely unnecessary risk. It is in the interests of the taxpayers to eliminate risk of cost to the SDMTA when it requires so little effort from the bidders.

IEM also restates and incorporates by reference its letter of June 28, 2011 to SDMTS (copy attached). DOT regulations require a complete response by bidders.

IEM's protest should be upheld. IEM was the bidder who complied with all requirements of the IFB, and KLB was not. Award of the contract to KLB is in contravention of applicable law.

The undersigned is available to answer any questions you may have, and looks forward to meeting at your office. Thank you for your courtesy and consideration in this matter.

Very truly yours,  
CONTINUUM LAW



Robert P. Cogan

RPC/bw

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



June 30, 2011

Robert P. Cogan  
Continuum Law  
10085 Carroll Canyon Road, Suite 100  
San Diego, CA 92131-1138

Re: International Electronic Machines Corporation (IEM) Request for Protest Reconsideration  
MTS IFB No. L1016.0-11

Dear Mr. Cogan,

This letter is in response to your letter dated June 28, 2011, requesting that MTS reconsider IEM's protest regarding IFB No. L1016.0-11. IEM's protest was based on an allegation that the Bid Certification Form at page 77 of the IFB was not completed by KLD's subcontractors at the time of bid submittal. IEM contends that the failure to submit the certification for KLD's subcontractors at the time of bid renders the KLD bid non-responsive. You contend that MTS's procedure "by which it accepts incomplete bids as of the date of offer is in direct contravention of" federal and state law.

As previously stated, IEM's interpretation of federal and state law on this issue is not accurate. There are two determinations about a bidder that MTS is required to make during its procurement process: (1) is the bid responsive and (2) is the bidder responsible. The responsiveness inquiry occurs at the time of bid. The responsibility inquiry occurs between the time of bid and award.

The Federal Transit Administration (FTA) Best Practices Procurement Manual expressly provides that the certification at issue in IEM's protest falls into the responsibility inquiry, not responsiveness:

Even though you request this certification from all offerors, failure to receive it with a bid (in the sealed bidding method of procurement) is not a responsiveness question – this goes to a contractor's responsibility and may be received and talked about after bids are received. It must be received prior to award.



*FTA Best Practices Procurement Manual § 4.3.3.2.1* (page 40)(underline in original). Therefore, IEM's protest on the basis of KLD's failure to submit a completed subcontractor certification at the time of bid was properly denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul C. Jablonski", written over a circular flourish.

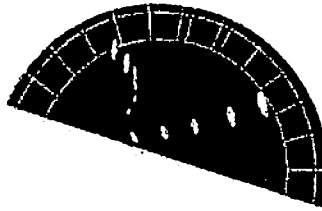
Paul C. Jablonski  
Chief Executive Officer

Enclosure: FTA Best Practices Procurement Manual, pages 39-41.

cc: Ira Tillman, MTS Procurement Manager  
Karen Landers, MTS General Counsel x4512

## CONTINUUM LAW

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rcogan@continuumlaw.com



High Technology, Life  
Sciences, Government  
Contracting, Industry,  
Academia, and the Arts

ROBERT P. COGAN  
Principal Attorney

June 28, 2011

By Hand Delivery

Mr. Paul Jablonski  
Chief Executive Officer  
San Diego Metropolitan Transit System  
1255 Imperial Ave., Suite 1000  
San Diego, CA 92101-7490

Re: Request for Protest Reconsideration; Protest by International Electronic  
Machines Corporation (IEM) of Award Pursuant to MTS IFB No. L1016.0-11

Dear Mr. Jablonski:

This firm represents IEM. This is in response to the San Diego Metropolitan Transit System (SDMTS) Procurement Manager's letter of June 23, 2011. The June 23 letter denied IEM's protest of June 7, 2011 in the contract award pursuant to MTS Invitation for Bid (IFB) No. L1016.0-11 entitled *Furnish [sic] and Installation of a Light Rail Vehicle Wheel Scanning Measurement System*.

This response is filed within five calendar days of the date of the June 23 letter. Therefore, in accordance with IFB §1.44E, this response is timely filed.

### Summary of Issue

The Bid Certification Form at page 77 of the current IFB requires provision of specified documentation. The record is uncontroverted that the IEM submission was complete as to the required documentation. The record is also uncontroverted that the KLD record was not complete as of the date of the offer.

IEM protested on the ground that its offer was complete as of the date of the offer but that the offer of KLD was not complete, and therefore non-responsive. The June 23 letter

dismissed the protest on the ground that KLD was not required to submit a complete bid as of the date of offer but only by the time of the contract award.

As explained below, SDMTS's establishing a procedure by which it accepts incomplete bids as of the date of the offer is in direct contravention of Federal Transit Administration Guidelines, the United States Department of Transportation (DOT) Procurement Regulation, California statutes, and the California Code of Regulations.

Determination of responsiveness and completeness of offers is an essential element of the IFB process. Therefore, SDMTS's non-compliance with federal and state authority directly impacts this IFB process.

