

Agenda

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

9:00 a.m.

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

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

ACTION RECOMMENDED

1. Roll Call
2. Approval of Minutes - September 18, 2014 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

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>Adoption of the 2015 San Diego Metropolitan Transit System (MTS) Executive Committee and Board of Directors Meeting Schedule</u>
Action would adopt the 2015 Executive Committee and Board of Directors meeting schedule. | Adopt |
| 7. | <u>Number Not Used</u> | |
| 8. | <u>Adoption of Amended 2014 Conflict of Interest Code</u>
Action would: (1) adopt Resolution No. 14-12 amending the MTS Conflict of Interest Code pursuant to the Political Reform Act (PRA) of 1974; (2) adopt the amended 2014 MTS Conflict of Interest Code; and (3) forward the amended 2014 MTS Conflict of Interest Code to the County of San Diego (the designated code-reviewing body). | Adopt |
| 9. | <u>Investment Report - August 2014</u> | Information |
| 10. | <u>Centralized Train Control (CTC): SDSU Fire Life Panel System Upgrade and Technical Support - Addendum 17 Project Scope of Work Amendment 24.1</u>
Action would approve an amendment to Addendum 17 Project Scope of Work (MTS Document No. G0930.17-04.24.1) for the flagging and Construction Management services for the SDSU Fire Life Panel System Upgrade project. | Approve |
| 11. | <u>Procurement and Installation of Replacement Coupler and Draft Gear for SD-100 Light Rail Vehicles (LRV) - Contract Award</u>
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L1192.0-14 with Dellner, Inc. for the procurement and installation of 104 buffer couplers, plus four spare coupler and draft gears for SD-100 LRVs. | Approve |
| 12. | <u>Green Line Closed-Circuit Television (CCTV) System Upgrades - Contract Award</u>
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWL155.0-14 with Kratos Public Safety & Security Solutions, Inc. (Kratos) for the procurement and installation of MTS Green Line CCTV systems upgrades. | Approve |
| 13. | <u>Siemens Industry, Inc. - 11th Amendment to Contract No. L0914.0-10 - Procurement of Ultrashort Low-Floor Vehicles</u>
Action would authorize the Chief Executive Officer to execute the 11th Amendment to MTS Doc. No. L0914.0-10 documenting contract close out agreements and authorizing a one-time partial release of retention. | Approve |
| 14. | <u>Revisions to Board Policy No. 51 Regarding Claims Against the San Diego Metropolitan Transit System, a California Public Agency, or its Subsidiaries, San Diego Transit Corporation or San Diego Trolley, Inc.</u>
Action would approve and adopt the updated Board Policy No. 51. | Approve |
| 15. | <u>Clarifier Waste Transportation and Recycling Services - Contract Award</u>
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWG157.0-14 with Asbury Environmental Services for the provision of clarifier waste removal, transportation and recycling services. | Approve |
| 16. | <u>San Ysidro Radio Tower Lease with the City of San Diego</u>
Action would authorize the CEO to execute MTS Doc. No. G1757.0-15 with the City of San Diego for a lease of space at their Moody Canyon radio site in San Ysidro. | Approve |

CLOSED SESSION

- | | | |
|-----|---|--------------------|
| 24. | <u>CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54956.8;</u>
<u>Property:</u> 8650 Tech Way, San Diego, California (Assessor Parcel Nos. 369-220-85)
<u>Agency Negotiators:</u> Paul Jablonski, Chief Executive Officer; Karen Landers, General Counsel; and Tim Allison, Manager of Real Estate Assets
<u>Negotiating Parties:</u> Excel Hotel Group
<u>Under Negotiation:</u> Price and Terms of Payment | Possible
Action |
|-----|---|--------------------|

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS

- | | | |
|-----|---|---------|
| 30. | <u>Amendments to Ordinance No. 4, Establishing a Metropolitan Transit System Fare-Pricing Schedule (Karen Landers)</u>
Action would: (1) Read the title of Ordinance No. 4, An Ordinance Establishing a Metropolitan Transit System Fare-Pricing Schedule; (2) Waive further readings of the ordinance; (3) Adopt the proposed ordinance amendments; and (4) Direct publication of an ordinance summary. | Approve |
| 31. | <u>Amended and Restated MTS-BNSF-NCTD San Diego Subdivision Shared-Use Agreement (Karen Landers)</u>
Action would: (1) Approve the Amended and Restated Shared-Use Agreement between MTS, Burlington Northern Santa Fe (BNSF), and North County Transit District (NCTD); and (2) Authorize the Chief Executive Officer and/or the General Counsel to make minor, non-material changes to the document prior to execution by all parties. | Approve |

REPORT ITEMS

- | | | |
|-----|---|-------------|
| 45. | <u>Pacific Imperial Railroad (PIR) Desert Line Agreement - Status Update (Karen Landers)</u> | Information |
| 46. | <u>San Diego Transit Corporation (SDTC) Pension Investment Status (Larry Marinesi and Jeremy Miller, Representative from RVK)</u> | Information |
| 47. | <u>Semi - Annual Security Report (January 1, 2014 through June 30, 2014) (Bill Burke)</u> | Information |
| 48. | <u>Operations Budget Status Report for August 2014 (Luke Kromer)</u> | 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. Additional Public Comments Not on the Agenda
If the limit of 5 speakers is exceeded under No. 3 (Public Comments) on this agenda, additional speakers will be taken at this time. If you have a report to present, please furnish a copy to the Clerk of the Board. Subjects of previous hearings or agenda items may not again be addressed under Public Comments.
65. Next Meeting Date: November 20, 2014
66. Adjournment

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

MINUTES

September 18, 2014

1. Roll Call

Chairman Mathis called the Board meeting to order at 9:00 a.m. A roll call sheet listing Board member attendance is attached.

31. Amended and Restated MTS-BNSF-NCTD San Diego Subdivision Shared-Use Agreement (Taken Out of Order)

Chairman Mathis informed the Board that agenda item number 31 would be deferred to a later meeting date.

2. Approval of Minutes

Mr. McClellan moved to approve the minutes of the July 17, 2014, MTS Board of Directors meeting. Mr. Minto seconded the motion, and the vote was 8 to 0 in favor with Messrs. Alvarez, Cunningham, Roberts and Misses Bragg, Salas and Zapf absent, and with Ms. Cole abstaining.

3. Public Comments

John Wood – Mr. Wood stated that the buses are blocking the crosswalk at Main Street and Broadway in Lemon Grove. He also said there is still no handicap access to the store at Lemon Grove Depot. Mr. Wood asked for MTS vehicles to not park on the promenade. He also asked for MTS officials to start conducting sweeps at other stations other than the Lemon Grove Depot station.

Maria Cortez – Ms. Cortez asked how she can get her item regarding the Youth Bus Pass put on the Board agenda for discussion.

Chairman Mathis stated that the Youth Bus Pass item is an action that is currently in progress and there is nothing to discuss at this time.

Mr. Gloria commented for clarification that he, Mr. Roberts and other Board members were working, outside of MTS, to see how they could potentially fill the financial gap between the monies that were not utilized from last year, and the numbers needed to have a statistically significant sample to prove that the program works.

Ms. Cortez thanked all of the Board members for their help. She also invited MTS to come on a tour with Mid-City CAN to teach the students the rights and responsibilities of riding public transportation.

CONSENT ITEMS

6. 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 15, 2014
7. Radio Communications Room Console Furniture - Procurement and Installation Services - Contract Award
Action would authorize the Chief Executive Officer (CEO) to: (1) execute MTS Doc. No. PWB156.0-14 with Watson Dispatch for Radio Communications Room Console Furniture for Procurement and Installation Services; and (2) approve a project contingency of 10 percent of the contract amount.
8. Transit Bus Tires - Sole Source Purchase Order
Action would authorize the CEO to issue a purchase order with The Goodyear Tire and Rubber Company (Goodyear) for the purchase of 228 transit bus tires.
9. Procurement and Installation of Dispatch Consoles and Radios - Contract Award
Action would authorize the CEO to: (1) execute MTS Doc. No. PWG148.0-14 with Mobile Relay Associates (MRA) for the procurement and installation of dispatch consoles and radios, and the provision of radio airtime services for a five-year base period with five one-year option periods (for a total of 10 years); and (2) exercise each option year at the CEO's discretion.
10. San Diego Metropolitan Transit System (MTS) Bus Rapid Transit (BRT) Station Maintenance - Contract Amendment
Action would authorize the CEO to execute Amendment No. 1 to MTS Doc. No. G1658.0-14 with ISS Facility Services, Inc. (ISS) to accommodate unforeseen additional expenditures associated with maintenance services for nine additional BRT stations.
11. Trolley On-Board Video Surveillance System - Contract Amendment
Action would: (1) ratify MTS Doc. No. L0955.3-10 with UTC Fire and Security for the purchase of wireless equipment for 57 SD8 Light Rail Vehicles (LRV), which was previously executed pursuant to the CEO's authority; and (2) authorize the CEO to execute Amendment No. 4 to allow for the reimbursement to UTC Fire and Security for three project performance bond extension periods covering April 20, 2012 - April 20, 2015.
12. Federal Communications Commission (FCC) Mandated 800 MHz Band Reconfiguration - Implementation Phase Contract Awards
Action would authorize the CEO to: (1) execute MTS Doc. No. G1738.0-15 with Ross & Baruzzini (R&B) for project planning and technical support for the implementation phase of the project for the not-to-exceed amount of \$149,930.00; (2) execute MTS Doc. No. G1739.0-15 with Day Wireless Systems (DWS) for hardware reprogramming services for the implementation phase of the project for the not-to-exceed amount of \$180,180.00; and (3) execute MTS Doc. No. G1740.0-15 with Xerox Transport Solutions, Inc. (Xerox) for back-office and vehicle firmware reprogramming for the implementation phase of the project for the not-to-exceed amount of \$552,483.80.
13. Fiscal Year 2015 State Transit Assistance Claim
Action would adopt Resolution No. 14-11, approving the fiscal year (FY) 2015 State Transit Assistance (STA) claim.

14. San Diego State University (SDSU) Station Electrical Room Fire Suppression System - Contract Award
Action would authorize the CEO to execute MTS Doc. No. PWL154.0-14 with Schmidt Fire Protection, for the procurement and installation of the Sapphire fire suppression system at the SDSU station.
15. Solar Powered Rail Lubricators - Contract Award
Action would authorize the CEO to execute MTS Doc. No. L1198.0-14 with Zemarc Corporation for the provision of up to sixteen solar powered rail lubricator kits.
16. Investment Report - June 2014
Informational only.
17. Investment Report - July 2014
Informational only.
18. Unallocated Transportation Development Act (TDA) Funds for Transit-Related Projects
Action would approve the use of \$15,000 in unallocated TDA funds currently held by the County of San Diego. These TDA funds, along with the \$141,610 that the City of Santee already received to date, will allow for the installation of five bus shelters.
19. Unallocated Transportation Development Act (TDA) Funds for Transit-Related Projects
Action would approve the use of \$177,800 in unallocated TDA funds currently held by the County of San Diego. These TDA funds will allow for the purchase/refurbish of CNG station equipment and rehabilitation of transit facilities for the City of Chula Vista.
20. Staff Attorney - Regulatory Compliance Position
Action would authorize the CEO to add one (1) Staff Attorney - Regulatory Compliance to the FY15 budget, increasing total Full Time Equivalent (FTE) positions from 0 to 1.
21. Purchase of Head Lease Rights to 52 Light Rail Vehicles From Wells Fargo Bank and Utrecht-America Finance Co.
Action would authorize and direct staff to take all actions necessary to execute the purchase of the Head Lease Rights to 52 light rail vehicles as set forth in the Participation Agreement and other leverage lease documents executed by MTS on December 15, 1995.

Board Member Comments

Ms. Salas requested to pull consent agenda item number 6 for further discussion. Chairman Mathis stated they would discuss agenda item number 6 in further detail after voting for the remaining consent agenda items.

Action on Consent Agenda Item Nos. 7-21

Mr. Cunningham moved to approve Consent Agenda Item Nos. 7 – 21. Ms. Cole seconded the motion, and the vote was 13 to 0 in favor with Mr. Alvarez and Mr. Roberts absent.

Board Member Comments

Ms. Salas read from the April 15, 2014 SD&AE Railway Company Board meeting minutes. She requested more details and clarification on what the challenges are in meeting the deadlines with the Desert Line. Ms. Salas also requested that any future Desert Line update agenda items take place at the beginning of Board meetings.

Mr. Jablonski stated that MTS recently approved the submission of the reconstruction plan milestone in the agreement with Pacific Imperial Railroad (PIR). The approval of the reconstruction plan sets up following milestones. The initial repairs for the Desert Line need to be completed by September 1, 2015 and PIR will then have 30 days to operate a test train on the Desert Line. He also stated that limited operations will need to be in place by December 2015.

Chairman Mathis stated that this item will be brought back to future Board meetings as an information item.

Mr. Alvarez commented that he would like to recommend a sub-committee being developed to focus on this matter further.

Ms. Salas agreed that she would also like to see a sub-committee created for this matter.

Chairman Mathis stated that the Executive Committee currently monitors the items relating to the Desert Line. He said a discussion regarding a sub-committee may continue when the item is agendaized at the next meeting.

Mr. Jablonski stated that this item was on the agenda for the July 17, 2014 Board meeting and the August 22, 2014 Executive Committee meeting. He stated that he has been in numerous meetings with officials from the City of Tecate and the City of Tijuana; developers of the intermodal freight site in Valle Redondo; Fernando Beltran, the leading shareholder of Baja Rail; and a public official from the County of Mexico on the cabinet of the President. He stated that all of these meetings are to work on pushing this project along. Mr. Jablonski reminded the Board that the contract is in good standing. He also stated that he recently met with Representative Hunter to discuss this matter. Lastly, he briefly reviewed the history of the Desert Line, how MTS was able to secure the property of the Desert Line, and the lease requirements with PIR.

Action on Consent Agenda Item No. 6

Ms. Salas moved to approve Consent Agenda Item No. 6. Mr. Minto seconded the motion, and the vote was 14 to 0 in favor with Mr. Roberts absent.

CLOSED SESSION

24. Closed Session Items

The Board convened to Closed Session at 9:26 a.m.

- a. CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – Existing Litigation Pursuant to California Government Code Section 54956.9(d)(1): Rodolfo Martinez v. SDTI (WCAB Case Numbers: ADJ8586853 and ADJ4054244)
- b. CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – Existing Litigation Pursuant to California Government Code Section 54956.9(d)(1): Jose Serrano v. SDTC (WCAB Case Number: ADJ2969216)

The Board reconvened to Open Session at 9:40 a.m.

Oral Report of Final Actions Taken in Closed Session

Karen Landers, General Counsel, reported the following:

- a. The Board received a report and gave authorization to legal counsel.
- b. The Board received a report and gave authorization to legal counsel.

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS:

30. Amendments to Ordinance No. 4, Establishing a Metropolitan Transit System Fare-Pricing Schedule (Karen Landers)

Karen Landers, General Counsel, provided a presentation on the proposed amendments to Ordinance No. 4. She stated that the minor amendments to Ordinance No. 4 include similar changes to the Comprehensive Fare Ordinance approved by SANDAG on July 25, 2014. This includes no change in the fare pricing schedule, recognizing the UPass Agreements, adding the Rapid brand name, and other minor, non-substantive changes. The other minor change includes changing the term “curb-to-curb” to “origin-to-destination” in the definition of ADA Complementary Paratransit Services.

Ms. Bragg asked if MTS has any other entities included in the UPass other than UCSD. Mr. Jablonski stated that we do provide semester passes at SDSU, however no other institution has implemented what UCSD has done. He stated that the UCSD students passed this referendum at approximately 72%.

Action Taken

Ms. Bragg moved to (1) read the title of Ordinance No. 4, An Ordinance Establishing a Metropolitan Transit System Fare-Pricing Schedule; (2) waive further readings of the ordinance; (3) introduce the ordinance for further consideration at the next Board meeting on October 9, 2014; and (4) direct publication of an ordinance summary. Mr. Gastil seconded the motion, and the vote was 14 to 0 in favor with Mr. Roberts absent.

32. 2014 Mills Building Board Room Improvement Project (Jeff Stumbo)

Jeff Stumbo, Director of Human Resources and Labor Relations, provided a presentation regarding the proposed Board Room improvement project. He reminded the Board that this item was previously discussed at the June 19, 2014 Board meeting. Mr. Stumbo reviewed the proposed changes, now called Option A, including updating the audio and visual needs, installing new TV monitors, carpet, paint, wallpaper, blinds and acoustic wall panels. He stated that the cost to perform the Option A remodel is approximately \$122,000.00. Mr. Stumbo noted that after the June 19, 2014 Board meeting, the Board members asked for staff to research adding more seating to increase audience capacity. He stated that this would be part of the Option B remodel, which also includes all aspects of Option A. Mr. Stumbo said the Board room furniture would need to be replaced to accommodate an increased audience capacity. The audience capacity would increase from 51 seats to 81 seats. Mr. Stumbo said the cost to perform the Option B remodel is approximately \$285,359.00.

Mr. Gloria stated that he believes the audience attendance will continue to grow in future years. He stated that he believes Option B is a good, long term investment.

Mr. Gastil stated that he thinks 81 seats will help the problem, but may not solve it entirely. Mr. Jablonski stated that staff is also looking to add more seats on the side areas of the room.