**A. Significance of FTA Grant Funding**

The IFB states at § 1.0:

The equipment described in these specifications will be purchased with the assistance of a grant from the Federal Transit Administration (FTA) under the Safe, Accountable, Flexible, Efficient Transportation Equity Act; A Legacy for Users (SAFETEA-LU), as amended. The successful Bidder will be required to comply with all terms and conditions prescribed for third-party contracts in a grant contract between the United States of America and MTS. These grant contract guidelines are available for examination by prospective bidders at the offices of the MTS Procurement Department. (emphasis supplied)

**B. The FTA Does Not Permit a Transit Agency to Establish Its Own Procedures or Regulations When There is an Applicable State Law**

The IFB at § 1.0 refers to FTA's terms and conditions for third-party contracts. The subject terms and conditions are set forth in *Third Party Contracting Guidance*, FTA Circular C 4220.1E, Rev. 3 (February 15, 2011). This Circular is issued under the authority of Federal Transit Laws, Title 49, United States Code, Chapter 53.

The applicability of the Circular to a third-party contract of a transit authority was interpreted by a federal court in, *Marco Outdoor Adver. v. Reg'l Transit Auth.*, 2005 U.S. Dist. LEXIS 17833 (E.D. La. July 26, 2005). "The circular provides that grantees like RTA must follow applicable state and local laws in their procurement procedures . . ." *Id.* at 19.

In that case, the RTA asserted that state and local laws, including the Louisiana Public Bid Law, were not applicable to the third-party contract. The RTA took a position that it was permitted to use its own discretionary procedure for awarding contracts. The RTA even relied on an opinion of the state's Attorney General. The Court accorded no weight to the opinion. The Court held that where the subject of the contract is not exempted from state law, the RTA must use state law. It could not use its own discretionary procedure.

Here, for reasons further explained below, when SDMTS permitted a bidder to provide an incomplete offer on the date of submission, it established its own discretionary procedure. It did not use California state law. Rather, it contravened state law. Under California Codes, as described below, establishing this discretionary procedure constitutes an impermissible and unenforceable form of enacting a regulation.

Since SDMTS did not comply with *Third Party Contracting Guidance, supra*, its discretionary procedure cannot be used to dismiss IEM's protest.

### C. The Federal Acquisition Regulation Requires a Complete Submission

As also further explained below, permitting a bidder to provide an incomplete offer on the date of submission is expressly contrary to DOT regulations. The Federal Transit Administration (FTA) is an agency of the United States Department of Transportation (DOT). Under the authority of the United States Code (U.S.C.), Federal Procurement Policy Act of 1974, 41 U.S.C. §§ 403 *et seq.*, all contracting by federal departments is subject to Title 48 of the Code of Federal Regulations, 48 C.F.R., the Federal Acquisition Regulation. Chapter 1 applies to all agencies. Additionally, DOT contracting is subject to the provisions of 48 C.F.R., Chapter 12, the DOT Acquisition Regulation.

The DOT Acquisition Regulation specifically addresses certification of data. Complete documentation in support of certifications is required at the time of submission of a bid.

#### 1252.237-71 Certification of data.

As prescribed in (TAR) 48 CFR 1213.7101 and 1237.7003, insert the following provision:

##### Certification of Data (APR 2005)

Notice: The Secretary of Transportation has determined that this certification shall be retained in accordance with Section 4301(b)(1)(B)(i)(II) of the Federal Acquisition Reform Act (Public Law 104-106, 41 U.S.C. 425, note) and DOT Memorandum dated July 17, 1996.

(a) The offeror represents and certifies that to the best of its knowledge and belief, the information and/or data (e.g., company profile; qualifications; background statements; brochures) submitted with its offer is current, accurate, and complete as of the date of its offer.

(b) The offeror understands that any inaccurate data provided to the Department of Transportation may subject the offeror, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) enforcement action for false claims or statements pursuant to the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801-3812 and 49 CFR part 31 and/or; (3) termination for default under any contract resulting from its offer and/or; (4) debarment or suspension.

(c) The offeror agrees to obtain a similar certification from its subcontractors.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Typed Name and Title:

\_\_\_\_\_

Company Name:

\_\_\_\_\_

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. 1001.

Under the express and unequivocal words of paragraph (a) of this provision, the offeror must certify that information submitted with its offer is complete as of the date of its offer. This DOT provision does not recognize the possibility of "filling in the blanks" after a bidder is selected.

The above-cited letter of June 23 takes a position that the information supplied by bidder KLD did not have to be complete as of the date of its offer, but only as of the date of a contract. This position is directly contrary to the mandates of DOT contracting procedures.

The IFB points out, as stated above, that, "The successful Bidder will be required to comply with all terms and conditions prescribed for third-party contracts in a grant contract between the United States of America and MTS." Allowing an incomplete submission is not in accordance with the DOT Procurement Regulation. In the context of federal contracting, if a procedure is to be used that is not in accordance with the regulations, the agency seeking to use the non-compliant procedure must apply for and receive a "FAR variance." No FAR variance is present in the current record.

To allow contracting agencies to vary terms and conditions on their own initiative would render meaningless the concept of a federal acquisition regulation system. The mandatory regulations would become voluntary. Rather than federal contracting being a well-defined procedure, the contract process would degenerate into the anarchic system of commercial contracting.

Federal regulations are promulgated in accordance with Title 5 of the United States Code (U.S.C.), more specifically 5 U.S.C. §553. After an agency writes proposed regulations, the regulations must be published in the Federal Register along with an explanation of how the regulations will implement their objectives. A comment period is established, and anyone can provide reasons why the proposed regulations should be adopted, changed, or deleted. The agency must then respond to all comments and state why the substances of the comments were or

were not adopted. Allowing parties to decide unilaterally to vary dictates of a federal regulation subverts the entire system.

The requirement of a submission being complete is an essential and integral part of the functioning of the government acquisition system. No justification has been provided for departing from an established, functioning system. As explained below, setting requirements for completeness is *de facto* promulgation of regulation. This regulation is contrary to the federal regulations. Unless the Congress grants permission to a state to regulate in an area regulated by the federal government, federal regulations would preempt the authority of a state agency. No such permission has been granted to SDMTS by federal law.

In the context of a third-party contract pursuant to an FTA grant, in lieu of any applicable laws, under FTA C 4220.1E(7), federal contract principles will apply. *Marco Outdoor Adver., supra* at 19. The federal standard requiring a complete submission applies.

#### D. State Authority Does Not Permit *De Facto* Rule Making by SDMTS

SDMTS does not have authority to make rules in contravention of the California state regulatory system. As explained below, SDMTS has engaged in *de facto* rule making.

The Court of Appeal of California has explicitly held that procedures created by state agencies in the quasi-legislative nature of rule making are subject to the California Administrative Procedure Act, *Gov. Code, § 11340.5. United Systems of Arkansas v. Stamison*, 63 Cal. App. 4th 1001 (1998).

Two companies, USA and Moore, submitted bids to the Department of Motor Vehicles (DMV) for certified mail forms and support systems. The DMV and the Department of General Services (DGS), collectively referred to as the State, relied on the State Administrative Manual to dismiss USA's protest. The State contended that the State Administrative Manual was exempt from the APA. However, the Court stated that, "When the Legislature has intended to exempt regulations from the APA, it has done so by clear, unequivocal language." *Id.* at 1010.

The Court noted that, "A regulation is defined as 'every rule, regulation, order, or standard of general application . . . adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure, except one which relates only to the internal management of the state agency.' *Gov. Code, § 11342, subd. (b).*" *Id.* at 1009. The regulation cannot be enforced unless adopted as a regulation and filed with the Secretary of State pursuant to the Government Code. *Id.* at 1009.

Here, the ruling that a bid submission may be incomplete as of the date of submission acts as a regulation. It does not relate only to the internal management of the state agency. Rather, it is used to implement and interpret the law administered by it for awarding contracts.

This ruling is a *de facto* regulation. The necessary procedure to establish a regulation has not been followed. Therefore, the regulation cannot govern this situation.

The California Public Contract Code §§ 20270-20274 grants specific powers to the SDMTS. The SDMTS is granted certain options which provide flexibility in the procurement process. The power to set bid selection procedures or bid protest procedures is conspicuously absent. The general regulatory scheme for the SDMTS is set out in Part 8 of the California Public Utilities Code. While §§ 90420 and 90421 set out certain contracting authority, there is no authority to regulate bid and protest procedures. No exemption is provided from any statute or regulation.

Rule making by state agencies is governed by the California Administrative Procedure Act, Government Code § 11340 *et seq.* Every department, division, office, officer, bureau, board or commission in the executive branch of California state government must follow the rulemaking procedures in the Administrative Procedure Act. Rulemaking must also comply with regulations adopted by the Office of Administrative Law (OAL). These regulations are set out at California Code of Regulations, Title 1, §§ 1-120. Only an express exemption by statute relieves an agency from some or all of these requirements. The above-cited state statutes governing the SDMTS do not contain any such exemptions.

The June 23 letter does not cite any regulatory authority for denial of IEM's protest. The only authority cited in the June 23 letter is Section 1.44C of the IFB. This is not an enforceable provision.

Additionally, the fourth paragraph of the June 23 letter states, "However, bidders are not required to provide such information at the time of bid opening. Instead, submission of this form is a required deliverable prior to award of bid." The only authority for this position is the Bid Certification form itself. In determining how the contract award is being administered, the Subcontractor's Statement of Eligibility form acts as a regulation. However, there is no regulatory or statutory basis for ascribing any authority to this form.

It should again be noted that the form is directly contrary to the DOT regulation cited above, namely that the bid must be complete as of the date of submission.

#### Summary

Therefore, it would appear that there is no state regulation justifying a procedure in which a responsive bid could be submitted with incomplete documentary support. The record is uncontroverted that the IEM submission was complete as to the items listed in the Bid Certification Form at page 77 of the current IFB. The record is also uncontroverted that the KLD record was not complete as of the date of the offer.

Completeness as of the date of the offer is mandatory under DOT regulations. There is no FAR variance to support deviation from this requirement. There is no explicit grant of an exemption to a California agency to regulate either in addition to or in contravention of federal regulation.