Action Taken

Mr. Gloria moved to authorize Option B, full remodel renovation option of the 10th Floor Board Room through Colliers International, the Mills Building on-site property management company. Ms. Zapf seconded the motion, and the vote was 14 to 0 in favor with Mr. Roberts absent.

REPORT ITEMS

45. 2014 Comic-Con Service Recap (Tom Doogan & Rob Schupp)

Tom Doogan, Special Events Coordinator, and Rob Schupp, Director of Marketing and Communications, provided a presentation on Comic-Con 2014. Mr. Doogan described the event overview, service overview, pass/ticket sales summary, commemorative passes, and MTS mTicket sales. He also reviewed ridership, revenue, stations used, and the breakdown of event costs. Mr. Schupp reviewed the advertising assets utilized during Comic-Con 2014. He stated that the Gaslamp Quarter station was the central area and where NBC set up. Mr. Schupp also discussed the trolley wraps, station banners and ad kiosks. Lastly, Mr. Doogan discussed the challenges that will be addressed at future Comic Con events.

Mr. Gloria asked what the revenue was to MTS from advertising. Mr. Schupp stated that MTS netted approximately \$200,000.00 and the gross amount was approximately \$318,000.00. Mr. Gloria asked if there is coordination with downtown property owners to maximize the advertising benefit. Mr. Schupp stated that there is coordination with Comic-Con on advertising efforts. Mr. Gloria asked for consideration to work with the downtown property owners for future Comic-Con events. Mr. Jablonski stated that MTS would like to maximize the revenue; however there could be obstacles between Comic-Con, the City of San Diego and MTS.

Ms. Zapf inquired what the expenses were compared to previous years. Mr. Doogan stated that the expenses did go up, however the net revenue also increased.

Mr. Alvarez asked what the overall total revenue and total expenses were for Comic-Con. Mr. Schupp stated that there was approximately \$546,000.00 in revenue, and another \$200,000.00 in advertising revenue. Mr. Doogan stated that the operations expense cost was approximately \$299,000.00.

46. Operations Preliminary Budget Status Report for Fiscal Year 2014 (Mike Thompson & Luke Kromer)

Mike Thompson, Director of Financial Planning and Analysis, provided a presentation on the operations preliminary budget status report for fiscal year 2014. He discussed the combined MTS transit operations comparison to budget; total operating revenue less expenses; non-operating revenues including sales tax revenue; total revenues less expenses; and the on-going concerns.

Ms. Zapf inquired as to why MTS is expecting a rise in passenger levels. Mr. Thompson replied, stating that MTS is adding services relating to BRT and also projects a 2% growth each year due to historic trends.

60. Chairman's Report

None.

61. Audit Oversight Committee Chairman's Report

Mr. Ewin stated that the auditors are reviewing the pension audit files. He said the next Audit Oversight Committee meeting will be October 23, 2014 and the goal is to have the CAFR completed by November 2014.

62. Chief Executive Officer's Report

Mr. Jablonski stated that he went to Washington D.C. to meet with the Federal Transit Administration on the Mid-Coast project. He stated that MTS will be lobbying to get Mid-Coast funded in the President's budget, and that Mid-Coast should rate higher for fiscal year 2016. Mr. Jablonski also attended an APTA Executive Committee meeting on September 11, 2014.

63. Board Member Communications

Ms. Zapf stated that while she was at the Chamber of Commerce meeting in Washington D.C., she heard Senator Feinstein say that she was going to help to make sure the Mid-Coast project would be added in the fiscal year 2016 budget.

Mr. Cunningham commented on the ePass use at the San Diego Charger's game last Sunday and stated that it looked to be going very well.

64. Additional Public Comments on Items Not on the Agenda

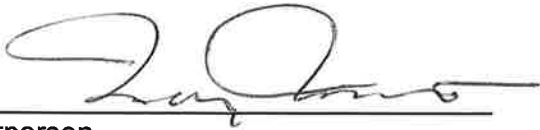
Clive Richard – Mr. Richard did not speak.

65. Next Meeting Date

The next regularly scheduled Board meeting is October 9, 2014.

66. Adjournment

Chairman Mathis adjourned the meeting at 10:33am.



Chairperson
San Diego Metropolitan Transit System

Filed by:



Clerk of the Board
San Diego Metropolitan Transit System

Approved as to form:



General Counsel
San Diego Metropolitan Transit System

Attachment: Roll Call Sheet

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS
ROLL CALL

MEETING OF (DATE): September 18, 2014

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

RECESS: _____

RECONVENE: _____

CLOSED SESSION: 9:26 a.m.

RECONVENE: 9:40 a.m.

PUBLIC HEARING: _____

RECONVENE: _____

ORDINANCES ADOPTED: _____

ADJOURN: 10:33 a.m.

BOARD MEMBER	(Alternate)	PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
ALVAREZ	<input checked="" type="checkbox"/> (Zapf) <input type="checkbox"/>	9:10 a.m.	10:33 a.m.
BRAGG	<input checked="" type="checkbox"/> (Bilbray) <input type="checkbox"/>	9:04 a.m.	10:33 a.m.
COLE	<input checked="" type="checkbox"/> (Zapf) <input type="checkbox"/>	9:00 a.m.	10:33 a.m.
CUNNINGHAM	<input checked="" type="checkbox"/> (Mullin) <input type="checkbox"/>	9:04 a.m.	10:33 a.m.
EMERALD	<input type="checkbox"/> (Zapf) <input checked="" type="checkbox"/>	9:04 a.m.	10:33 a.m.
EWIN	<input checked="" type="checkbox"/> (Arapostathis) <input type="checkbox"/>	9:00 a.m.	10:33 a.m.
GASTIL	<input checked="" type="checkbox"/> (Jones) <input type="checkbox"/>	9:00 a.m.	10:33 a.m.
GLORIA	<input checked="" type="checkbox"/> (Zapf) <input type="checkbox"/>	9:00 a.m.	10:33 a.m.
MATHIS	<input checked="" type="checkbox"/>	9:00 a.m.	10:33 a.m.
MCCLELLAN	<input checked="" type="checkbox"/> (Ambrose) <input type="checkbox"/>	9:00 a.m.	10:33 a.m.
MINTO	<input checked="" type="checkbox"/> (McNelis) <input type="checkbox"/>	9:00 a.m.	10:33 a.m.
OVROM	<input checked="" type="checkbox"/> (Denny) <input type="checkbox"/>	9:00 a.m.	10:33 a.m.
RIOS	<input checked="" type="checkbox"/> (Sotelo-Solis) <input type="checkbox"/>	9:00 a.m.	10:33 a.m.
ROBERTS	<input type="checkbox"/> (Cox) <input type="checkbox"/>		
SALAS	<input checked="" type="checkbox"/> (Ramirez) <input type="checkbox"/>	9:06 a.m.	10:33 a.m.

SIGNED BY THE CLERK OF THE BOARD:



CONFIRMED BY THE GENERAL COUNSEL:





AGENDA ITEM NO.

3

REQUEST TO SPEAK FORM

ORDER REQUEST RECEIVED

1

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

1. INSTRUCTIONS

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

(PLEASE PRINT)

DATE	10/30/14		
Name	MAT VAUGHAN		
Address	3700 30th St, SD, CA 92104		
Telephone	619 887-0058		
Organization Represented	ALLIANCE SD		
Subject of Your Remarks	MTS AD POLICY		
Regarding Agenda Item No.			
Your Comments Present a Position of:	<input type="checkbox"/>	<input checked="" type="checkbox"/> SUPPORT	<input type="checkbox"/> OPPOSITION

2. TESTIMONY AT NOTICED PUBLIC HEARINGS

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

3. DISCUSSION OF AGENDA ITEMS

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

4. GENERAL PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA

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

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



AGENDA ITEM NO.

3

REQUEST TO SPEAK FORM

ORDER REQUEST RECEIVED

2

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

1. INSTRUCTIONS

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(PLEASE PRINT)

DATE	10/30/14
Name	Andrea Guerrero
Address	3750 30th St.
Telephone	619 405-0620
Organization Represented	Alliance San Diego
Subject of Your Remarks	MTS Ad Policy
Regarding Agenda Item No.	
Your Comments Present a Position of:	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSITION

2. TESTIMONY AT NOTICED PUBLIC HEARINGS

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

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

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

Agenda Item No. 6

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

ADOPTION OF THE 2015 SAN DIEGO METROPOLITAN TRANSIT SYSTEM (MTS)
EXECUTIVE COMMITTEE AND BOARD OF DIRECTORS MEETING SCHEDULE

RECOMMENDATION:

That the Board of Directors adopt the 2015 Executive Committee and Board of Directors meeting schedule (Attachment A).

Budget Impact

None.

DISCUSSION:

The MTS Board of Directors annually adopts its meeting schedule for the next calendar year. Attachment A is the proposed 2015 Executive Committee and Board of Directors meeting schedule for MTS.

The meeting schedule reflects Executive Committee and Board of Directors meetings throughout the 2015 calendar year. Meetings are scheduled to primarily occur on the second, third or fourth Thursdays of the month with some exceptions. The schedule has been set in anticipation of avoidance of conflicts with city council legislative recesses; the League of California Cities Annual Meeting; and Thanksgiving and Christmas holidays.



Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. 2015 MTS Executive Committee and Board of Directors Meeting Schedule





2015
SAN DIEGO METROPOLITAN TRANSIT SYSTEM

JOINT BOARD OF DIRECTORS AND
EXECUTIVE COMMITTEE MEETINGS
James R. Mills Building
1255 Imperial Avenue, 10th Floor

Executive Committee Meetings Thursdays at 9:00 a.m.	Board Meetings Thursdays at 9:00 a.m.
January 22	January 29
February 5	February 12
March 5	March 12 (Finance Workshop)
April 9	April 16 (Finance Workshop)
May 7	May 14 (Finance Workshop)
June 11	June 18 (Finance Workshop, if necessary)
July 9	July 16
August 20	August 27
September 10	September 17
October 15	October 29
November 5	November 12
December 3	December 10

* The League of California Cities is holding the 2015 Annual Conference & Expo September 30 – October 2. Meetings in September have been scheduled accordingly.

* The APTA 2015 Annual meeting will be October 4-7.

DRAFT 2015 MTS BOARD & EC MEETING SCHEDULE - 1.doc





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

Agenda Item No. 7

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

This number not used.

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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. 8

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

ADOPTION OF AMENDED 2014 CONFLICT OF INTEREST CODE

RECOMMENDATION:

That the Board of Directors:

- 1) adopt Resolution No. 14-12 (Attachment A) amending the MTS Conflict of Interest Code pursuant to the Political Reform Act (PRA) of 1974;
- 2) adopt the amended 2014 MTS Conflict of Interest Code (in substantially the same format as Attachment B); and
- 3) forward the amended 2014 MTS Conflict of Interest Code to the County of San Diego (the designated code-reviewing body).

Budget Impact

None.

DISCUSSION:

As a public agency, MTS is required to comply with the provisions of the PRA, which mandates that public agencies maintain a Conflict of Interest Code for each of its publicly elected officials as well as certain designated staff. Every other year, MTS is required by the PRA to revise and update its Conflict of Interest Code. Attachment B is the proposed amended 2014 Conflict of Interest Code incorporating the model provisions as drafted by the California Fair Political Practices Commission (FPPC).



The proposed 2014 Conflict of Interest Code contains the model terms and conditions as well as:

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

General Counsel is requesting that the Board of Directors adopt Resolution No. 14-12 amending the MTS Conflict of Interest Code pursuant to the Political Reform Act of 1974; adopt the 2014 MTS Conflict of Interest Code in substantially the same format as attached; and forward the 2014 MTS Conflict of Interest Code to the County of San Diego – the designated code-reviewing body.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Karen Landers, 619.557.4512, Karen.Landers@sdmts.com

Attachments: A. Resolution No. 14-12
B. Proposed Amended Appendix for 2014 Conflict of Interest Code
C. Existing 2012 Conflict of Interest Code

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

RESOLUTION NO. 14-12

A Resolution of the Board of Directors of the San Diego Metropolitan Transit System Adopting
An Amended Conflict of Interest Code Pursuant to the Political Reform Act of 1974

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

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

WHEREAS, the Board of Directors adopted a Conflict of Interest Code (the "Code") which was amended on September 20, 2012, in compliance with the Act; and

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

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the Board of Directors of, the proposed amended Conflict of Interest Code was provided each designated employee and publicly posted for review at the offices of MTS; and

WHEREAS, a public meeting was held upon the proposed amended Conflict of Interest Code at a regular meeting of the Board of Directors on October 30, 2014, at which all present were given an opportunity to be heard on the proposed amended Conflict of Interest Code.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. All previous Conflict of Interest Codes adopted by the Board of Directors are hereby rescinded.

SECTION 2. The Board of Directors does hereby adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the General Counsel and available to the public for inspection and copying during regular business hours.

SECTION 3. The said amended Conflict of Interest Code shall be submitted to the Board of Supervisors of the County of San Diego for approval.

SECTION 4. The said amended Conflict of Interest Code shall become effective immediately after the Board of Supervisors approves the proposed amended Code as submitted.

PASSED, APPROVED AND ADOPTED, by the Board of Directors this 30th day of October 2014 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

Attachment: Amended Conflict of Interest Code

LAW OFFICES OF
BEST BEST & KRIEGER LLP

CONFLICT OF INTEREST CODE

OF THE

**SAN DIEGO METROPOLITAN
TRANSIT SYSTEM**

LAW OFFICES OF
BEST BEST & KRIEGER LLP

CONFLICT OF INTEREST CODE
OF THE
SAN DIEGO METROPOLITAN TRANSIT SYSTEM

(Amended October 30, 2014)

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

All officials and designated positions shall file their statements of economic interests with MTS's **General Counsel** as MTS's Filing Officer. The **General Counsel** shall make and retain a copy of all statements filed by Members and Alternates of the Board of Directors, Chief Executive Officer and the Chief Financial Officer, and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of San Diego. The **General Counsel** shall retain the originals of the statements filed by all other designated positions. The **General Counsel** will make all retained statements available for public inspection and reproduction during regular business hours (Gov. Code Section 81008).

LAW OFFICES OF
BEST BEST & KRIEGER LLP

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

(Amended October 30, 2014)

PART "A"

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

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

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

Board of Directors and Alternates

Chief Executive Officer

Chief Financial Officer

Investment Consultant

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

LAW OFFICES OF
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DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Administrative Assistant/Copy Center Coordinator	4
Advertising Specialist	5
Applications Development Manager	5
Assistant Chief Technology Officer	5
Assistant Manager of Maintenance	5
Assistant Manager of Stores	5
Assistant Right-of-Way Agent	1, 2
Assistant Transportation Operations Specialist	2, 5
Budget Manager	1, 2
Business Systems Analyst	5
Buyer	4
Capital Grants Supervisor	2, 4
Chief of Staff	1
Chief Operating Officer – Rail	1
Chief Operating Officer – Transit Services	1
Chief Technology Officer	5
Communications Design Manager	5
Communications Designer	5
Controller	1, 2
Deputy Director of Transit Security	5

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<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Director of Financial Planning & Analysis	1, 2
Director of Fleet and Facility Maintenance	5
Director of Human Resources and Labor Relations	5
Director of Marketing & Communications	5
Director of Transit Operations	1
Director of Transit System Security	5
ERP Project Manager	4
Facilities Manager	5
Financial Analyst	4
General Counsel	1, 2
Human Resources Supervisor	5
Internal Auditor	4
Liability Claims Supervisor	1, 2, 7
Manager of BRT and East County Operations	8
Manager of Capital Projects	1, 2
Manager of Human Resources	5
Manager of Maintenance	5
Manager of Marketing	5
Manager of Paratransit Operations	5
Manager of Planning	1, 2
Manager of Procurement	4

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BEST BEST & KRIEGER LLP*

<u>DESIGNATED POSITIONS' TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES ASSIGNED</u>
Manager of Real Estate Assets	1, 2
Manager of Risk and Claims	1, 2, 7
Manager of Scheduling	5
Manager of South Bay Operations	8
Manager of Support Services	2, 3, 5
Materials Manager	4
Network Operations Manager	5
Procurement Specialist	4
Project Engineer, MTS Rail	1, 2
Quality Assurance Supervisor	5
Regulatory Enforcement Supervisor	6
Revenue Maintenance Supervisor	5
Revenue Manager (ALL)	5
Revenue Supervisor	5
Right-of-Way Engineer	1, 2
Senior Transit Planner/Rail Operations Analyst	5
Senior Transportation Planner	1, 2
Superintendent of LRV Maintenance	5
Superintendent of Transportation	5
Superintendent of Wayside Maintenance	5
Systems Engineer	1, 2

*LAW OFFICES OF
BEST BEST & KRIEGER LLP*

<u>DESIGNATED POSITIONS' TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES ASSIGNED</u>
Taxicab Administration Manager	5
Transit Asset Administrator	4
Worker's Compensation Analyst	7
Consultant and New Positions ²	

² Individuals serving as a Consultant defined in Regulation 18701, or in a new position created since this Code was last amended that makes or participates in making decisions shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The Chief Executive Officer may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.) The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

LAW OFFICES OF
BEST BEST & KRIEGER LLP

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.³ Such economic interests are reportable if they are either located in or doing business in the jurisdiction, are planning to do business in the jurisdiction, or have done business during the previous two years in the jurisdiction of MTS.

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

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

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

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by MTS.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, subject to the regulatory, permit, or licensing authority of the designated position's department, unit or division.

³ This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions of the position. (Reg. 18730.1)

LAW OFFICES OF
BEST BEST & KRIEGER LLP

Category 7: All investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, if such entities or sources have filed claims against MTS in the past 2 years, or have a claim pending before MTS.

Category 8: Disclose investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the geographical area of, and within two miles of, the designated position's assigned project area.

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LEGISLATIVE VERSION
(SHOWS CHANGES MADE)

CONFLICT OF INTEREST CODE
OF THE
SAN DIEGO METROPOLITAN
TRANSIT SYSTEM

CONFLICT OF INTEREST CODE

OF THE

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

(Amended ~~September 20, 2012~~ October 30, 2014)

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

All officials and designated positions shall file their statements of economic interests with MTS's **General Counsel** as MTS's Filing Officer. The **General Counsel** shall make and retain a copy of all statements filed by Members and Alternates of the Board of Directors, Chief Executive Officer and the Chief Financial Officer, and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of San Diego. The **General Counsel** shall retain the originals of the statements filed by all other designated positions. The **General Counsel** will make all retained statements available for public inspection and reproduction during regular business hours (Gov. Code Section 81008).

APPENDIX

CONFLICT OF INTEREST CODE OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM

(Amended ~~September 20, 2012~~ October 30, 2014)

EXHIBIT PART "A"

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

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

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

Board of Directors and Alternates

Chief Executive Officer

Chief Financial Officer

Investment Consultant

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

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DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Administrative Assistant/Copy Center Coordinator	4
Advertising Specialist	5
Applications Development Manager	5
Assistant Store <u>Manager of Stores</u>	5
Assistant <u>Chief</u> Technology Officer	5
<u>Assistant Manager of Maintenance</u>	<u>5</u>
Assistant Transportation Operations Specialist	2, 5
Budget Manager	1, 2
Business Systems Analyst	5
Buyer	4
<u>Capital Grants Supervisor</u>	<u>2, 4</u>
Chief of Staff	1
Chief Operating Officer – Rail	1
Chief Operating Officer – Transit Services	1
Chief Technology Officer	5
Communications Design Manager	5
Communications Designer	5
Contract Services Administrator <u>Manager of</u> <u>Paratransit Operations</u>	5
Controller	1, 2
Deputy Director —of Transit System <u>Security</u>	5

LAW OFFICES OF
BEST BEST & KRIEGER LLP

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Director of Financial Planning & Analysis	1, 2
Director of Human Resources and Labor Relations	5
Director of <u>Fleet and Facility</u> Maintenance	5
Director of Marketing & Communications	5
Director <u>Manager</u> of Planning	1, 2
Director <u>Manager</u> of Scheduling	5
Director of Transportation <u>Transit Operations</u>	1
<u>ERP Project Manager</u>	<u>4</u>
Facilities Manager	5
<u>Financial Analyst</u>	<u>4</u>
General Counsel	1, 2
Human Resources Supervisor	5
Internal Auditor	4
Liability Claims Adjuster <u>Supervisor</u>	1, 2, <u>7</u>
<u>Manager of BRT and East County Operations</u>	<u>8</u>
Manager of Capital Projects	1, 2
Manager of Claims and Liability <u>Risk and Claims</u>	1, 2, <u>7</u>
Manager of Human Resources	5
<u>Manager of Maintenance</u>	<u>5</u>
Manager of Marketing	5
Manager of Procurement	4

LAW OFFICES OF
BEST BEST & KRIEGER LLP

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Manager of Real Estate Assets	1, 2
<u>Manager of South Bay Operations</u>	<u>8</u>
Materials Manager	4
MTS Chief of Police/Director of Security <u>Director of</u> <u>Transit System Security</u>	5
Network Operations Manager	5
Procurement Specialist	4
<u>Project Engineer, MTS Rail</u>	<u>1, 2</u>
<u>Quality Assurance Supervisor</u>	<u>5</u>
Regulatory Enforcement Supervisor	6
Revenue Maintenance Supervisor	5
Revenue Manager (ALL) [position modified creating Supervisor]	5
<u>Revenue Supervisor</u>	<u>5</u>
<u>Assistant</u> Right-of-Way Agent	1, 2
Right-of-Way Engineer	1, 2
Senior Transit Operations Specialist <u>Planner/Rail</u> <u>Operations Analyst</u>	5
Senior Transportation Planner	1, 2
Superintendent of LRV Maintenance	5
Superintendent of Transportation	5
Superintendent of Wayside Maintenance	5
Systems Engineer	1, 2

LAW OFFICES OF
BEST BEST & KRIEGER LLP

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Taxicab Administration Manager	5
Transit Services Administrator <u>Manager of Support Services</u>	2, 3, 5
<u>Transit Asset Administrator</u>	<u>4</u>
<u>Worker's Compensation Analyst</u>	<u>7</u>

Consultant and New Positions²

² Individuals serving as a Consultant defined in Regulation 18701, or in a new position created since this Code was last amended that makes or participates in making decisions shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The Chief Executive Officer may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.). The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

EXHIBIT PART "B"**DISCLOSURE CATEGORIES**

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.³ Such economic interests are reportable if they are either located in or doing business in the jurisdiction, are planning to do business in the jurisdiction, or have done business during the previous two years in the jurisdiction of MTS.

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Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by MTS.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, subject to the regulatory, permit, or licensing authority of the designated position's department, unit or division.

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LAW OFFICES OF
BEST BEST & KRIEGER LLP

Category 7: All investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, if such entities or sources have filed claims against MTS in the past 2 years, or have a claim pending before MTS.

Category 8: Disclose investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the geographical area of, and within two miles of, the designated position's assigned project area.

LAW OFFICES OF
BEST BEST & KRIEGER LLP

CONFLICT OF INTEREST CODE

OF THE

**SAN DIEGO METROPOLITAN
TRANSIT SYSTEM**

LAW OFFICES OF
BEST BEST & KRIEGER LLP

CONFLICT OF INTEREST CODE
OF THE
SAN DIEGO METROPOLITAN TRANSIT SYSTEM

(Amended September 20, 2012)

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

All officials and designated positions shall file their statements of economic interests with MTS's **General Counsel** as MTS's Filing Officer. The **General Counsel** shall make and retain a copy of all statements filed by Members and Alternates of the Board of Directors, Chief Executive Officer and the Chief Financial Officer, and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of San Diego. The **General Counsel** shall retain the originals of the statements filed by all other designated positions. The **General Counsel** will make all retained statements available for public inspection and reproduction during regular business hours (Gov. Code Section 81008).

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

(Amended September 20, 2012)

EXHIBIT "A"

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

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

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

Board of Directors and Alternates

Chief Executive Officer

Chief Financial Officer

Investment Consultant

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

LAW OFFICES OF
BEST BEST & KRIEGER LLP

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Administrative Assistant/Copy Center Coordinator	4
Advertising Specialist	5
Applications Development Manager	5
Assistant Store Manager	5
Assistant Technology Officer	5
Assistant Transportation Operations Specialist	2, 5
Budget Manager	1, 2
Business Systems Analyst	5
Buyer	4
Chief of Staff	1
Chief Operating Officer – Rail	1
Chief Operating Officer – Transit Services	1
Chief Technology Officer	5
Communications Design Manager	5
Communications Designer	5
Contract Services Administrator	5
Controller	1, 2
Deputy Director – Transit System Security	5
Director of Financial Planning & Analysis	1, 2
Director of Human Resources and Labor Relations	5

**LAW OFFICES OF
BEST BEST & KRIEGER LLP**

<u>DESIGNATED POSITIONS' TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES ASSIGNED</u>
Director of Maintenance	5
Director of Marketing & Communications	5
Director of Planning	1, 2
Director of Scheduling	5
Director of Transportation	1
Facilities Manager	5
General Counsel	1, 2
Human Resources Supervisor	5
Internal Auditor	4
Liability Claims Adjuster	1, 2
Manager of Capital Projects	1, 2
Manager of Claims and Liability	1, 2
Manager of Human Resources	5
Manager of Marketing	5
Manager of Procurement	4
Manager of Real Estate Assets	1, 2
Materials Manager	4
MTS Chief of Police/Director of Security	5
Network Operations Manager	5
Procurement Specialist	4
Regulatory Enforcement Supervisor	6

**LAW OFFICES OF
BEST BEST & KRIEGER LLP**

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Revenue Maintenance Supervisor	5
Revenue Manager (ALL)	5
Right-of-Way Agent	1, 2
Right-of-Way Engineer	1, 2
Senior Transit Operations Specialist	5
Senior Transportation Planner	1, 2
Superintendent of LRV Maintenance	5
Superintendent of Transportation	5
Superintendent of Wayside Maintenance	5
Systems Engineer	1, 2
Taxicab Administration Manager	5
Transit Services Administrator	2, 3, 5

Consultant and New Positions²

² Individuals serving as a Consultant defined in Regulation 18701, or in a new position created since this Code was last amended that makes or participates in making decisions shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The Chief Executive Officer may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.). The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

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EXHIBIT "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.³

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

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

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

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by MTS.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, subject to the regulatory, permit, or licensing authority of the designated position's department, unit or division.

³ This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions of the position. (Reg. 18730.1)



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Agenda Item No. 9

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

OCTOBER 30, 2014

SUBJECT:

INVESTMENT REPORT – AUGUST 2014

INFORMATIONAL ONLY

Budget Impact

None.

DISCUSSION:

Attachment A comprises a report of MTS investments as of August 31, 2014. The combined total of all investments has increased month to month from \$177.9 million to \$231.2 million. This \$53.3 million increase is attributable to \$49.9 million in Federal Transit Administration (FTA) Preventative Maintenance and \$5.3 million in State Transit Assistance (STA) funding received in August, as well as normal timing differences in other payments and receipts.

The first column provides details about investments restricted for capital improvement projects and debt service, 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. These restricted funds will be liquidated to satisfy the outstanding debt obligation in full by the end of the calendar year 2015.

The second column, unrestricted investments, reports the working capital for MTS operations allowing payments for employee payroll and vendors' goods and services.



Paul Q. Jablonski
Chief Executive Officer

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

Attachment: A. Investment Report for August 2014



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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
August 31, 2014**

	Restricted	Unrestricted	Total	Average rate of return
Cash and Cash Equivalents				
JP Morgan Chase - concentration account	-	69,065,942	69,065,942	0.00%
Total Cash and Cash Equivalents	-	69,065,942	69,065,942	
Cash - Restricted for Capital Support				
US Bank - retention trust account	8,740,742	-	8,740,742	N/A *
San Diego County Investment Pool Proposition 1B TSGP grant funds	3,852,756	13,965	3,866,721	
Total Cash - Restricted for Capital Support	12,593,498	13,965	12,607,463	
Investments - Working Capital				
Local Agency Investment Fund (LAIF)	19,745,588	13,490,795	33,236,383	0.260%
Total Investments - Working Capital	19,745,588	13,490,795	33,236,383	
Investments - Restricted for Debt Service				
US Bank - Treasury Strips - market value (Par value \$39,474,000)	39,429,589	-	39,429,589	
Rabobank - Payment Undertaking Agreement	76,816,295	-	76,816,295	7.69%
Total Investments Restricted for Debt Service	116,245,884	-	116,245,884	
Total cash and investments	\$ 148,584,970	\$ 82,570,702	\$ 231,155,672	

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



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Agenda Item No. 10

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 9, 2014

SUBJECT:

CENTRALIZED TRAIN CONTROL (CTC): SDSU FIRE LIFE PANEL SYSTEM
UPGRADE AND TECHNICAL SUPPORT – ADDENDUM 17 PROJECT SCOPE OF
WORK AMENDMENT 24.1

RECOMMENDATION:

That the Board of Directors approve an amendment to Addendum 17 Project Scope of Work (MTS Document No. G0930.17-04.24.1) for the flagging and Construction Management services for the SDSU Fire Life Panel System Upgrade project.

Budget Impact

This amendment will not exceed \$18,600 and will be funded by the CIP 11325 (SDSU Monitoring System). This amendment increases the total value of the Scope of Work budget from the original \$100,000 to a new total of \$118,600. This project does not result in an increase to the cost of the original CIP.

DISCUSSION:

During the first project submittal to the Cal State Fire Marshal's office, there were a few comments from the Fire Marshal that required some minor modifications to the system before they could approve the Fire certification for SDSU Fire Alarm Upgrade project. This in turn required Construction Management support to manage the contractor to implement these requested features from the Fire Marshall and additional flagging staff was required to do this work at night time during non-revenue hours.



The budgetary needs for this additional work are illustrated in the chart below.

Item	Cost (Rate/hour)	# of Hours	Total
Flagging Cost	\$21.77	395	\$8,600
Construction Management	LS	LS	\$10,000
TOTAL			\$18,600

The amended project scope of work with SANDAG will also recognize that SDTI will provide flagging services for this project. Such services will be reimbursed to MTS by SANDAG.


Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Addendum 17 Project Scope of Work (MTS Document No. G0930.17-04.24.1)

Addendum 17 Project Scope of Work

MTS File No.	G0930.17-04.24.1	SANDAG Reference No.	5000710 SOW 24.1
CIP Title:	Centralized Train Control: Fire Life Panel System Upgrade and Technical Support		
CIP No.	1142500	Project Managers:	MTS – Michael Diana SANDAG - Francine Jimenez
Lead Agency:	SANDAG	Operating Agency:	MTS
Estimated Start Date:	June 2012	Original SOW 24 Budget	\$100,000
Estimated Completion Date:	Early to Mid-2014	Additional SOW 24.1 Budget (this amendment)	\$18,600
Total CIP Budget	\$12,231,000	Total SOW Budget (value of work to be invoiced between SANDAG/MTS):	\$118,600

Intended Source of Funds:

The project will be utilizing TransNet-1 funding.

Describe Any Necessary Transfers of Project Funds Between the Parties:

MTS shall reimburse SANDAG for inspection, quality assurance/control training and testing services as outlined herein.

SANDAG shall reimburse MTS via purchase order(s) for flagging and Project Management services provided as outlined herein.

Project Description:

This project is for the replacement of the existing fire alarm panel and devices located at SDSU Trolley Station with a new fire alarm monitoring system that is based on current technology and meets the fire codes. Among its capabilities, it will provide automatic notification to local fire services in the event of a fire, thus enhancing security and safety by saving precious time to protect MTS patrons and employees, and minimize damage to essential MTS facilities and equipment. In addition, this project will include new high resolution CCTV cameras located inside SDSU tunnels to detect trolley movement in each zone and identify any intruders in the tunnels.

Scope of Work to be performed by SANDAG Resident Engineer (RE):

1. Provide technical support to MTS Project Manager for the construction tasks associated with the Fire Alarm Panel, Closed Circuit Television (CCTV), Train Location and Tracking at the SDSU Tunnel and communication upgrades which will interface with the existing CTC back office system at the MTS Rail Operations Control Center.
2. Perform systems inspection, quality assurance, and quality control, testing and training services to ensure that input and output of the FMS field devices interface correctly with the Fire Management System utilizing the EVOP (Emergency Ventilation Operations Procedure) functionality.
3. Complete testing and verification which includes the sequencing and interlocks for the control of the emergency fans, dampers, HVAC, Station lighting controls and fire alarm device monitoring.
4. Deliver readiness support for full testing and acceptance by Cal State Fire Marshal's Office.
5. The estimated cost for additional services can be found in Attachment 1.

Scope of Work to be Performed by SANDAG:

1. SANDAG will provide overall project management services for the Project and provide funding as approved by the SANDAG Board of Directors.
2. MTS agrees to reimburse SANDAG for the full and actual cost for technical services in an amount not to exceed \$100,000. This amount shall include eligible costs for the inspection, quality assurance/control training and testing. In the event that SANDAG notifies MTS that this amount will be exceeded, MTS will meet with SANDAG to discuss the need for additional hours. In no event shall SANDAG have the responsibility to move forward until the parties are able to identify sufficient funding for hours associated with tasks.

Scope of Work to be Performed by MTS:

1. Flagging services by San Diego Trolley, Inc. (SDTI) personnel in the MTS right-of-way during construction. Any work which involves personnel or equipment within 15 feet of the center line of any active track must have an SDTI supplied flag person for the duration of the work.
2. Provide Project Management in support of construction of this project.

Any Additional Project-Specific Conditions:

This SOW 24.1 amends and replaces the original SOW 24 in full.

APPROVED BY:

SANDAG

METROPOLITAN TRANSIT SYSTEM


Gary L. Gallegos
Executive Director or designee

Date

3-4-2014

Paul Jablonski
Chief Executive Officer

Date

Attachment 1 – Fire Life & Safety System Technical Support Services

ESTIMATED COST

	Hours	Rate	Total
January – 2013	120	140.38	\$ 16,845.60
February – 2013	80	140.38	\$ 11,230.40
March – 2013	60	140.38	\$ 8,422.80
April – 2013	80	140.38	\$ 11,230.40
May – 2013	80	140.38	\$ 11,230.40
June – 2013	80	140.38	\$ 11,230.40
July – 2013	60	140.38	\$ 8,422.80
August – 2013	40	140.38	\$ 5,615.20
September – 2013	40	140.38	\$ 5,615.20
	<u>640</u>		<u>\$ 89,843.20</u>

Est. Hours	640
Est. Subtotal	\$ 89,843.20
Contingency 10%	\$ 8,984.32
Fire Upgrade Support Services Total:	<u>\$ 98,827.52</u>



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Agenda Item No. 11

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

PROCUREMENT AND INSTALLATION OF REPLACEMENT COUPLER AND DRAFT
GEAR FOR SD-100 LIGHT RAIL VEHICLES (LRV) - CONTRACT AWARD

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L1192.0-14 (in substantially the same format as Attachment A) with Dellner, Inc. (Dellner) for the procurement and installation of 104 buffer couplers, plus four spare coupler and draft gears for SD-100 LRVs.