SDMTD did not comply with state law. Use of a law rather than establishment of a discretionary procedure is required by FTA guidelines. Under California authority, SDMTS' use of its discretionary rule is *de facto* promulgation of a regulation. There is no record of compliance by SDMTS with the California Administrative Procedure Act and the California Code of Regulations for establishing a regulation. There is no statutory provision exempting SDMTS from the requirements of California Administrative Procedure Act and the California Code of Regulations rule making provisions.

SDMTS' non-compliance with state and federal authority has impacted the subject IFB.

IEM provided a complete submission. Therefore, IEM was compliant with the bid requirements. Since IEM was the bidder who complied with all requirements of the IFB, the law dictates that subject contract should be awarded to IEM.

The undersigned is available to answer any questions you may have, and would be pleased to appear at your office. Thank you for your courtesy and consideration in this matter.

Very truly yours,  
CONTINUUM LAW



Robert P. Cogan

RPC/bw



**Metropolitan Transit System**

Att. A, AI 31, 8/18/11

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



June 23, 2011

International Electronic Machines Corporation (IEM)  
850 River Street  
Troy, New York 12180-1239

Attention: James Skaggs

**Subject: RESPONSE TO FORMAL PROTEST LETTER – MTS DOC. NO. L10116.0-11  
FURNISH AND INSTALLATION OF A LIGHT RAIL VEHICLE WHEEL SCANNING  
MEASUREMENT SYSTEM.**

Dear Mr. Skaggs:

This letter is in response to your protest letter dated June 7, 2011 in reference to the MTS letter of Intent to Award to KLD Labs, Inc. (KLD) for the Furnishing and Installation of a Light Rail Vehicle Wheel Scanning Measurement System IFB MTS Doc. No.L1016.0-11.

There is no evidence that KLD has violated the Federal Requirements listed in the IFB on Page 73, Item 7 – Contractor and Subcontractor's Statement of Eligibility Form (Page 81).

The Subcontractor's Statement of Eligibility is a required Federal Form. However, bidders are not required to provide such information at the time of bid opening. Instead, submission of this form is a required deliverable prior to award of bid.

Your company contends that this contract cannot be fulfilled by a company from the State of New York without utilization of a local Subcontractor in the San Diego area for the site work and majority of equipment installation, and further, the Subcontractor must be licensed in the State of California.

KLD has provided the forms of qualified Subcontractors for the AEI System described in Section 4 – Technical Specifications, Paragraph 4.3.D 'Automatic Equipment Identification', and will meet all requirements for the installation of this system. KLD will supply all equipment from a qualified Subcontractor/Supplier. As required, KLD submitted both a Contractor and Subcontractor's Statement of Eligibility form prior to bid award.

Your company challenges the validity of this bid. KLD has been found to be responsive, and is deemed qualified to fulfill the technical, commercial, and legal requirements of this contract.

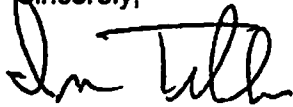
Section 1.44.C, Page 23, in the IFB, states protestors must provide a complete written statement, and a clearly described violation. Your company has not provided any reason for



KLD to be deemed non-responsive or not responsible, or otherwise shown a violation of a specific law or regulation that would impact this IFB process.

Based on the bid evaluation on Page 18, Section 1.25, KLD's bid has been considered fully responsive and therefore, represents the lowest bidder based on responsiveness to the bid documents and technical reasonability as specified in the IFB solicitation.

Sincerely,



Ira Tillman  
Procurement Manager

MY:ea

cc: L. Summerlott  
W. Terry  
I. Tillman  
K. Landers  
Bid File



# International Electronic Machines Corporation

*Dedicated To Customer Service*

Transportation  
Electronics

Industrial Automation  
and Controls

Custom Research and  
Development

June 7, 2011

San Diego Metropolitan Transit System  
1255 Imperial Avenue, Suite 1000  
San Diego, CA 92101

Attention: Marco Yniguez, Contract Officer  
  
Subject: IEM's Bid No. Q11227 for MTS IFB No. L1016.0-11  
  
Re: Protest to Notice of Intent to Award to KLD Labs, Inc.

Dear Sir:

Please be informed that IEM, as an interested party in the outcome of the evaluation and award of MTS IFB No. L1016.0-11, has received the Notice-of-Intent-to-Award from San Diego MTS.

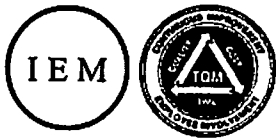
Pursuant to the IFB, page 23, section 1.44.B and section 1.44.C, IEM formally protests the intent to award this contract to KLD Labs Inc., as demonstrated by violation of the Federal Requirement listed on page 73, item 7 – Contractor and Subcontractor's Statement of Eligibility Form (page 81).

Note that the public bid opening was attended by a representative of IEM, and during the public reading of the bids, it was observed that the bid submitted by KLD Labs did not include the required Subcontractor's Statement of Eligibility forms, which is a federal requirement, and as clearly stated on the form shown on page 81:

“Provide one completed Form for the Prime Contractor and any Subcontractors”.

IEM contends that this contract cannot be fulfilled by a company from the State of New York without utilization of a local subcontractor in the San Diego area for the site work and majority of equipment installation, and further, the subcontractor must be licensed in the State of California. The KLD Labs bid did not include any Subcontractor's Statement of Eligibility forms, however IEM's bid did meet this requirement.