Budget Impact

The total value of this agreement will not exceed \$4,306,816.00. The project will be funded through the MTS Capital Improvement Program (CIP) project number 11304-0200 for fiscal years 2015 and 2016.

DISCUSSION:

Background

San Diego Trolley Incorporated (SDTI) operates a fleet of 52 Siemens SD-100 LRVs which entered revenue service between 1995 and 1998. These units originally were equipped with Scharfenberg 40-3574 couplers and draft gears. While the LRVs themselves are presently in good operable condition, the couplers are now 15 to 17 years old, are close to the end of their useful lives, are experiencing frequent age-related failures which have become costly to repair or overhaul, and must now be replaced.

To ensure continuity of service, SDTI needs to acquire replacement couplers and draft gears. Staff recommends the Dellner model 74 which is a self-centering electrical coupler system, and exceeds Scharfenberg specifications. Further, acquiring the

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Dellner model 74 will allow fleet-wide standardization which will significantly streamline standards for trolley coupler inspection and maintenance for MTS.

MTS Policy No. 52, governing the procurement of goods and services, requires a formal competitive process for procurements exceeding \$100,000.

A Request for Proposals (RFP) was issued on March 24, 2014. Two responsive and responsible proposals were received from Dellner and Siemens Transportation Inc. (Siemens) by the due date of June 5, 2014.


The proposals were evaluated with the following criteria:

Qualifications of the Firm or Individual	= 35 Possible Points
Work Plan	= 35 Possible Points
Cost and Price	= 30 Possible Points
TOTAL	= 100 Points

Based on staff's evaluation of the technical proposal and analysis of the price offered, it was determined that Dellner's proposal is fair and reasonable and represents the best overall value for MTS. During the Best and Final Offer (BAFO) phase, Dellner also further reduced its price proposal by \$540,280 (or roughly 11%) from their original price of \$4,847,096 to \$4,306,816 which is 32.7% lower than the proposed cost offered by Siemens.

The following table represents the final scores and rankings for both proposers:

PROPOSER NAME	TOTAL SCORE	RANKING
	(Tech + Cost) Total Possible Points: 100	
Dellner	90.33	1
Siemens	83.51	2



Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Draft Standard Services Agreement; Contract L1192.0-14

ATTACHMENT A

DRAFT

L1192.0-14 CONTRACT NUMBER
OPS 970.4 FILE/PO NUMBER(S)

**STANDARD PROCUREMENT AGREEMENT
FOR
PROCUREMENT AND INSTALLATION OF REPLACEMENT COUPLER AND DRAFT GEAR FOR SD-
100 LRV'S**

THIS AGREEMENT is entered into this _____ day of _____ 2014, 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: Dellner Inc. Address: 5334-H Arrowridge Boulevard

Form of Business: Corporation Charlotte, NC 28273
(Corporation, Partnership, Sole Proprietor, etc.)

Telephone: 704 527-2121

Authorized person to sign contracts: Tom Tarantino President
Name Title

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

Provide material, labor and all equipment necessary for the procurement and installation of 104 couplers with draft gears and 4 spare coupler and draft gears, as specified in the Technical Specifications (attached as Exhibit A), the Bid Summary (attached as Exhibit B), the Standard Procurement Conditions (attached as Exhibit C), and the federal requirements (attached as Exhibit D).

The total amount of this contract shall not exceed \$4,306,816.00 including California sales tax and freight without prior written approval from MTS.

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

AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
<u>\$ 4,306,816.00</u>	<u>11304-0200</u>	<u>FY 2015 - 2016</u>

By: _____
Chief Financial Officer

(_____ total pages, each bearing contract number)



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Agenda Item No. 12

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

GREEN LINE CLOSED-CIRCUIT TELEVISION (CCTV) SYSTEM UPGRADES -
CONTRACT AWARD

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWL155.0-14 (in substantially the same format as Attachment A) with Kratos Public Safety & Security Solutions, Inc. (Kratos) for the procurement and installation of MTS Green Line CCTV systems upgrades.

Budget Impact

The total value of this agreement will not exceed \$790,628.09 and will be funded through the MTS Capital Improvement Program (CIP) project numbers 11324-0200 and 11365-0200 for fiscal year 2015. The source of funding is California Proposition 1B, Transit System Safety, Security and Disaster Response Act.

DISCUSSION:

MTS currently operates 27 trolley stations on the Green Line which have varying or no CCTV technologies. Eleven stations currently have the latest Avigilon digital CCTV technology and require no upgrades at this time. Six stations are currently equipped with legacy analog CCTV systems which need upgrades and standardization to current digital systems, and 10 stations have no current CCTV technologies.

This staff recommended project will improve the equipment at the six stations that have outdated analog equipment as well as install Avigilon technology at stations with no current equipment. The project includes the purchase of necessary hardware, labor and materials for their installation, software licensing, integration, testing and commissioning.

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The goal is to have a CCTV surveillance system that will provide additional levels of safety for MTS's patrons, enhance existing security surveillance systems at certain stations, prevent vandalism and be fully integrated based on modern industry standard protocols for security system hardware and operating systems.

MTS Policy No. 52, governing the procurement of goods and services, requires a formal competitive process for procurements exceeding \$100,000.

An Invitation for Bid (IFB) was issued on August 15, 2014. Eight bids were received and deemed responsive and responsible. The bidders were Kratos, Climatec LLC, Vector USA, Electro Specialty Systems, VAS Security Systems, Simplex Grinnel, Johnson Controls Inc. and Unicom Government Inc.

As indicated in the below table, after conducting a price analysis, staff determined that the pricing presented by Kratos was fair and reasonable and was the lowest responsive and responsible bid relative to other bids received.

FIRM	COST
Kratos	\$790,628.09
Climatec LLC	\$800,528.14
Vector USA	\$867,335.31
Electro Specialty Systems	\$911,184.43
VAS Security Systems	\$925,246.74
Simplex Grinnell	\$997,596.16
Johnson Control Inc.	\$1,063,972.80
Unicom Government Inc.	\$1,070,835.91


Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Draft MTS Doc. No.PWL155.0-14

ATTACHMENT A

DRAFT

**STANDARD PROCUREMENT AGREEMENT
FOR
MTS GREEN LINE CCTV SYSTEM UPGRADE**

PWL155.0-14 CONTRACT NUMBER
OPS 970.4 FILE/PO NUMBER(S)

THIS AGREEMENT is entered into this _____ day of _____, 2014, 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: Kratos Public Safety & Security Solutions, Inc. Address: 4820 Eastgate Mall, Suite 200

Form of Business: Corporation San Diego CA 92121
(Corporation, Partnership, Sole Proprietor, etc.)

Telephone: 858 812-7300

Authorized person to sign contracts: Michael Fink Vice President
Name Title

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

Provide material, labor, supplies and all equipment necessary for the procurement, installation, programing, licensing, integration and testing, and commissioning of closed circuit television for the Green Line, as specified in the Technical Specifications (attached as Exhibit A), the Bid Summary (attached as Exhibit B), and the Standard Procurement Conditions (attached as Exhibit C),.

The contract period of performance shall be from October 27, 2014 through December 31, 2015. The total amount of this contract shall not exceed \$790,628.09 including California sales tax and freight without prior written approval from MTS.

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

AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
<u>\$ 790,628.09</u>	<u>11324-0200 and 11365-0200</u>	<u>FY 2015</u>

By: _____
Chief Financial Officer

(_____ total pages, each bearing contract number)



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Agenda Item No. 13

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

SIEMENS INDUSTRY, INC. – 11TH AMENDMENT TO CONTRACT NO. L0914.0-10 –
PROCUREMENT OF ULTRASHORT LOW-FLOOR VEHICLES

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer to execute the 11th Amendment to MTS Doc. No. L0914.0-10 (in substantially the same format as Attachment A) documenting contract close out agreements and authorizing a one-time partial release of retention.

Budget Impact

Today's action does not impact the overall cost of this contract. MTS will receive additional spare parts inventory worth as much as \$400,000 at no cost. The current value of the contract is as follows:

Total Contract with Siemens	Amount	Tax	Total
57 LRVs (Contract plus Amend. # 3, 4 & 7)	\$206,680,638	\$16,135,594	\$222,816,231.67
8 Additional LRVs (Amendment # 8 & 9)	\$28,491,000	\$2,279,280	\$30,770,280.00
Spare Parts (Amendment #2)	\$6,091,007	\$475,099	\$6,566,105.92
Special Tools (Amendment #2)	\$206,098	\$16,230	\$222,328.22
Training Manuals (Amendment #2)	\$255,384	\$20,431	\$275,814.72
SD100 Retrofit (Amendment #5)	\$4,627,484	\$358,630	\$4,986,114.01
Total Contract with Siemens 65 LRVs	\$246,351,611.34	\$19,285,263.19	\$265,636,874.53

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DISCUSSION:

On September 24, 2009, the Board approved a contract with Siemens to procure 57 ultrashort low floor light rail vehicles (LRVs) for the Blue and Orange Line Rehabilitation Project. On April 19, 2012, the Board authorized the purchase of 7 additional LRVs. On May 17, 2012, the Board authorized the purchase of 1 additional LRV, bringing the total LRV vehicle order to 65. An option for an additional 45 LRVs was approved on April 18, 2013, to preserve options for the Mid-Coast LRT project. Because the Mid-Coast LRT project still awaits Federal Transit Administration approval and funding, MTS has not issued a "Release for Production" to Siemens to begin production of the additional 45 option LRVs. Various other amendments to the contract have been issued during the course of production to resolve other LRV and contract issues.

The current contract total, for the 65 LRVs, is \$265,636,874.53, and includes necessary modifications to MTS's existing fleet to ensure compatibility with the new vehicles. Effective August 28, 2014, MTS reached the Conditional Acceptance Milestone for all sixty-five (65) light rail vehicles currently on order from Siemens. No liquidated damages were issued under Article 5.0 of the Agreement. All payments, except Release of Retention (Milestone 7), have been made under the Agreement.

The parties are currently in the Final Acceptance and Final Completion phase of work. "Final Acceptance" of each vehicle occurs "when all open items identified with respect to any LRV during Conditional Acceptance have been resolved to MTS's satisfaction." "Final Completion of the Work" will occur "when each of the LRVs has reached Final Acceptance and when [Siemens] has completed the following requirements:

- A) Corrected any fleet defects;
- B) Completed previously identified warranty Work;
- C) Delivered written releases of liens from all Subcontractors and Suppliers; and
- D) Provided all training, technical support, spare parts, Special Tools, car history books, manuals, and other items required under the Contract Documents."

Partial Release of Retention

Under the Agreement, the 5% Retention held back from each payment is to be released "upon completion of the two year warranty period for the last LRV delivered to MTS." The retention funds are held in a special interest-bearing escrow account for the benefit of Siemens. The parties have previously agreed to the following partial payments of retention to Siemens:

April 2011	\$1,000,000	Release
April 2013	\$2,000,000	Release
Current Balance	\$8,758,581.90	

Completion of the warranty period is currently scheduled for August 28, 2016. Through the Final Completion process, MTS and Siemens staff have reviewed the Open Items and Fleet Defect Lists and determined that, in exchange for the items listed below, an additional \$4,000,000 in retention may be immediately released to Siemens. The remaining \$4,758,581.90 on deposit in the retention escrow account is sufficient to cover the costs associated with all remaining open items, defects and warranty issues.

Repair Items

Center Truck Brake Rotor Wear Issue	Siemens to provide MTS with 100 rotors from original equipment manufacturer, Knorr, no later than September 16, 2015. An additional 50 rotors shall be provided from either Knorr, or a new supplier developed in coordination with Siemens, at MTS's discretion no later than March 16, 2016. These 150 rotors shall be at no cost to MTS. The cost for new rotors has been estimated at up to \$225,000.
Public Address System Microphones	Siemens agrees to equip all 65 S70us Light Rail Vehicles with a noise cancelling microphone in each cab in each LRV cab, at an estimated cost of \$75,000.

Spare Parts Credit Swap

MTS is in possession of certain spare parts inadvertently shipped to MTS by Siemens. MTS has an existing spare parts credit of \$33,000 under this Agreement. Siemens has agreed to allow MTS to purchase these spare parts by applying the MTS \$33,000 credit and to waive any additional balance owed for this shipment. MTS LRV maintenance staff has valued the retained spare parts at approximately \$175,000 if MTS was required to separately purchase each item.

Recommended Action

The proposed concessions from Siemens benefit MTS by reducing the amount of spare parts that MTS will be required to purchase and resolve a concern about the performance of the public address system on the new fleet. The proposed early release of \$4,000,000 from retention does not adversely impact MTS because there are sufficient funds still in escrow to cover the costs of remaining fleet defect work. The escrow funds are not for the direct benefit of MTS and not part of MTS's ongoing cash flow. MTS staff therefore recommends that the Board authorize the CEO to execute Amendment No. 11 with Siemens, in substantially the same format as Attachment A.



Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Proposed MTS Doc. No. L0914.11-10

October 30, 2014

MTS Doc. No. L0914.11-10
OPS 970.6, CIP 1210080

Mr. Michael Cahill
President
Siemens Industry, Inc.
Infrastructure & Cities Sector, Rail Systems Division
7464 French Road
Sacramento, CA 95828

Dear Mr. Cahill:

Subject: AMENDMENT NO. 11 TO MTS DOC. NO. L0914.0-10 - PROCUREMENT OF
ULTRASHORT LOW-FLOOR VEHICLES

This amendment shall serve to modify our Agreement for the procurement of ultrashort low-floor vehicles from Siemens Industry, Inc., as further described below.

Status of Final Completion Phase

Effective August 28, 2014, MTS reached the Conditional Acceptance Milestone for all sixty-five (65) light rail vehicles currently on order from Siemens. No liquidated damages were issued under Article 5.0 of the Agreement. All payments, except Release of Retention (Milestone 7), have been made under the Agreement.

The parties are currently in the Final Acceptance and Final Completion phase of work. "Final Acceptance" of each vehicle occurs "when all open items identified with respect to any LRV during Conditional Acceptance have been resolved to MTS's satisfaction." (Agreement, § 5.13.) "Final Completion of the Work" will occur "when each of the LRVs has reached Final Acceptance and when [Siemens] has completed the following requirements:

- A) Corrected any fleet defects;
- B) Completed previously identified warranty Work;
- C) Delivered written releases of liens from all Subcontractors and Suppliers; and
- D) Provided all training, technical support, spare parts, Special Tools, car history books, manuals, and other items required under the Contract Documents."

(Agreement, § 5.14.)

Partial Release of Retention

Under the Agreement, the 5% Retention held back from each payment is to be released “upon completion of the two year warranty period for the last LRV delivered to MTS.” (Exhibit D to MTS Doc. No. L0914.0-10.) The retention funds are held in a special interest-bearing escrow account for the benefit of Siemens. The parties have previously agreed to the following partial payments of retention to Siemens:

April 2011	\$1,000,000	Release
April 2013	\$2,000,000	Release
Current Balance	\$8,758,581.90	

Completion of the warranty period is currently scheduled for August 28, 2016. (Agreement, § 3.13.) Through the Final Completion process, MTS and Siemens have reviewed the Open Items and Fleet Defect Lists and determined that, in exchange for the items listed below, an additional \$4,000,000 in retention may be immediately released to Siemens. The remaining \$4,758,581.90 on deposit in the retention escrow account is sufficient to cover the costs associated with all remaining open items, defects and ongoing warranty issues.

Repair Items

Center Truck Brake Rotor Wear Issue	Siemens to provide MTS with 100 rotors from original equipment manufacturer, Knorr, no later than September 16, 2015. An additional 50 rotors shall be provided from either Knorr, or a new supplier developed in coordination with Siemens, at MTS's discretion. The additional 50 rotors shall be provided no later than March 16, 2016. These 150 rotors shall be at no cost to MTS.
Public Address System Microphones	Siemens agrees to equip all 65 S70us Light Rail Vehicles with a noise cancelling microphone in each cab in each LRV cab, at an estimated cost of \$75,000.

Spare Parts Credit Swap

MTS is in possession of certain spare parts (identified as Siemens production extras and listed in Attachment A) inadvertently shipped to MTS by Siemens. MTS has an existing spare parts credit of \$33,000 under this Agreement. MTS would like to keep the spare parts. Siemens has agreed to apply the MTS \$33,000 credit to this purchase, and to waive any additional balance owed for this shipment.

If you agree with the above, please sign in the space provided below and return the document marked "Original" to the Contracts Specialist at MTS. All other terms and conditions shall remain the same and in effect. Retain the other copy for your records.