IEM further contends that this contract cannot be fulfilled without a qualified sub-contractor for the AEI System described in Section 4 – Technical Specifications, Paragraph 4.3.D 'Automatic Equipment Identification', that further requires the bidder to include in their bid an AEI system that is compliant with AAR Standards S-918, and further to include the installation of this system and approximately 670 RFID tags on the LRV fleet. As the supply of this AAR-compliant AEI system is a significant amount of this contract, IEM contends that the supply of this equipment must be



fulfilled by a qualified sub-contractor/supplier and a Subcontractor's Statement of Eligibility form included. The KLD Labs bid did not include this federally required form, however IEM's bid did meet this requirement.

As many bidding documents may contain minor variances and/or minor clerical or typographical errors that can be clarified and do not affect the final outcome of the bid evaluation, these minor bid imperfections may be, and are, normally disregarded.

However, in this case, IEM challenges the validity of the KLD Labs bid on a major technical deficiency that should deem the KLD Labs bid as non-responsive and therefore disqualified due to the absence of the federally required Subcontractor's Statement of Eligibility forms for subcontractors that are clearly required to fulfill the technical, commercial and legal requirements of this contract.

As per Section 1.44.C, page 23, the protest must contain a full and complete written statement, as we have clearly described above, and supporting documentation. Please note these attachments as IEM's supporting documentation:

**A) CONTRACTOR AND SUBCONTRACTOR'S STATEMENT OF ELIGIBILITY**

- IEM Corporation, 850 River Street, Troy, NY 12180, as the Prime Contractor and qualified designer and manufacturer of a fully compliant wheel scanning measurement system;

**B) CONTRACTOR AND SUBCONTRACTOR'S STATEMENT OF ELIGIBILITY**

- MADDEN Construction, 13840 Edgemoor Street, Poway, CA 92064 - California License #619727, as a qualified Subcontractor for the local site work and installation of the wheel scanning measurement system, AEI system, tag installation of the RFID tags on the SDMTS LRV fleet;

**C) CONTRACTOR AND SUBCONTRACTOR'S STATEMENT OF ELIGIBILITY**

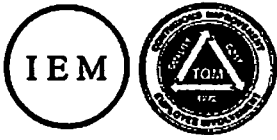
- TRANSCORE, 3410 Midcourt Road, Suite 102, Carrollton, TX 75006, as a qualified supplier and subcontractor for AAR-compliant AEI systems;

**D) CONTRACTOR AND SUBCONTRACTOR'S STATEMENT OF ELIGIBILITY**

- Great Lengths, LLC, Box 3400, Dillon, CO 80435, as a qualified transportation company / subcontractor for the transport of the Wheel Scanning Measurement system and associated equipment from Troy, NY to San Diego, CA.

Please note in KLD's bid, only a single form was included for KLD as the Prime, and no subcontractor STATEMENT OF ELIGIBILITY forms were included. IEM, as the Prime Contractor, and the three subcontractors identified in our bid, have submitted the STATEMENT OF ELIGIBILITY forms. According to Section 9.0 – SUBMISSION INFORMATION, page 73, these forms are to be submitted with the bid as a matter of responsiveness and if they are not submitted, the bid may be determined non-responsive.

IEM believes this is not a case of 'minor imperfection' or a clerical error, but a major requirement that deems the KLD bid as non-responsive. Certainly, KLD Labs cannot be considered a qualified



California-state certified contractor for the site work, and cannot be considered a qualified subcontractor for the manufacture of AAR-qualified AEI systems (the AEI system and RFID tags are not manufactured by KLD Labs, they must use a qualified sub-contractor/vendor for this equipment just as IEM, or any others, must do).

Based on the major non-compliance of the SUBCONTRACTOR'S STATEMENT OF ELIGIBILITY forms lacking in the KLD bid, this bid should be considered non-responsive due to major federal non-compliance, and IEM believes our bid is a fully responsive and qualified bid and therefore, represents the lowest bidder based on responsiveness to the bid documents and technical reasonability as specified in the IFB solicitation.

Thank you for this opportunity to present our clear and reasonable grounds for protest and await the outcome of analysis and evaluation of our written statement and supportive documentation.

Sincerely,

James Skaggs  
Director Railway Equipment  
IEM Corporation  
850 River Street, Troy, New York 12180  
Phone: 518-268-1636 ext 20 Email: [jskaggs@iem.net](mailto:jskaggs@iem.net)

**MTS INVITATION FOR BIDS (IFB) NO. L1016.0-11****FURNISH AND INSTALLATION OF LIGHT RAIL VEHICLE WHEEL SCANNING MEASUREMENT SYSTEM****DENIAL OF PROTEST FILED BY INTERNATIONAL ELECTRONIC MACHINES CORPORATION**

On May 19, 2011, San Diego Metropolitan Transit System (MTS) procurement held a bid opening for IFB No. L1016.0-11, related to the procurement of a light rail vehicle wheel scanning measurement system.

On June 2, 2011, MTS issued a notice of intent to award the contract to the lowest responsive bidder, KLD Labs, Inc.

On June 7, 2011, the second lowest bidder, International Electronic Machines Corporation (IEM), timely filed a formal protest with MTS, protesting the proposed award to KLD Labs, Inc. IEM's protest was denied on June 23, 2011.

On June 28, 2011 IEM filed a request for reconsideration of the protest with the MTS Chief Executive Officer. The request for reconsideration was denied on June 30, 2011.

On July 6, 2011, IEM timely filed a request for an appeal hearing before the MTS Board of Directors.

On August 18, 2011, the MTS Board of Directors held a hearing to allow International Electronic Machines Corporation (IEM) an opportunity to appear and be heard regarding its protest in IFB No. L1016.0-11.

In order to state a basis for a valid protest, MTS's protest procedures require the protesting party to "demonstrate and establish a clear violation of a specific law or regulation."

The alleged violation of a "specific law or regulation" presented by IEM is the failure of the lowest bidder, KLD Labs, Inc., to submit a Statement of Eligibility form for each of its subcontractors until after bids were received by MTS. IEM contends that the failure to submit such forms at the time of bid renders the KLD Labs, Inc. bid non-responsive.

After a full review of the arguments and evidence presented by IEM and by MTS staff, the Board makes the following findings:

1. The IEM protest regarding MTS IFB No. L1016.0-11 is denied. IEM has not presented evidence demonstrating or establishing a clear violation of a specific law or regulation in the course of this procurement.
2. KLD Labs, Inc.'s failure to submit the Statement of Eligibility form for each of its subcontractors at the time of bid does not render its bid non-responsive.
3. MTS acceptance of the KLD Labs, Inc.'s Subcontractor Statement of Eligibility forms after receipt of bids, but before contract award, is permitted by state and federal laws and regulations and informal Federal Transit Administration guidelines concerning third party contracting by MTS.



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

## Agenda

Item No. **32**

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

CIP 11309

August 18, 2011

### SUBJECT:

LIGHT RAIL VEHICLE WHEEL-SCANNING MEASUREMENT SYSTEM - CONTRACT  
AWARD (KAREN LANDERS)

### RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L1016.0-11 (in substantially the same form as Attachment A) with KLD Labs, Inc. for the procurement of goods, services, and parts necessary for a light rail vehicle (LRV) wheel-scanning measurement system.

#### Budget Impact

This project would be federally funded under CIP 11309 (Light Rail Vehicle Wheel Scanning Measurement System) not to exceed \$493,305.38.

### DISCUSSION:

MTS Policy No. 52 governing procurement of goods and services requires a formal competitive bid process for procurements exceeding \$100,000.

MTS solicited an invitation for bids for the procurement of a wheel-scanning system and services on March 3, 2011, and opened the bids received on May 10, 2011. This wheel-scanning system utilizes a structured laser-light source to illuminate the flange and tread of the wheel and captures computerized video images and performs measurement analyses and reports, which would reduce maintenance costs and improve recorded wheel-size accuracy and vehicle serviceability.

A total of two responsive bids were received on May 10, 2011 (see Bid Summary - Attachment B). KLD Labs, Inc. was the lowest responsive, responsible bidder. Staff conducted a cost comparison, found the cost to be 3% higher than the in-house estimate of \$475,000.00, and determined KLD Labs, Inc.'s pricing to be fair and reasonable.



Therefore, pursuant to MTS policy, staff recommends award of MTS Doc. No. L1016.0-11 to KLD Labs, Inc. for the procurement and installation of an LRV wheel-scanning measurement system for \$493,305.38.



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Paul C. Jablonski  
Chief Executive Officer

Key Staff Contacts: Lee Summerlott, 619.595.4904, [Lee.Summerlott@sdli.sdmts.com](mailto:Lee.Summerlott@sdli.sdmts.com)  
Marco Yniguez, 619.557.4576, [Marco.Yniguez@sdmts.com](mailto:Marco.Yniguez@sdmts.com)

AUG18-11.32.LRV WHEEL SCAN MEASUREMT.MYNIGUEZ

Attachments: A. Draft MTS Doc. No. L1016.0-11  
B. Bid Summary

**DRAFT****STANDARD PROCUREMENT AGREEMENT**

L1016.0-11  
**CONTRACT NUMBER**  
CIP 11309  
**FILE NUMBER(S)**

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2011, in the State of California by and between San Diego Metropolitan Transit System, a California public agency, and the following contractor, hereinafter referred to as "Contractor":

Name: KLD Labs. Inc.

Address: 300 Broadway

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

Huntington Station, NY 11746

Telephone: 631.549.4222

Authorized person to sign contracts: Daniel L. Magnus Vice President  
 Name Title

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

Provide materials, installation, integration, and commissioning of a Light Rail Vehicle Wheel-Scanning Measurement System on track C2 in Building C at 1535 Newton Avenue, San Diego, CA 92113, as stipulated in the Scope of Work, and in accordance with the Standard Conditions Procurement, Federal Requirements, and MTS Safety Department SOP (SAF 016-03) attached hereto.