Sincerely,

Accepted:

Paul C. Jablonski
Chief Executive Officer

Michael Cahill, President
Siemens Industry, Inc.
Infrastructure & Cities Sector
Rail Systems Division

Date: _____

Chris Halleus, Vice President, FBA
Siemens Industry, Inc.
Infrastructure & Cities Sector
Rail Systems Division

Date: _____

ATTACHMENT A

SIEMENS

Business Reporting Portal

Inventory without

Branch PK	Item	ESN	Item Description	Buyer #	QOH	Unit Cost	Extended	Pricing source
17670	A4602900	JGN	SEAT,2P	235195	1	655.2	655.2	Siemens
17670	A4255302	DFS	SLIDING WINDOW, CAB,RH	103491	4	4,329.39	\$17,317.58	SD8 Spares
17670	A4255301	DFS	SLIDING WINDOW, CAB,LH	103491	4	4,329.39	\$17,317.58	SD8 Spares
17670	A4817200	MNN	ASSY FRAME MAIN LIGHT-LED	235195	1			
17670	A4333704	IEW	ENCL,EMR HANDLE/CREWKE	161933	1			
17670	A2842700	MNN	INDICATOR LIGHT,DOOR,LED,RED	235195	2	167.15	\$334.30	SD8 spares
17670	A5605300	MYV	RTD SENSOR,CAB	235195	1	450.96	\$450.96	Siemens
17670	A4272601	FHH	LINING,INTR SIDEWALL,LOW	103491	1			
17670	A4272602	FHH	LINING,INTR SIDEWALL,LOW	103491	1			
17670	A4533401	ECB	PANEL,FLOOR,HIGH	235195	1			
17670	A4539200	ECB	PANEL,FLOOR,CAB WALL	235195	2			
17670	A4539400	ECB	PANEL,FLOOR,#15	235195	2			
17670	A4550600	JGK	LATCH,S70,MALE,SQUARE,8MM,CO	235195	6	200.20	\$1,201.20	Siemens
17670	A4355700	FKA	HOSE,HYDRAULIC,W/HTTINGS-	567422	16	76.29	\$1,220.64	Siemens
17670	C2761301	FHH	CLADDING,L-FL,UPPER,ASSY,LH	103491	1			
17670	A4608200	DFQ	STANCHION SEAT CURVED	303497	14	90.58	\$1,268.12	Siemens
17670	A4886400	MKI	CONNECTOR PLUG CIRCULAR	178399	47	38.71	\$1,819.37	
17670	A4281500	ECB	PANEL, FLOOR, #14	235195	4			
17670	A4600100	KIJ	CONNECTOR PLUG CIR90°	178399	38	53.83	\$2,045.54	Siemens
17670	A4680100	MM	TWC - INTERFACE CABLING	582502	7	294.00	\$2,058.00	Siemens
17670	A4539300	ECB	PANEL,FLOOR,LOW FLOOR,MID	235195	2			
17670	A5406500	DFS	WINDSHIELD,CAB	103491	1	6,207.00	\$6,207.00	Ellipse
17670	A5175500	FKA	TAPE,ADH,NEOPRENE,CLOSED	567422	1395	2.32	\$3,236.40	Siemens
17670	A4342402	FHE	DASH,CAB,COMPLETE	567422	1	58,981.80	\$58,981.80	SD8 Spares
17670	A2939400	ECB	LINING,FLOOR TILE,1MX1MX3.7MM	235195	49	77.36	\$3,790.64	SD8 Spares
17670	A2774700	ECB	LINING,FLOOR TILE,1MX1MX3.7MM	235195	100	77.36	\$7,736.00	SD8 Spares
17670	SAG10040	MFA	MODULE,MONITORING RELAY	178399	48	234.11	\$11,237.28	Siemens
17670	A4593600	MNN	LIGHT ASSY LED COMPLETE	235195	12	1,350.00	\$16,200.00	SD8 Spares
1760	A5126100		Glass High Floor SD8		36	625.00	\$22,500.00	Ellipse
TOTAL							\$174,922.40	



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Agenda Item No. 14

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

REVISIONS TO BOARD POLICY NO. 51 REGARDING CLAIMS AGAINST THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM, A CALIFORNIA PUBLIC AGENCY, OR ITS SUBSIDIARIES, SAN DIEGO TRANSIT CORPORATION OR SAN DIEGO TROLLEY, INC.

RECOMMENDATION:

That the Board of Directors approve and adopt the updated Board Policy No. 51 (Attachment A).

Budget Impact

None. Today's action does not authorize any specific expenditure. Payment of individual claims are accounted for in the annual budget process based on the estimated cost to evaluate, defend and compromise legal claims each fiscal year.

DISCUSSION:

Board Policy No. 51 governs the process for handling legal claims against MTS, San Diego Trolley, Inc. and San Diego Transit Corporation. Currently, the policy requires proposed settlements over \$25,000 to be brought to the Board for approval. Government Code section 935.4 allows a local public entity to authorize an employee to compromise or settle claims if the amount paid does not exceed \$50,000. The proposed amendments to Board Policy No. 51 would raise the delegated settlement authority to the Government Code limit and make the following minor changes and clarifications:



(1) Change the designated employee to the Chief Executive Officer (or his or her designee). Designating the Chief Executive Officer is consistent with a survey of other California transit agencies' settlement policies with a \$50,000 authority level.

(2) Clarifies that, for workers' compensation claims, the requirement to obtain Board approval of settlements exceeding \$50,000 applies to amounts designated for discretionary payments, and does not apply to non-discretionary payments for temporary or permanent disability benefits that are established by the workers' compensation adjudicatory system.



Paul G. Jablonski
Chief Executive Officer

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

Attachment: A. Proposed Board Policy No. 51 (redline version)



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

Policies and Procedures

No. 51

SUBJECT:

Board Approval: 910/309/0414

CLAIMS AGAINST THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM, A CALIFORNIA PUBLIC AGENCY, OR ITS SUBSIDIARIES, SAN DIEGO TRANSIT CORPORATION OR SAN DIEGO TROLLEY, INC.

PURPOSE:

Adopt a uniform procedure that requires all complaints or claims against MTS, San Diego Trolley, Inc. (SDTI), and San Diego Transit Corporation (SDTC) to comply with the California Tort Claims Act.

BACKGROUND:

With the recent consolidation of MTS, SDTC, and SDTI, it has become necessary to adopt a uniform claims procedure for all of MTS. Currently, all claims against MTS must be brought in accordance with the California Tort Claims Act (Government Code Section 900, et seq.). The Tort Claims Act defines a public entity as "a county, city, district, public authority, public agency, and any other political subdivision or public corporation" (Government Code § 811.2). Based on the consolidation of the Boards of Directors for MTS, SDTC, and SDTI, the amendment of Public Utilities Code Section 120518(a), which made MTS and SDTC a joint employer, and case law, the Tort Claims Act is applicable to SDTC and SDTI. Requiring all claims against any of the three agencies to be brought under the Act would limit exposure to litigation and allow for a uniform procedure for filing claims.

POLICY:

51.1 Subject Matter

51.1.1 This regulation governs claims for money or damages against MTS, its subsidiaries, including SDTC and SDTI (hereinafter collectively the "Board"), and their current and former officers, directors, and employees.

51.1.2 Claims for Money or Damages. All claims for money or damages against MTS and its subsidiaries, including SDTC and SDTI, shall be



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

presented to the Board under the provisions of Government Code Section 900, et seq., and shall be governed by this regulation.

51.1.3 Required Presentation of Claim for All Claims Excepted by Government Code Section 905. In accordance with Government Code Section 935, the Board requires the presentation of a claim for all claims for money or damages that are otherwise excepted by Government Code Section 905. Such claims shall be governed by this regulation unless expressly governed by another statute or regulation.

51.1.4 Claims Against Public Employees or Former Public Employees. All claims for money or damages that are required to be presented to the Board under the provisions of Government Code Section 953, et seq. shall be governed by this regulation.

51.2 Written Claim Required to Bring Suit

No suit for money or damages may be brought against the Board on a cause of action for which this regulation requires a claim to be presented until a written claim has been presented in conformity with the provisions of this regulation.

51.3 Time Limitation for Presenting Claim

All claims shall be presented in the manner provided in Section 5 of this regulation and in accordance with the following requirements:

51.3.1 A claim relating to a cause of action for death or injury to person or to personal property shall be presented no later than six months after the accrual of the cause of action.

51.3.2 A claim relating to any other cause of action shall be presented no later than one year after the accrual of the cause of action.

For the purposes of computing the time limits prescribed by this section, the date of the accrual of a cause of action is the date upon which the cause of action accrued within the meaning of the applicable statute of limitations, as defined by Government Code Section 901.

51.4 Late Filing of Claims

The filing of late claims pursuant to this regulation is governed by Government Code Sections 911.4 to 912.2, inclusive.

51.5 Claim Form

Claims under this regulation shall be presented to the Claims Administrator of MTS on a form provided by the Office of General Counsel for MTS.

51.6 Response to Claims

General Counsel for MTS (or his or her designee) shall allow or reject claims within the limitations set forth in Section 10. General Counsel's allowance or rejection of the claim shall have the same effect as allowance or rejection by the Board of Directors of the applicable entity against whom the claim is made.

51.7 Time for Action by General Counsel and Claimant

Time for action by General Counsel. General Counsel shall act upon any claim presented pursuant to this regulation within the time prescribed by Government Code Section 912.4 and in the manner prescribed by Section 912.6 of that Code. The failure or refusal of the General Counsel to act on a claim shall have the effect stipulated in Section 912.4.

Time for Legal Action by Claimant. Any legal action brought by a claimant on a cause of action set forth in a claim presented pursuant to this regulation shall be brought within the time specified in Government Code Section 945.6.

51.8 Reexamination of Rejected Claims

In accordance with Government Code Section 913.2, General Counsel for MTS retains the discretion to reexamine a previously rejected claim within the time prescribed by Government Code Section 945.6 for commencing an action on the claim.

51.9 Agreements Subject to Claims Procedures

In accordance with Government Code Section 930.2, the Board may include claims-presentation requirements in any written agreement to which the Board, or its governing body, or any board, or any employee thereof in an official capacity, is a party.

The agreement must expressly provide that its claims presentation requirements govern in lieu of the claims presentation requirements set forth in Government Code Section 900, et seq. and this regulation.

51.10 Action by General Counsel and Chief Executive Officer on Claims

51.10.1 Unless otherwise provided by this regulation, all claims required to be presented to the Board under the provisions of Government Code

Section 900, et seq., or this regulation, shall be presented to General Counsel. For purposes of Government Code Section 915 only, General Counsel is designated as a Clerk of the Board.

51.10.2 ~~General Counsel~~Chief Executive Officer (or his or her designee) is authorized to allow, deny, compromise, or settle any claim or action that is filed against the Board, its officers, or employees, provided:

51.10.2.1 The amount to be paid pursuant to such allowance, compromise, or settlement does not exceed ~~twenty five~~thirty thousand dollars (~~\$25~~\$30,000);

51.10.2.2 The claim or action is not subject to the terms of an insurance policy wherein the insurer is granted the authority to allow, deny, compromise, or settle claims or actions within the scope of such policy; and

51.10.2.3 If the matter is in litigation and General Counsel does not represent the Board of Directors of the agency being sued, the counsel retained by the Board of Directors of that agency concurs with the allowance, compromise, or settlement.

51.10.3 If the amount to be paid exceeds ~~twenty five~~thirty thousand dollars (~~\$25~~\$30,000), the allowance, compromise, or settlement must be approved by the Board of Directors of the applicable agency. In settlements of workers' compensation claims, the fifty thousand dollar (\$50,000) limit shall apply to amounts designated for discretionary payments, and shall not include non-discretionary payments for temporary or permanent disability benefits that are established by the workers' compensation adjudicatory system.

JGarde/SClamp/JGarde
POLICY 51 CLAIMS AGAINST MTS SDTC SDTI
7/21/06

Original Policy approved on 9/9/04.
Amended on 10/30/14.



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Agenda Item No. 15

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

CLARIFIER WASTE TRANSPORTATION AND RECYCLING SERVICES - CONTRACT
AWARD

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWG157.0-14 (in substantially the same format as Attachment A) with Asbury Environmental Services for the provision of clarifier waste removal, transportation and recycling services.

Budget Impact

The value of this agreement will not exceed \$282,949.00. The project will be funded through the respective fiscal years' maintenance operating budget accounts as follows:

	<i>Budget Account</i>	<i>Budget Amount</i>
San Diego Trolley, Inc.	350-53710	\$ 128,258
San Diego Transit - Imperial Avenue	331-53710	94,274
San Diego Transit - Kearny Mesa	332-53710	60,417
		\$ 282,949

DISCUSSION:

MTS Policy No. 52 (Procurement of Goods and Services) requires a formal competitive process for procurements of goods and services exceeding \$100,000.

MTS currently has three maintenance facilities supporting bus and rail operations. The resulting effects of preventative maintenance activities for MTS vehicles at these facilities include certain liquids and solids that require proper removal and disposal.



On August 13, 2014, MTS issued an Invitation for Bids for clarifier waste removal, transportation and recycling services for San Diego Transit and San Diego Trolley. Four bids were received on October 3, 2014 from Asbury Environmental, EFR Environmental, FRS Environmental and United Pumping, as follows:

FIRM	COST
<i>Asbury Environmental</i>	\$282,949.00
EFR Environmental	\$327,488.00
FRS Environmental	\$424,586.00
United Pumping	\$466,152.00

After conducting price reasonableness analyses and reviewing all bids received for responsiveness and responsibility, staff determined that Asbury Environmental Services presented the lowest responsive and responsible bid. Asbury's bid is 4.2 percent lower than the MTS's independent cost estimate of \$295,370.65.



Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Draft Standard Services Agreement MTS Doc. No. PWG157.0-14

DRAFT
STANDARD SERVICES AGREEMENT

PWG157.0-14
CONTRACT NUMBER
OPS 960.2/970.2
FILE/PO NUMBER(S)

THIS AGREEMENT is entered into this _____ day of _____ 2014, in the state of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following contractor, hereinafter referred to as "Contractor":

Name: Asbury Environmental Services Address: 1300 South Santa Fe Avenue
Form of Business: Corporation Compton, CA 90221
(Corporation, Partnership, Sole Proprietor, etc.) Telephone: 310.886.3400
Authorized person to sign contracts: James Ennis Chief Operating Officer
Name Title

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

Clarifier waste transportation and recycling services, as specified in the Scope of Work (attached as Exhibit A), Asbury Environmental's Bid dated October 2, 2014 (attached as Exhibit B), and in accordance with the Standard Conditions Services Agreement, including the Standard Conditions Services (attached as Exhibit C), and the Federal Requirements (attached as Exhibits D).

This contract shall remain in effect for five years effective November 10, 2014 through November 09, 2019. The total amount of this contract shall not exceed \$282,949.00.

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
<u>\$282,949.00</u>	<u>Various</u>	<u>2014-2019</u>

By: _____ Date: _____
 Chief Financial Officer

(_____ total pages, each bearing contract number)

OCT30-14.34.AttA.SSA WASTE RECYCLE.MYNIGUEZ.doc



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Agenda Item No. 16

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

SAN YSIDRO RADIO TOWER LEASE WITH THE CITY OF SAN DIEGO

RECOMMENDATION:

That the Board of Directors authorize the CEO to execute MTS Doc. No. G1757.0-15 with the City of San Diego for a lease of space at their Moody Canyon radio site in San Ysidro.

Budget Impact

Total annual cost of \$25,200 to \$32,880 over the life of the agreement for a total cost of \$288,890. This cost would be paid by the bus operations radio communications budget 202-59610.

DISCUSSION:

MTS is upgrading and expanding the Regional Transit Management System (RTMS) to an additional 273 vehicles operated in South Bay and East County. RTMS provides computer aided dispatch and automatic vehicle location (CAD/AVL) along with radio communications for MTS buses.

As part of the RTMS expansion to South Bay, it was determined that MTS's radio network has insufficient coverage in the South Bay area from its existing network of radio towers. As a result, MTS identified a City-owned radio site in San Ysidro, called Moody Canyon, which would be a suitable tower location to install new radio equipment in order to increase radio coverage in the South Bay area.

The City of San Diego will charge the following lease costs for the 10-year lease. Years 6-10 are subject to an appraisal and escalation. However, to take these increased costs into account, a 3% per year escalation is included in the following table.



Year 1	November 1, 2014-October 31, 2015	\$	25,200
Year 2	November 1, 2015-October 31, 2016	\$	25,956
Year 3	November 1, 2016-October 31, 2017	\$	26,735
Year 4	November 1, 2017-October 31, 2018	\$	27,537
Year 5	November 1, 2018-October 31, 2019	\$	28,363
Year 6	November 1, 2019-October 31, 2020	\$	29,214
Year 7	November 1, 2020-October 31, 2021	\$	30,090
Year 8	November 1, 2021-October 31, 2022	\$	30,993
Year 9	November 1, 2022-October 31, 2023	\$	31,923
Year 10	November 1, 2023-October 31, 2024	\$	32,880
Total		\$	288,890



Paul C. Jablonski
Chief Executive Officer

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



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Agenda Item No. 30

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

AMENDMENTS TO ORDINANCE NO. 4, ESTABLISHING A METROPOLITAN
TRANSIT SYSTEM FARE-PRICING SCHEDULE (KAREN LANDERS)

RECOMMENDATION:

That the Board of Directors:

- 1) Read the title of Ordinance No. 4, An Ordinance Establishing a Metropolitan Transit System Fare-Pricing Schedule;
- 2) Waive further readings of the ordinance;
- 3) Adopt the proposed ordinance amendments; and
- 4) Direct publication of an ordinance summary.