This contract is effective September 1, 2011. Total contract expenditure shall not exceed \$493,305.38. Price includes all materials, labor, freight, and sales tax. Payment terms shall be net 30 days from invoice approval date.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	CONTRACTOR AUTHORIZATION
---------------------------------------	--------------------------

By: \_\_\_\_\_  
 Chief Executive Officer

Firm: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_  
 Signature

By: \_\_\_\_\_  
 Office of General Counsel

Title: \_\_\_\_\_

AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
<u>\$493,305.38</u>	<u>CIP 11309</u>	<u>2012</u>

By: \_\_\_\_\_  
 Chief Financial Officer Date

(\_\_\_\_ total pages, each bearing contract number)

**FURNISH AND INSTALLATION OF A LIGHT RAIL VEHICLE WHEEL-SCANNING MEASUREMENT SYSTEM  
MTS DOC. NO. L1016.0-11**

**BID SUMMARY**

			KLD Labs Inc		JEM Corporation	
Item #	Description	Qty	Unit Price	Ext. Price	Unit Price	Ext. Price
1	Wheel profile measurement system as specified including all materials required for installation.	1	\$ 357,490.00	\$ 357,490.00	\$ 402,077.95	\$ 402,077.95
2	Installation, testing, training and certification of wheel profile measurement system as specified. (Non-Taxable Labor)	1	\$ 102,410.00	\$ 102,410.00	\$ 59,886.68	\$ 59,886.68
8.75% CA Sales Tax (on item 1 only)				\$ 31,280.38		\$ 35,181.82
Delivery				\$ 2,125.00		\$ 4,107.50
Subtotal				\$ 493,305.38		\$ 501,253.95
Payment Terms _____, Otherwise Net 30 (Subtract)				\$		\$
<b>GRAND TOTAL (BASIS OF AWARD)</b>				\$ 493,305.38		\$ 501,253.95



Metropolitan Transit System

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

## Agenda

Item No. 45

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

August 18, 2011

**SUBJECT:**

2011 COMIC-CON POST EVENT SUMMARY (TOM DOOGAN AND BRIAN RILEY)

**RECOMMENDATION:**

That the Board of Directors receive a report for information.

Budget Impact

None.

**DISCUSSION:**

The annual Comic-Con event was held from July 20, 2011, through July 24, 2011, at the San Diego Convention Center. MTS once again played a significant role in the success of this event as thousands chose public transit as their means to get to the venue each day. MTS also used the opportunity to join in the festivities, which included installing special station decorations and signage.

Paul C. Jablonski  
Chief Executive Officer

Key Staff Contact: Tom Doogan, 619.595.4984, [tom.dooqan@sdmts.com](mailto:tom.dooqan@sdmts.com)

AUG18-11.45.2011 COMIC-CON.TDOOGAN

1255 Imperial Avenue, Suite 1000, San Diego, CA 92101-7490 • (619) 231-1466 • [www.sdmts.com](http://www.sdmts.com)

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





Metropolitan Transit System

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## Agenda

Item No. 62

Chief Executive Officer's Report

ADM 121.7

August 18, 2011

In accordance with Board Policy No. 52, Procurement of Goods and Services, attached are listings of contracts, purchase orders, and work orders that have been approved within the CEO's authority (up to and including \$100,000) for the period July 7, 2011, through August 10, 2011.

H:\Agenda Item 62 (45, then 61)\2011\AI 62 8-18-11.docx



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**EXPENSE CONTRACTS**

<i>Doc #</i>	<i>Organization</i>	<i>Subject</i>	<i>Amount</i>	<i>Day</i>
G1067.15-07	MCDUGAL LOVE ECKIS SMITH BOEH	LEGAL SERVICES - GENERAL TORT	\$85,000.00	7/15/2011
G1108.7-07	LAW OFFICES OF DAVID C. SKYER	LEGAL SERVICES - GENERAL & TORT LIABILIT	\$65,000.00	7/15/2011
G1200.4-09	BAKER & MILLER, PLLC	LEGAL SERVICES - RAILROAD LAW	\$20,000.00	7/25/2011
G1101.15.07	NEW FLYER OF AMERICA, INC.	REDUCTION OF UNIT PRICE PER BUS	(\$18,075.98)	8/2/2011
G1396.0-11	THE EPLER COMPANY	HR SALARY SURVEY SERVICES	\$29,700.00	8/2/2011
G1398.0-12	MORSE GIESLER CALLISTER & KARL	LEGAL SERVICES GENERAL & TORT LIABILITY	\$20,000.00	8/8/2011
G1108.8-07	LAW OFFICES OF DAVID C. SKYER	LEGAL SERVICES-GENERAL & TORT LIABILITY	\$85,000.00	8/9/2011