Budget Impact:

None.

DISCUSSION:

Staff proposes various minor amendments to Ordinance No. 4 recognizing Universal Pass (UPass) Agreements as a type of group pass agreement and identifying the new Rapid-branded service that was launched in June 2014 (Attachment A). The proposed amendments do not add or modify any MTS fare pricing.

The proposed Ordinance No. 4 changes address the following:

UPass Agreements. Defines a UPass as a pass that “[p]rovides unlimited rides on select transit services for an agreed upon period of time to individuals associated with a sponsoring entity, where the sponsoring entity guarantees universal participation/purchase by its employees, students, or other membership.” Under the San



Diego Association of Government's (SANDAG) revised Comprehensive Fare Ordinance (effective August 25, 2014), MTS and NCTD "shall each have the right to negotiate Universal Pass (UPass) agreements, individually or jointly, with sponsoring entities. MTS and NCTD may establish their own policies, terms, or eligibility rules regarding the sale of the UPass in the sales agreements." In practice, UPass pricing structures are based on an analysis of estimated travel and ridership patterns for each particular agreement, and structured so as to compensate MTS for the cost or value of the estimated ridership. Historically, MTS has entered into such agreements where a sponsoring entity agrees to reimburse MTS for certain passengers and trips. This ordinance amendment is intended to formally recognize such agreements.

For example, since 1969, MTS and UCSD have executed agreements wherein UCSD reimbursed MTS for students or faculty trips on certain bus routes, at a rate negotiated to compensate MTS for the average fare for such trips. As a change to this limited subsidized transit privilege, in May 2014, UCSD students passed a fee referendum to allow UCSD to assess a fee each quarter that will allow each UCSD student to have a MTS transit pass for each applicable UCSD quarter. In exchange for a guarantee that every student will pay the fee, MTS planning staff has calculated a discounted per pass price that takes into account estimated transit usage for this group of passengers and reimburses MTS for the actual costs of such ridership. The proposed ordinance changes simply acknowledge that such agreements are permitted under MTS Ordinance No. 4.

Rapid Services: Several language changes are needed to include the new Rapid-branded services. While these routes are using the fares of existing services, language in numerous locations needs to be updated to reflect the existence of the Rapid services. The new Rapid Route 235 (serving northern inland San Diego, Kearny Mesa, City Heights, and Downtown San Diego) uses the same fare structure as the Trolley and Express Routes. The Premium Express routes have been rebranded to Rapid Express and have the same fares.

Other Minor Changes: Other language changes are proposed to better clarify, simplify, and codify the fare rules for the region.

SANDAG approved these changes at its Board Meeting on July 25, 2014, making changes to the comprehensive Fare Ordinance (Attachment B). This action incorporates those changes into MTS Ordinance No. 4.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Karen Landers, 619.557.4512, Karen.Landers@sdmts.com

Attachments: A. Redline draft of Ordinance No. 4
B. SANDAG Agenda Item No. 14-07-12 (July 25, 2014)

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

CODIFIED ORDINANCE NO. 4
(as amended through ~~4/19/12~~10/30/14)

An Ordinance Establishing a Metropolitan Transit System Fare-Pricing Schedule

Section 4.1: Findings

This Ordinance is adopted to implement a Metropolitan Transit System (MTS) Fare-Pricing Schedule approved by the Metropolitan Transit System Board of Directors and to authorize future modifications or amendments to the schedule to be made by the MTS Board of Directors.

Section 4.2: Definitions

A. Senior - Any person 60 years of age or older. Acceptable proof of senior fare eligibility shall be a Medicare Card, a valid driver's license, a State of California Senior identification card, or an MTS identification card in the MTS area, or a North County Transit District (NCTD) identification card in the NCTD area. This definition applies to persons who seek to purchase and/or use a Senior/Disabled/Medicare Monthly Pass or Senior/Disabled/Medicare cash fare on fixed-route transit or general public demand-responsive services.

B. Disabled/Medicare - Any person with a permanent or temporary mental or physical disability. Acceptable proof of disabled fare eligibility shall be an MTS identification card, Medicare Card, NCTD disabled identification card, State of California Department of Motor Vehicles (DMV) disabled identification card, or DMV placard identification card. This definition applies to persons who seek to purchase and/or use a Senior/Disabled/Medicare Monthly Pass or Senior/Disabled/Medicare cash fare for fixed-route transit or general public demand-responsive services.

C. Youth - Any person 6-18 years of age (inclusive). Acceptable proof of youth fare eligibility in the MTS area shall be an MTS Youth identification card, a valid driver's license, or current school photo identification card (through high school only).

D. College Student - Any person enrolled as a student with a current enrollment for seven units or more in a participating accredited San Diego area post-secondary school.

E. Child - Any person five years of age or under.

F. Compass Card - The Compass Card is an electronic fare medium based on contactless smart card technology. The Compass Card can hold either transit products or cash for use on regional transit services. Transit products include, but are not limited to, multiday passes, college semester passes, and special event period passes. The Compass Card utilizes wireless technology to interface with Compass validator devices on regional buses, rail platforms, and regional ticket vending machines. Patrons using their Compass Card must touch or tap their card to a validator device before each ride as a condition precedent to using MTS services.

G. Bus - Rubber-tired transit vehicles operated by MTS San Diego Transit Corporation, Chula Vista Transit, MTS Contract Services, and NCTD.

H. Trolley - Light rail transit vehicles operated by San Diego Trolley, Incorporated.

I. Local Service - Bus service on local roads serving neighborhood destinations and feeding transit centers in the immediate area.

J. Urban Service - Moderate-speed bus service primarily on arterial streets with frequent stops.

K. Express/-Corridor Service - Bus service with stops only at major transit centers, residential centers and activity centers; has more than six stops outside Centre City or at collector end of route; generally traveling less than 50 percent of the one-way trip miles on freeways and averaging at least 15 miles per hour, with an average passenger trip length of approximately 10.0 miles or under, and uses standard transit buses.

L. Premium-Rapid Express - Bus service with stops only at major transit centers, residential centers and activity centers; generally traveling 50 percent or more of the one-way trip miles on freeways; averaging at least 20 miles per hour, with an average passenger trip length of over 10.0 miles, and using commuter coaches.

M. Rural Service - Bus service providing limited daily or weekly service linking Rural Northeastern and Southeastern San Diego County to a multimodal transit center or major shopping center generally provided on a two-lane highway or roadway with one-way vehicle trip lengths ranging from 15 to 80 miles.

N. Station - That fixed site at which the San Diego Trolley stops to load and unload passengers.

O. Supplement - A charge paid on a one-time basis to permit the use of a fare product for a transit ride that requires a more expensive fare.

P. Zone(s) - For ADA complementary paratransit service, a zone is the geographical area defined by fixed boundaries within which particular fares are established. The boundaries for the zones are determined by each of the contracting agencies for the local operator of the paratransit service. The zones are as follows:

Zone 1 Central San Diego

Zone 2 Mid-County: Poway, Rancho Bernardo, Rancho Penasquitos, Carmel Mountain Ranch, and Sabre Springs

Zone 3 East County: La Mesa, El Cajon, Santee, Lakeside, Lemon Grove, Spring Valley, and parts of Alpine

Zone 4 South Bay: Chula Vista, Coronado, National City, Imperial Beach, Palm City, Nestor, Otay Mesa, and San Ysidro

Q. Transfer - The action by passengers in which they leave one bus or rail vehicle and board a subsequent bus or rail vehicle to complete their trips.

R. Upgrade - An additional fare required to enhance the value of a transit pass to travel on a higher-fare service. Upon payment of an upgrade, the original pass is converted to

the new, more expensive product.

S. ADA Complementary Paratransit Service - Specialized ~~curb-to-curb~~origin-to-destination transportation services provided to persons who qualify as eligible for such services under the guidelines of the ADA Except for commuter bus, commuter rail, or intercity rail systems, each public entity operating a fixed-route system shall provide complementary paratransit or other special service to individuals with disabilities (who cannot access or use fixed-route transit due to a qualifying disability) that is comparable to the level of service provided to individuals without disabilities who use the fixed-route system.

T. Personal Care Attendant - In relation to the ADA complementary paratransit service, a personal care attendant is a person who is designated by the ADA eligible passenger to aid in their mobility. The person may be a friend, family member, or paid employee. A personal care attendant is not charged a fare on the ADA complementary paratransit service vehicle on which she/he accompanies the ADA-eligible passenger. The need for and use of a personal care attendant must be indicated at the time of eligibility certification.

U. Dedicated Transportation Service - In relation to social services agencies or other organizations, a dedicated transportation service is defined as paratransit vehicle usage that is set apart for and guaranteed to an agency for the transportation of its eligible clients. The vehicle, for a particular time frame, is for the definite use of these persons and a ride is unavailable to other eligible persons within the community.

V. Rapid - MTS brand name for a premium rapid transit service operated wholly or partly on exclusive bus lanes, guideways, managed lanes, or use of other transit priority measures. Depending on specific route characteristics, individual Rapid routes may be classified as MTS Rapid or MTS Rapid Express for purposes of Section 4.5.

W. Universal Pass (UPass) - Provides unlimited rides on select transit services for an agreed upon period of time to individuals associated with a sponsoring entity, where the sponsoring entity guarantees universal participation/purchase by its employees, students, or other membership.

(Section 4.2 amended 10/30/14)

Section 4.3: Regional Fare-Pricing Schedule

Section 4.3.1: Regional Passes and Tickets

Section 4.3.1a: Regional Monthly or 30-Day Passes

1) Except as provided in Section 4.3.1b, 4.3.1c, and 4.3.1d of this Ordinance, the price of a monthly or 30-day pass shall be based on service type.

Regional Passes. The price of a Regional Monthly or 30-Day Pass for Local, Urban, and Express bus and Trolley service shall be \$72.00. The Regional Monthly or 30-Day Pass shall entitle the person to whom the pass is issued to unlimited rides during the period for which the pass is designated on any equal or lower priced regularly scheduled bus and rail service provided by MTS and NCTD, except for COASTER, for which the pass entitles the holder a \$0.50 discount per boarding. The Regional Monthly Pass is accepted on Premium Express with the payment of a \$2.00 Supplement. Refer to Section 4.7.3 for use on Rural services.

Premium Passes. The price of a Premium Monthly or 30-Day Pass shall be \$100.00 and entitle the person to whom the pass is issued unlimited rides on the services covered by the Regional Monthly or 30-Day Pass and Premium Express except for COASTER, for which the pass entitles the holder to a \$0.50 discount per boarding. The Premium Monthly or 30-Day Pass is accepted on 1-Zone Rural service without payment of a Supplement and is accepted on 2-Zone Rural service with the payment of a \$4.00 Supplement.

2) Employer-Based Group Sales Pass Program

Employers may purchase in bulk, discounted monthly or 30-day passes for their employees subject to the following conditions:

The discount is available for the advance purchase of 25 or more passes a month for up to three months for a "trial program." Price would be set according to what the price would be for an annual program using the same number of passes per month. Only one "trial program" is allowed per employer. The trial program agreement must be for a specific fiscal year. Advance payment for the total number of Trial Program passes is required. The discount is available for an employer purchasing 300 or more passes for an annual (12 months) program. The program can be pro-rated to accommodate the time left in the fiscal year. The annual program agreement and payment must be for a specific fiscal year. Advance payment for the total number of annual monthly passes is required.

The price of the Employer-Based Group Sales Pass Program will be tiered according to the number of annual regular adult passes purchased. The discount offered shall be as follows:

<u>Employer-Based Group Sales Pass Program</u> <u>Tiered-Discount Table</u>		
Employees Using Transit Per Month	Passes Per Year	Discount
25 to 100	300 to 1,200	10%
101 to 400	1,212 to 4,800	20%
401 or more	4,812 or more	25%

(Section 4.3.1a adopted and amended 1/19/12)

Section 4.3.1b: Senior/Disabled/Medicare Monthly or 30-Day Passes

Regional Pass. The price of a Regional Senior/Disabled/Medicare Monthly or 30-Day Pass is \$18.00 and shall entitle the Senior, Disabled, or Medicare passenger to unlimited trips during the month or 30-day period for which the pass is designated on all regularly scheduled MTS and NCTD services except (i) Premium, unless a \$1.00 Supplement is paid; (ii) COASTER, for which the pass entitles the holder to a \$0.50 discount per trip; and (iii) Rural (as defined by Section 4.2L), unless a \$2.00 Supplement per zone is paid.

Premium Passes. The price of a Premium Senior/Disabled/Medicare Monthly or 30-Day Premium Pass is \$25.00 and entitles the person to whom the pass is issued unlimited rides on the services covered by the Premium Monthly or 30-Day Pass and to a \$0.50 discount per boarding on COASTER. The Premium Senior/Disabled/Medicare Monthly or 30-Day Pass is accepted on 1-Zone

Rural service without the payment of a Supplement and is accepted on 2-Zone Rural service with the payment of a \$2.00 Supplement.

(Section 4.3.1.b adopted and amended 11/19/12)

Section 4.3.1c: Youth Monthly or 30-Day Passes

Regional Passes. The price of a Regional Youth Monthly or 30-day Pass is \$36.00 and shall entitle the youth passenger to unlimited trips during the month or 30-day period for which the pass is designated on all regularly scheduled MTS and NCTD services except (i) Premium, unless a \$2.00 Supplement is paid; (ii) COASTER, for which the pass entitles the holder to a \$0.50 discount; and (iii) Rural (as defined by Section 4.2L), unless a \$4.00 Supplement per zone is paid.

Premium Passes. The price of a Premium Youth Monthly or 30-Day Premium Pass is \$50.00 and entitles the person to whom the pass is issued unlimited rides on the services covered by the Premium Monthly or 30-Day Pass except for COASTER, for which the pass entitles the holder to a \$0.50 discount per boarding. The Youth Monthly or 30-Day Premium Pass is accepted on 1-Zone Rural service without the payment of a Supplement and is accepted on 2-Zone Rural service with the payment of a \$4.00 Supplement.

(Section 4.3.1c adopted and amended 1/19/12)

Section 4.3.1d: Regional Day Passes- General Public

The price of a one-day Regional Day Pass is \$5.00 and shall entitle the person to whom the pass is issued unlimited rides during the day for which the pass is valid on all regularly scheduled MTS and NCTD services except (i) Premium Express, unless a \$2.00 Supplement is paid; (ii) COASTER, for which the pass entitles the holder to \$0.50 discount per trip, (iii) ADA Complementary Paratransit service; and (iv) Rural, unless a \$4.00 Supplement per zone is paid.

The price of a two-day Regional Day Pass is \$9.00 and shall entitle the person to whom the pass is issued unlimited rides during the days for which the pass is valid on all regularly scheduled MTS and NCTD services except (i) Premium Express, unless a \$2.00 Supplement is paid; (ii) COASTER, for which the pass entitles the holder to \$0.50 discount per trip, (iii) ADA Complementary Paratransit service, and (iv) Rural, unless a \$4.00 Supplement per zone is paid.

The price of a three-day Regional Day Pass is \$12.00 and shall entitle the person to whom the pass is issued unlimited rides during the days for which the pass is valid on all regularly scheduled MTS and NCTD services except (i) Premium Express, unless a \$2.00 Supplement is paid; (ii) COASTER, for which the pass entitles the holder to \$0.50 discount per trip, (iii) ADA Complementary Paratransit service, and (iv) Rural, unless a \$4.00 Supplement per zone is paid.

The price of a four-day Regional Day Pass is \$15.00 and shall entitle the person to whom the pass is issued unlimited rides during the days for which the pass is valid on all regularly scheduled MTS and NCTD services except (i) Premium Express, unless a \$2.00 Supplement is paid; (ii) COASTER, for which the pass entitles the holder to \$0.50 discount per trip, (iii) ADA Complementary Paratransit service, and (iv) Rural, unless a \$4.00 Supplement per zone is paid.

The price of a 14-day Regional Pass is \$43.00 and shall entitle the person to whom the pass is issued unlimited rides during the days for which the pass is valid on all regularly scheduled MTS and NCTD services except (i) Premium Express, unless a \$2.00 Supplement is paid; (ii) COASTER,

for which the pass entitles the holder to \$0.50 discount per trip, (iii) ADA Complementary Paratransit service; and (iv) Rural, unless a \$4.00 Supplement per zone is paid.

(Section 4.3.1d adopted and amended 1/19/12)

Section 4.3.1.e: Region Plus Day Passes

The Region Plus Day Pass is priced at \$12.00 and entitles the person to whom the pass is issued unlimited rides during the day for which the pass is valid on all services covered by the Premium Monthly or 30-Day Pass, COASTER, and for travel on 1-Zone Rural service. The Region Plus Day Pass is accepted for 2-Zone Rural service with the payment of a \$4.00 Supplement.

The price of a Premium 14-Day Pass is \$60.00 and entitles the person to whom the pass is issued unlimited rides on the services covered by the Premium Monthly or 30-Day Pass.

Section 4.3.1f: Group Advance Pass Sales

Group event day passes, valid for one to seven days, may be issued to groups (minimum quantity= 100) only on a 21-day or longer advance sales basis. The discounted rates for group event advance sales passes shall be as follows:

One-Day Pass	= \$4.50
Two-Day Pass	= \$8.00
Three-Day Pass	= \$11.00
Four-Day Pass	= \$14.00
Five-Day Pass	= \$16.00
Six-Day Pass	= \$18.00
Seven-Day Pass	= \$20.00

The group event day pass shall entitle the person to whom the pass is issued unlimited rides during the corresponding number of consecutive days for which the pass is valid on all regularly scheduled MTS and NCTD services except (i) Premium Express, unless a \$2.00 Supplement is paid; (ii) COASTER, for which the pass entitles the holder to a \$0.50 discount per trip; (iii) Rural (as defined by Section 4.2L), unless a \$4.00 Supplement per zone is paid; and (iv) ADA Complementary Paratransit service.

Group event day passes for special events may be purchased in bulk in advance at discounted rates as follows or as otherwise agreed to by the Board:

1,000-1,999 passes	= 5 percent discount per pass
2,000 or more passes	= 10 percent discount per pass

Section 4.3.1g: Classroom Day Pass

Classroom Day Passes, valid for one day during nonpeak hours, may be issued to school and youth groups (up to 18 years of age) on an advance sales basis only. Group size is limited at the discretion of the operator. The price of Classroom Day Passes is \$1.50 per person.

Section 4.3.1h: Post-Secondary Monthly & Quarter/Semester Passes

MTS shall offer a pass for a college or university school term of 63 or more days that is priced

at \$1.51 a day, payable in advance, sold only during the term's registration and/or a monthly pass good for a calendar month, priced at \$57.60 a month, payable in advance. Post-Secondary Monthly and Quarter/Semester Passes are valid for travel on all regularly scheduled bus and rail services provided by MTS and NCTD except for (i) Premium Express, unless a \$2.00 Supplement is paid; (ii) COASTER, for which the passes entitle the passenger to a \$0.50 discount per trip; (iii) ADA Complementary Paratransit services, and (iv) Rural (as defined by Section 4.2M) unless a \$4.00 Supplement per zone is paid. Post-Secondary Monthly and Quarter/Semester Passes are to be sold only at schools, colleges, and universities that meet the following requirements: accredited by recognized accrediting institution; provide an on-site sales location; track sales to individual qualified students; limit sales to one pass per student currently enrolled with a minimum of seven credit hours; only issue to students with a current school year photo identification card; provide a benefit to each student purchasing the term and/or monthly pass to encourage public transit use; and promote the pass through school information materials.

Section 4.3.1i: Scratch One-Day Pass

The Scratch One-Day Pass is a one-day day pass that is priced at the standard one-day price but with scratch-off instead of punched month, day, and year boxes. The Scratch One-Day Pass has a unique serial number code, and customers may not return or exchange Scratch One-Day Passes.

Section 4.3.1j: San Diego County Juror Day Pass

Upon entering an agreement with MTS that meets MTS requirements, courts located in San Diego County may purchase the following special fare media to be distributed to jurors summoned to jury duty in courts in San Diego County:

The Juror Regional Day Pass is valid for travel on all regular MTS and NCTD services except (i) Premium, unless a \$2.00 Supplement is paid; (ii) COASTER, for which the pass entitles the holder to a \$0.50 discount per trip; and (iv) Rural services, unless a \$4.00 Supplement per zone is paid.

The Juror Regional Premium Day Pass is valid for travel on all MTS and NCTD regular and premium services and on 1-Zone Rural service. Travel on 2-Zone Rural service requires the payment of a \$4.00 Supplement.

Juror Passes are not valid for travel on any special services or ADA Complementary - Paratransit services.

Section 4.3.1k: Universal Pass (UPass)

Upon entering into an agreement with MTS that meets MTS requirements, sponsoring entities may purchase a UPass at the negotiated rate to provide to the designated, guaranteed participation group. The negotiated fare/payment shall be sufficient to compensate MTS for the estimated actual ridership from the guaranteed participation group.

Section 4.3.2: Regional Monthly or 30-Day Pass Supplements

Passengers holding a valid monthly or 30-day pass as described in Section 4.3.1a must pay a \$4.00 Supplement per zone to ride Rural services. The Supplement for Senior/Disabled/ Medicare Pass holders is \$2.00 per zone.

Premium Regional Monthly or 30-Day Passes shall be valid for 1-Zone Rural travel without the payment of a Supplement. Travel on 2-Zone Rural service requires the payment of a \$4.00 Supplement (\$2.00 for Senior/Disabled/Medicare Premium Pass holders).

Section 4.3.3: Regional Fares for Children

Up to two children, as defined in Section 4.2.E, shall ride for free when accompanied by a fare-paying passenger. This shall be applicable to all fixed-route bus service, Trolley service, and Rural service.

(Section 4.3 ~~adopted and amended 11/19/12~~10/30/14)

Section 4.4: Trolley Fare-Pricing Schedule

Section 4.4.1a: One-Way Cash Fares

The cash fare for a single, one-way trip involving any number of stations shall be \$2.50 for an adult and free transfers shall be permitted between Trolley lines. A one-way ticket shall entitle the person to a one-way trip in a direction away from the station of issue. The one-way ticket is valid for two hours and must be valid during the entire Trolley trip.

(Section 4.4.1a adopted and amended 1/19/12)

Section 4.4.1b: Round-Trip Cash Fares

In lieu of an adult round-trip cash fare, the Day Pass is offered and free transfers between Trolley lines shall be permitted.

Section 4.4.2: Senior/Disabled/Medicare Cash Fares

The Senior/Disabled/Medicare cash fare shall be \$1.25 per one-way trip on the Trolley.

(Section 4.4.2 adopted and amended 1/19/12)

Section 4.4.3: Tokens

Effective March 1, 2012, universal tokens shall be available for \$2.50 each, and shall entitle the person holding the universal token to up to a \$2.50 cash fare value trip on any MTS bus or Trolley service except ADA paratransit services. Some services may require payment of a Supplement in conjunction with the universal token.

(Section 4.4 adopted and amended 11/19/12)

Section 4.4.4: Compass Card

Use of a Compass Card with a "stored value" is defined as use of any Compass Card for a debit transaction for transit service when transit cash has been placed on the card.

Compass Card users who have a transit product stored on their card must validate their card on each transit service that they ride each time they use the service as a condition precedent to

using MTS services. Compass Card users must validate their cards via onboard validators on Buses, or station platform validators for Trolleys, and in accordance with Ordinance No. 13.

Patrons who fail to validate their Compass Card in the manner described above and as set forth in Ordinance No. 13 will be deemed to not be in possession of a valid fare and subject to applicable fines and penalties.

Users of the Compass Card must produce the Compass Card for inspection by authorized MTS, employees, security, contractors, or law enforcement staff upon demand.

The Compass Card is intended as a fare payment device on MTS services and NCTD services, and any unauthorized use of the card is strictly forbidden. Persons found to be using the Compass Card in a fraudulent manner may have their Compass Card confiscated and their account suspended.

Refunds of transit products on Compass Cards will not be provided.

Refunds of cash value remaining on voluntarily surrendered cards and confiscated cards will be considered on an individual basis for holders of registered Compass Cards only and may be obtained by request to SANDAG. Registered Compass Card holders seeking a refund must complete an application form (available from The Transit Store or NCTD Customer Service) and follow the submission instructions on the application. SANDAG reserves the right to refuse any request for refund or to make a partial refund. SANDAG also reserves the right to deduct a processing fee of not more than 10 percent on any refund.

Refunds will be issued as credit on the same card as the original purchase if made by credit card. Original payments made by cash, check, or debit card will be refunded by check.

(Section 4.4.4 added 11/13/08)

Section 4.5: MTS Bus Fare-Pricing Schedule

Section 4.5.1: Cash Fares

Section 4.5.1a: Local Services

The price of a trip on MTS Local service, as described in Section 4.21 of this Ordinance, shall be \$2.25.

Section 4.5.1b: Urban Services

The price of a trip on MTS Urban service, as described in Section 4.2J of this Ordinance, shall be \$2.25.

Section 4.5.1c: Express/ Rapid and Premium-Rapid Express Services

The price of a trip on Express and Premium Express service, as described in Sections 4.2K and 4.2L of this Ordinance, shall be:

Express/ <u>Rapid</u>	=	\$2.50
<u>Premium-Rapid</u> Express	=	\$5.00

Section 4.5.1d: Senior/Disabled/Medicare Cash Fares

The Senior/Disabled/Medicare Bus cash fare shall be \$1.10 except as otherwise provided in Section 4.7 concerning Rural service.

The Senior/Disabled/Medicare Bus cash fare shall be \$1.25 on Express service and \$2.50 on Premium Express service.

Section 4.5.2: Special Fares

Section 4.5.2a: Shuttle Fare

The price of a trip on shuttle services shall be \$2.25. The Senior/Disabled/Medicare shuttle service fare shall be \$1.10.

Section 4.5.2b: Stadium/Ballpark Bus Fares

The price of a trip on special buses with the primary purpose of traveling to and from events at Qualcomm Stadium or PETCO Park may be equal to twice the one-way fare of Premium Express service and entitle the holder to one-way or round-trip travel.

(Section 4.5 ~~adopted and amended~~ 10/30/141/19112)

Section 4.6.5: Demand-Responsive Fares

MTS does not offer demand-responsive service at this time.

(Section 4.6.5 amended 11/13/08)

Section 4.6.5a: ADA Complementary Paratransit Services Cash Fares

The ADA Complementary Paratransit services, provided in accordance with the ADA, are only available to persons with qualifying disabilities that prevent them from using fixed-route transit services. These services shall have a cash fare of no more than double the predominant adult cash fare in the area of service. Section 4.2.0 establishes the ADA paratransit zones. The urban zone (Zone 1) shall use the Urban Service fare defined in Section 4.2.1 to calculate the MTS Access cash fare. The three suburban zones (Zones 2, 3, and 4) shall use the Local Service fare defined in Section 4.2.H to calculate the ADA Suburban paratransit cash fare. Passes are not accepted on ADA paratransit services. Paying ADA paratransit passengers will be issued (upon request) a Premium Regional Day Pass for use on connecting fixed-route and Trolley services. Passengers transferring from ADA paratransit service in Zones 2, 3, or 4 to ADA paratransit service in Zone 1 may be required to pay a Supplement on the Zone 1 vehicle if the price of the MTS Urban Service Fare is greater than the price of the MTS Local Service Fare. Full-price (no discount) tickets for ADA paratransit services may be sold to passengers in advance. No passes, tokens, or discounts and no other tickets are accepted on ADA paratransit services. Personal Care Attendants (PCA) required by disabled passengers are not required to pay a fare.

(Section 4.6 amended 7/17/08)

Section 4.7: Rural Service

Rural service, as defined in Section 4.2L, shall have applied to it a two-zone based fare structure. Zone boundaries shall generally be located on a north-south axis and have zone boundaries at Ramona (Ramona Station), Alpine (Tavern Road and Alpine Boulevard), and the Tecate border crossing (Tecate Road and Thing Road). Passenger trips remaining within one zone shall have applied to them the 1-Zone fare.

Section 4.7.1: 1-Zone and 2-Zone One-Way Cash Fares

The price of a 1-Zone cash fare shall be \$5.00 for each one-way trip. The price of a 2-Zone cash fare shall be \$10.00 for each one-way trip.

Section 4.7.2: One-Way Senior/Disabled/Medicare Cash Fare

The price of Senior/Disabled/Medicare cash fares shall be equal to 50 percent of the regular cash fare: the price of a 1-Zone Senior/Disabled/Medicare cash fare shall be \$2.50 for each one-way trip and the price of a 2-Zone cash fare shall be \$5.00 for each one-way trip.

Section 4.7.3: Prepaid Monthly or Daily Pass Supplement or Upgrade Required

Passengers exhibiting a valid MTS Monthly or 30-Day Adult or Youth Pass, Post-Secondary Monthly or Quarter/Semester Pass, or Day Pass shall be provided a \$1 discount per Zone for Rural service: the 1-Zone Supplement shall be \$4.00 for each one-way trip. The 2-Zone cash Supplement shall be \$8.00 for each one-way trip. Senior/Disabled/Medicare passengers exhibiting a valid Senior/Disabled/Medicare Monthly Pass shall be given a \$0.50 cent discount per zone: the 1-Zone cash Supplement shall be \$2.00 for each one-way trip. The 2-Zone cash Supplement shall be \$4.00 for each one-way trip.

Section 4.7.4: Other Fare Media

- Effective March 1, 2012, tokens shall be accepted at the value of \$2.50; change will not be provided in instances where token value exceeds required fare.
- A San Diego County Juror Premium pass is valid for travel for 1-Zone Rural bus service. Use of this pass for a 2-Zone Rural trip requires payment of a \$4.00 Supplement in each direction.
- Transfers from ADA complementary service shall not require the payment of a Supplement or an upgrade.

(Section 4 adopted and amended 1/19/12)

Section 4.8: Sorrento Valley Coaster Connection

The one-way cash fare on Sorrento Valley Coaster Connection (SVCC) services shall be \$1.00 for adults and \$0.50 for Senior/Disabled/Medicare.

The price for a Monthly or 30-Day Pass for the SVCC shall be \$40.00 for adults, \$20.00 for Youth, and \$10.00 for Senior/Disabled/Medicare.

All Regional and Premium Day Passes and Regional and Premium Monthly or 30-Day Passes and 14-Day Passes will be accepted on SVCC services.

MTS may enter into an agreement with third parties to cover the cost of fares for patrons on the SVCC in lieu of charging passengers.

(Section 4.8 adopted and amended 1/19/12)

Section 4.9: Special Fares

MTS shall be allowed to adjust fares for special events with the approval of the Chief Executive Officer.

(Section 4.9 amended 7/17/08)

Section 4.10: Other Metropolitan Transit System Operators and Special Cash Fares

Section 4.10.1: Cash Fares

Any special fares of any operator in the region not listed within this Ordinance shall be included in the Uniform Fare Structure Agreement.

(Section 4.10 amended 7/17/08)

Section 4.11: Public Notice

Before the expiration of fifteen (15) days after its passage, a summary of this Ordinance shall be published once with the names and members voting for and against the same in a newspaper of general circulation published in the County of San Diego.

(Section 4.11 amended 7/17/08)

Section 4.12: Effective Date of Ordinance

This Ordinance shall become effective on ~~January 20, 2012~~ November 30, 2014.

(Section 4.12 ~~adopted and~~ amended 1/19/12 10/30/14)

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Amended: 10/30/14

~~Amended & Adopted:~~ 1/19/12

Amended: 5/28/09

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Amended: 7/17/08

Amended: 11/8/07

Amended: 12/8/05

Amended: 1/15/04

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Amended: 04/10/03

Amended: 10/17/02

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Amended: 05/10/01

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Repealed & Readopted: 05/28/92

Amended: 01/09/92

Repealed & Readopted: 03/14/91

Amended: 09/27/90

Amended: 05/10/90

Repealed & Readopted: 02/23/89

Amended: 11/10/88

Repealed & Readopted: 02/25/88

Amended: 12/10/87

Amended: 10/09/86

Amended: 04/24/86

Amended: 03/01/86

Repealed & Readopted: 12/05/85

Amended: 07/11/85

Amended: 05/23/85

Amended: 10/04/84

Amended: 07/19/84

Repealed & Readopted: 02/27/84

Amended: 07/25/83

Amended: 07/11/83

Repealed & Readopted: 05/24/82

Amended: 10/05/81

Amended: 07/08/81

Amended: 06/30/81

Adopted: 06/08/81

JURISDICTION	VOTE	TALLY	WEIGHT
Carlsbad	Yes	1	3
Chula Vista	Yes	1	8
Coronado			
County A	Yes	1	8
County B	Yes		8
Del Mar	Yes	1	1
El Cajon	Yes	1	3
Encinitas	Yes	1	2
Escondido	Yes	1	5
Imperial Beach	Yes	1	1
La Mesa	Yes	1	2
Lemon Grove			
National City			
Oceanside	Yes	1	5
Poway	Yes	1	1
San Diego A	Yes	1	20
San Diego B	Yes		20
San Marcos	Yes	1	3
Santee	Yes	1	2
Solana Beach			
Vista	Yes	1	3

Agenda Item 12 Proposed Amendments to Comprehensive Fare Ordinance

Action: APPROVE

Tally	Weight
15	95
100%	100%

Pass

**BOARD OF DIRECTORS
JULY 25, 2014**

**AGENDA ITEM NO. 14-07-12
ACTION REQUESTED - APPROVE**

**PROPOSED AMENDMENTS TO
COMPREHENSIVE FARE ORDINANCE**

File Number 3320100

Introduction

The Comprehensive Fare Ordinance (Ordinance) provides guidelines for setting a uniform, fair, and equitable region-wide fare system within the County of San Diego for the Metropolitan Transit System (MTS) and the North County Transit District (NCTD). Changes are proposed to the Ordinance that provide MTS and NCTD the ability to implement Universal Pass (UPass) agreements with post-secondary educational institutions and/or large groups as well as add language that clarifies, simplifies, and better codifies the fare rules for the region. The proposed changes in the language of the Ordinance have been coordinated with the staffs of both NCTD and MTS.