**REVENUE CONTRACTS**

<i>Doc #</i>	<i>Organization</i>	<i>Subject</i>	<i>Amount</i>	<i>Day</i>
G1149.1-08	ADA RIDE.COM, LLC	ADA PARATRANSIT ELIGIBILITY DETERMINATIO	\$0.00	7/15/2011
G1391.0-11	WIER CONSTRUCTION CORP.	LEASE AGREEMENT - TRIANGLE PARCEL	\$0.00	7/15/2011
L1027.0-11	CITY OF CHULA VISTA	ROE PERMIT PALOMAR STATION EVENT	(\$500.00)	7/15/2011
L5250.0-11	BERT W. SALAS, INC.	ROE PERMIT SANTEE CUYAMACA ST-MISSION	(\$500.00)	7/15/2011
L5251.0-12	SELECT ELECTRIC, INC.	LEASE AGREEMENT	(\$563.00)	7/15/2011
L5722.0-11	OLSSON ASSOCIATES	JROE PERMIT - GENERAL LAND SURVEY AMTRAK	(\$500.00)	7/15/2011
L6666.0-11	CRUX SUBSURFACE, INC.	JROE PERMIT NCTD SDG&E ROSE CANYON	(\$500.00)	7/15/2011
M6687.0-12	BOB STALL CHEVROLET	LEASE AGREEMENT	(\$1,040.00)	7/15/2011
T0034.4-90	SAN DIEGO TROLLEY, INC.	OPERATING AND LICENSE AGREEMENT	\$0.00	7/15/2011
L6653.1-11	PAR ELECTRIC	JROE PERMIT SDG&E-CARROLL CANYON	\$0.00	7/18/2011
L4604.0-11	BWM, INC.	ROE PERMIT ELECTRA BLDG COMPLEX	(\$1,000.00)	7/19/2011
L6667.0-11	TY LIN INTERNATIONAL	JROE PERMIT SANDAG DESIGN MID COAST	\$0.00	7/19/2011
L1030.0-12	HOSTELLING INTERNATIONAL	ROE-MIDNIGHT MADNESS BIKE RUN	(\$500.00)	8/1/2011
G1140.1-08	MICHAEL-ALLEN & ASSOCIATES	PROVIDE VEHICLE ADVERTSING	\$0.00	8/2/2011
G0930.16-04	SANDAG	AMEND MASTER MOU W/SANDAG NCTD-SORRENTO	\$0.00	8/8/2011
S200-12-495	BUREAU VERITAS NORTH AMERICA	ROE PERMIT S YSIDRO SO LINE RAIL	\$0.00	8/8/2011
S200-12-496	UNDERGROUND SOLUTIONS, INC	ROE PERMIT S YSIDRO SO LINE RAIL	\$0.00	8/8/2011
S200-12-499	PALM ENGINEERING CONST. INC.	ROE PERMIT BAYSHORE BIKEWAY PROJECT	\$0.00	8/8/2011
L0971.1-10	SANDAG	AMENDMENT 1 LEASE 9TH FLOOR MILLS BLDG	(\$2,040.00)	8/10/2011
S200-12-498	SD COUNTY BICYCLE COALITION	ROE PERMIT BIKE THE BAY	(\$500.00)	8/10/2011

**PURCHASE ORDERS**

<i>DATE</i>	<i>Organization</i>	<i>Subject</i>	<i>AMOUNT</i>
7/25/2011	EMC CORPORATION	EMC TECH SUPPORT SVCS	\$25,341.90
7/25/2011	PHONE SUPPLEMENTS	WIRELESS HEADSET W0200	\$257.83
7/25/2011	PIXEL IMAGING MEDIA	GASLAMP STATION SHELTER WRAP & SIGN	\$6,580.51
7/25/2011	ADDONS INC	UP TO 100 HRS OF SUPPORT -12/31/11	\$14,000.00
7/25/2011	RELIABLE APPLIANCE SVC INC	A/C/ UNIT 3 TON R-410A 13 SEER SIDE	\$4,895.00
7/25/2011	NUMARA	WEB SURVEY MODULE AND MAINT	\$1,502.05
7/25/2011	DELL COMPUTER CORP	OPTIPLEX 380 E5800 RAM 4GB HD 250GB	\$5,582.05
7/25/2011	VANGENT INC	READING INDEX - 12 20475060	\$600.54
7/25/2011	ONTIRA	ANNUAL SUPPORT SOFTWARE 7/11-6/12	\$13,050.00
7/25/2011	BROWN & BIGELOW	MTS ANNIVERSARY LAPEL PINS	\$4,952.81

**WORK ORDERS**

<i>Doc #</i>	<i>Organization</i>	<i>Subject</i>	<i>Amount</i>	<i>Day</i>
G1246.0-09.09.10	DAVID EVANS AND ASSOCIATES	DESIGN FOR LRV WHEEL TRUING MACHING	\$77,236.06	7/15/2011
G1246.0-09.09.12	DAVID EVANS & ASSOC	INSPECTION & DESIGN HVAC QUALCOMM	\$25,224.25	7/18/2011
G1386.0-11.11.01	PGH WONG ENGINEERING	GEN. CONSTRUCTION SUPPORT FOR ROW	\$25,000.00	7/20/2011
G1386.0-11.11.02	PGH WONG ENGINEERING	GEN. CONSTRUCTION SUPPORT FOR SDAE	\$25,000.00	7/20/2011
G1386.0-11.11.03	PGH WONG ENGINEERING	LABOR COMPLIANCE SUPPORT SERVICES	\$25,000.00	7/20/2011
G1386.0-11.11.04	PGH WONG ENGINEERING, INC.	ROADWAY WORKER PROTECTION TRAINING	\$25,000.00	7/20/2011
G1245.0-09.02.2	KIMLEY-HORN & ASSOC.	SURVEYING ON-CALL SERVICES	\$20,000.00	8/10/2011