Recommendation

The Board of Directors is asked to: (1) approve Resolution No. 2015-03 (Attachment 1), related to findings supporting a California Environmental Quality Act exemption for the proposed amendments to the Comprehensive Fare Ordinance (Ordinance); and (2) approve the proposed amendments to the Ordinance (Attachment 2), as recommended by the Transportation Committee.

The Board of Directors conducted the first reading of the proposed changes to the Ordinance at its June 27, 2014, meeting. The Transportation Committee reviewed the changes to the Ordinance on July 18, 2014, and recommends the Board of Directors adopt the amended Ordinance.

Discussion

Overview of Proposed Ordinance Changes

The proposed changes to the Ordinance are included as Attachment 2. There are no fare changes (increases or decreases) in this amendment. The proposed changes are focused on the following:

- **UPass Agreements:** UC San Diego has been working with the transit operators on instituting UPass on its campus, which would allow all undergraduate and graduate students to ride on most MTS and NCTD routes. The students voted on a fee referendum in May 2014 to allow UC San Diego to assess a fee each quarter. In anticipation of this vote, MTS requested that SANDAG amend the Ordinance to allow MTS and NCTD to negotiate UPass agreements. The current version of the Ordinance does not specifically allow for a UPass-type agreement to be negotiated by MTS or NCTD with educational institutions or other large groups willing to purchase a transit pass for all its students or employees. Section 6 of the current version of the Ordinance includes options for the transit operators to sell passes at a discounted price. The revised Ordinance separates the discounted passes into one section for educational institutions

and another section for group passes. A new section, Section 6.2.2 in the new Group Pass section, adds the UPass as an option for the transit operators.

- **Rapid Services:** Several language changes are needed to include the new Rapid-branded services. While these routes are using the fares of existing services, language in numerous locations needs to be updated to reflect the existence of the Rapid services. The new Rapid Route 235 (serving northern inland San Diego, Kearny Mesa, City Heights, and Downtown San Diego) will use the same fare structure as the Trolley and Express Routes. The Premium Express routes have been rebranded to Rapid Express and have the same fares.
- **Compass Card:** With the administration of the Compass Card Program recently moved to MTS, all language referring to SANDAG as the responsible entity has been removed. Language has been added to Section 12 to demonstrate that regional ticket and pass administration and revenue sharing may be the subject of one or more separate agreements between MTS and NCTD as they see fit.
- **Other Minor Changes:** Other language changes are proposed to better clarify, simplify, and codify the fare rules for the region.

California Environmental Quality Act Compliance

The California Environmental Quality Act (CEQA) provides that CEQA does not apply to the “establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies” that the public agency finds in writing are for specified purposes, including meeting operating expenses.

In order to establish a basis for this CEQA exemption, the Board of Directors is asked to make a finding that the fare ordinance modifications set forth in the proposed Ordinance amendment are calculated to provide MTS and NCTD the ability to implement UPass agreements with post-secondary educational institutions and/or large groups as set forth in Resolution No. 2015-03 (Attachment 1).

Next Steps

Pending Board approval, the Ordinance changes are scheduled to go into effect on August 25, 2014, after the minimum 30-day waiting period mandated by Board Policy No. 004: Rules of Procedure for Board of Directors and Committees.

GARY L. GALLEGOS
Executive Director

Attachments:

1. Resolution No. 2015-03
2. Proposed Changes to the Comprehensive Fare Ordinance

Key Staff Contact: Brian Lane, (619) 699-7331, brian.lane@sandag.org

RESOLUTION

NO. 2015-03

401 B Street, Suite 800
San Diego, CA 92101
Phone (619) 699-1900 • Fax (619) 699-1905
www.sandag.org

FINDINGS IN SUPPORT OF NOTICE OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT RELATING TO FARE MODIFICATIONS INCORPORATED INTO AN AMENDED COMPREHENSIVE FARE ORDINANCE

WHEREAS, a Comprehensive Fare Ordinance amendment incorporating modifications is necessary to provide the Metropolitan Transit System (MTS) and the North County Transit District (NCTD) the ability to implement Universal Pass agreements with post-secondary educational institutions and/or large groups; and

WHEREAS, other modifications are necessary to incorporate the newly implemented Rapid Services as well add language that clarifies, simplifies, and better codifies the fare rules for the region; and

WHEREAS, the SANDAG Board of Directors wishes to render written findings in support of the determination that the amended Regional Comprehensive Fare Ordinance does not require an Environmental Impact Report before it approves such amendment; and

WHEREAS, if a project falls within a category exempt by administrative regulation under the California Environmental Quality Act (CEQA), no further agency evaluation of environmental impact is required; and

WHEREAS, establishment of fares and fare modifications are exempt from CEQA pursuant to an exemption for fees charged by a public agency for the purpose of meeting operating expenses pursuant to Public Resources Code, § 21080, subd. (b)(8); and California Code of Regulations Title 14, § 15273, subd. (a); and

WHEREAS, it has been made clear that any increased revenues obtained from the fare modification will be used for operations purposes rather than for capital improvements.

NOW THEREFORE, BE IT RESOLVED that SANDAG makes the following findings:

Both MTS and NCTD need the ability to implement discounted Transit Pass agreements with post-secondary educational institutions and/or large groups.

PASSED AND ADOPTED this 25th of July, 2014.

CHAIRPERSON

ATTEST:

SECRETARY

MEMBER AGENCIES: Cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, Vista, and County of San Diego.

ADVISORY MEMBERS: California Department of Transportation, Metropolitan Transit System, North County Transit District, Imperial County, U.S. Department of Defense, San Diego Unified Port District, San Diego County Water Authority, Southern California Tribal Chairmen's Association, and Mexico.

**SAN DIEGO ASSOCIATION OF GOVERNMENTS
COMPREHENSIVE FARE ORDINANCE**

**An Ordinance Establishing a Regional
Fare Pricing Schedule ~~and~~ Revenue Allocation Formula**

The San Diego Association of Governments (SANDAG) ordains as follows:

SECTION 1: FINDINGS

This Ordinance is adopted to implement a Comprehensive Fare Ordinance setting forth a fare structure for all public transit service providers in San Diego County.

SECTION 2: REGIONAL TRANSIT SERVICE DEFINITIONS

2.1 ACCESS: the complementary Americans with Disabilities Act (ADA) service operated by the Metropolitan Transit System (MTS) in Zone 1.

2.2 ADA: Americans with Disabilities Act, as defined in Title 49, Part 37, of the United States Code.

2.3 ADA Complementary Paratransit Service: Specialized origin-to-destination curb-to-curb transportation services provided to persons who qualify as eligible for such services under the guidelines of the ADA.

2.4 BREEZE: North County Transit District (NCTD) fixed-route bus service brand name.

2.5 Bus: Rubber-tired transit vehicles operated by MTS and NCTD.

~~**2.6 Bus Rapid Transit:** A form of premium rapid transit service operated wholly or partly on exclusive bus lanes, guideways, or managed lanes.~~

~~**2.72.6 Cash Fare:** Term used to describe fares purchased with United States currency.~~

~~**2.82.7 Child:** Any person five years of age or under.~~

~~**2.92.8 COASTER:** The brand name of the commuter rail service operated by NCTD in the coastal corridor from Oceanside to San Diego.~~

~~**2.102.9 College Student:** Any person currently enrolled as a student in a participating accredited San Diego area post-secondary school with a valid picture identification issued by the school.~~

~~**2.112.10 Companion:** In relation to the ADA complementary paratransit service, a companion is someone who accompanies an ADA passenger on board a Paratransit vehicle, but is not a personal care attendant as specified in the passenger's ADA certification application.~~

~~**2.122.11 Compass Card:** –The Compass Card is an electronic fare medium based on contactless smart card technology. The Compass Card may hold either transit products or cash for use on~~

regional transit services. Transit products may include but are not limited to Monthly Passes, ~~post-secondary student semester~~ passes, single-day and multi-day passes, and ~~stored~~ value.

The Compass Card utilizes wireless technology to interface with validator devices on buses, rail platforms, and Ticket Vending Machines (TVMs). Passengers must tap their Compass Card on a validator in order to utilize transportation services.

~~2.132.12~~ Day Pass: a fare medium that allows a passenger to ride one Service Day.

2.13 Discount: A reduction in the price of a fare or fare product as a result of the passenger holding a special identification card, or an existing fare product.

2.14 LIFT: The complementary ADA service operated by NCTD.

2.15 Limited Use Compass Card: A Compass Card printed on a disposable material. Limited Use Compass Cards have a limited lifetime and may not accept all fare products available for loading onto a plastic Compass Card.

2.16 Medicare Recipient: Any person to whom the ~~F~~ederal ~~G~~overnment has issued a Medicare identification card, regardless of age.

2.17 MetroLink: The Commuter rail service operated by the Southern California Regional Rail Authority.

2.18 Monthly Pass: This term refers to either the Calendar Month Pass or the 30-Day Pass.

2.19 MTS: The San Diego Metropolitan Transit System which operates services in all areas of San Diego County outside the jurisdiction of NCTD. MTS operates MTS Bus, Rural Bus, MTS-Express, MTS Rapid, MTS ~~Premium-Rapid~~ Express, MTS Trolley service, and ADA Access Service.

2.20 MTS Suburban Paratransit: The complementary ADA service operated by MTS in suburban areas (ADA Zones 2, 3, and 4).

2.21 NCTD: North County Transit District operating services in Northern San Diego County. NCTD services include the BREEZE, COASTER, SPRINTER, and LIFT.

2.22 OCTA: Orange County Transportation Authority.

2.23 Person with Disability: Any person with a permanent or temporary mental or physical disability as defined by the ADA (Title 49, Part 37 of the Code of Federal Regulations). In order to qualify for a disabled fare a passenger for regular (non-ADA paratransit) transit must be in possession of a transit identification card or a valid Compass Card with a picture identifying the person as a person with a qualifying disability. In order to qualify for ADA ~~Paratransit~~paratransit service the person with a disability must be ADA certified.

2.24 Personal Care Attendant: In relation to the ADA complementary paratransit service, a personal care attendant is a person who is designated by the ADA eligible passenger to aid in their mobility who is not charged a fare to ride on the ADA complementary paratransit vehicle when accompanying the ADA-eligible passenger. The person may be a friend, family member,

or paid employee. The need for and use of a personal care attendant must be indicated at the time of eligibility certification.

2.25 Platform Validator: A validator located in a standalone device on a rail platform. Platform validators must be tapped before boarding a rail vehicle unless a new Compass Card product is loaded and validated at a TVM.

2.252.26 Rapid: MTS brand name for a premium rapid transit service operated wholly or partly on exclusive bus lanes, guideways, ~~m~~Managed Lanes, or use of other transit priority measures. Depending on specific route characteristics, individual Rapid routes may be classified as MTS Rapid or MTS Rapid Express for purposes of Table 2.

2.262.27 Regional Fare System: The Regional Fare System is governed by SANDAG Board Policy Nos. 018: Transit Service Policies, Board Policy No. 029: Regional Fare Policy and Comprehensive Fare Ordinance, this Ordinance, MTS and NCTD transit operations ordinances and policies, and any other fare agreements, including agreements entered into by SANDAG with transit operators.

2.272.28 Regular Fare: Applies to all persons age six and older, except persons eligible for Senior, Disabled, and Medicare (S/D/M) or Youth fares.

2.282.29 S/D/M: Acronym that stands for Senior, Disabled, and Medicare passengers.

2.292.30 Senior: Any person who meets the age requirement for transit fares provided in the *TransNet* Ordinance, Section 4, Paragraph (c)(3), is eligible to pay the discounted Senior Cash Fare or purchase a Senior pass.

2.302.31 Service Day: ~~4:00~~ a.m. until 3:59 a.m. on the subsequent day.

2.312.32 Sorrento Valley COASTER Connection (SVCC): A peak period only Community Shuttle service operated by MTS between the Sorrento Valley COASTER Station, and nearby employment centers.

2.322.33 SPRINTER: The brand name of the Oceanside to Escondido rail service operated by NCTD with Diesel Multiple Units ~~(DMUs)~~ in a light rail mode.

2.332.34 Station: A light rail, Bus Rapid Transit or commuter rail passenger stop.

2.342.35 Stored Value: cash value that can be debited to purchase fare products or pay a Cash Fare on a Compass Card.

2.352.36 Supplement: A charge paid on a one-time basis to permit the use of a fare product for a transit ride that requires a more expensive fare. Payment of a supplement does not change the original fare product.

2.37 Sworn Peace Officers: San Diego County, state, and federal sworn peace officers. Sworn peace officers include but are not limited to: all municipal police department officials, all County Sheriff Department deputies, County Marshals, all County of San Diego Probation

oOfficers, State Highway Patrol officers, State Police, U.S. Marshals, Federal Bureau of Investigation oOfficers, and U.S. Immigration and Customs officers.

2.362.38 Tap: The act of touching a Compass Card on a validator.

2.372.39 Transit Service Types:

2.39.1 Local – Fixed-route bus service on local or arterial roads serving neighborhood destinations and feeding transit centers. Includes BREEZE and MTS Bus. Also includes routes operating extensively on arterials with transit priority features and limited stops (Rapid Services).

2.39.2 Corridor – A frequent transit service with limited stops including, but not limited to, major transit centers, residential centers, and activity centers that have more than six stops outside Centre City. Corridor services include MTS Trolley, MTS Rapid, SPRINTER, and express buses generally traveling less than 50 percent of the one-way trip miles on freeways. Corridor services travel at least 12 miles per hour, with an average passenger trip length of approximately 10 miles or under.

2.39.3 ~~Premium-Rapid~~ Express – Includes bus service with stops only at major transit centers, residential centers, and activity centers; generally traveling 50 percent or more of the one-way trip miles on freeways; averaging at least 20 miles per hour, with an average passenger trip length of over 10 miles; and using commuter coaches. The future will include BRT operating at least 10 one-way route miles on a network of managed lanes or routes with transit priority measures.

2.39.4 Commuter Rail – The commuter rail service operated in the coastal corridor from Oceanside to San Diego by NCTD under the brand COASTER.

2.39.5 Rural – A rural bus service providing limited daily or weekly service linking rural areas to a multimodal transit center or major shopping center and designated by the MTS or NCTD Board of Directors as having a special one or two zone fare. Service is generally provided in rural areas with one-way vehicle trip lengths ranging from 15 to 80 miles.

2.382.40 Transfer: The action of a passenger leaving one bus, train, or other transit vehicle and within a brief time, without a stopover, boarding a subsequent bus, train, or other transit vehicle to complete his or her trip.

2.392.41 Transfer Slip: A document that may be issued by a driver to enable a passenger to board another transit vehicle free of charge or for a reduced amount. Transfer slips are not issued for travel entirely within San Diego County solely on the fixed-route system. Transfer slips may be issued for transfers between ADA services and fixed-route services and between fixed-route services and other systems outside San Diego County.

2.402.42 TransNet: The *TransNet* Ordinance is a SANDAG ordinance passed by voters in 2004 that provides for a half-cent transactions and use tax collected in San Diego County and used for transportation-related projects.

2.412.43 Trolley: Light-rail transit service operated by MTS.

2.44 TVM: Ticket Vending Machine used for the sale of single and multi-trip fare products.

2.45 Universal Pass: Provides unlimited rides on select transit services for an agreed upon period of time to individuals associated with a sponsoring entity, where the sponsoring entity guarantees universal participation/purchase by its employees, students, or other membership.

2.422.46 Upgrade: An additional fare required to enhance the value of a transit pass to travel on a transit service with a higher fare. Upon payment of an upgrade, the original fare instrument is converted to the new, more expensive product and the original product is no longer available.

2.432.47 Validator: A device for tapping a Compass Card in order to validate the fare product. Validators may be standalone devices, located on bus fareboxes, or part of a TVM. Validators located in TVMs may not be used as platform validators.

2.442.48 Youth: A person as defined in the *TransNet* Ordinance Section 4(C)(3).

2.452.49 Zone: For ADA purposes a zone is defined as:

Zone 1 Central San Diego

Zone 2 Mid-County: Poway, Rancho Bernardo, Rancho Peñasquitos, Carmel Mountain Ranch, and Sabre Springs

Zone 3 East County: La Mesa, El Cajon, Santee, Lakeside, Lemon Grove, Spring Valley, and parts of Alpine

Zone 4 South Bay: Chula Vista, Coronado, National City, Imperial Beach, Palm City, Nestor, Otay Mesa, and San Ysidro

Zone 5 NCTD Service area

For the COASTER, the fare zones are set forth in Table 3. The fares zones applicable to Rural Fares are set forth in Section 3.4 of this Ordinance.

SECTION 3: SINGLE TRIP, SINGLE DAY, ~~& AND~~ MULTI-DAY FARES

3.1 Fare Product Limitations

3.1.1 SPRINTER/BREEZE fare products may only be used on the SPRINTER and BREEZE.

3.1.2 Regional fare products may not be used on COASTER, ADA, ~~Premium-Rapid~~ Express and Rural bus services without paying an Upgrade or Supplement.

3.1.3 Premium fare products (Rapid Express, COASTER, and RegionPlus) may be used on Local, Corridor, PremiumRapid Express, and single zone Rural services. Regional fare products may be used with the Supplements indicated in Table 1.

3.1.4 COASTER and Region-PlusRegionPlus fare products may be used on all transit services operated by MTS and NCTD, but require Supplements for two zone rural services. Discounts are available to holders of Premium and Regional fare products using the COASTER, as shown in Table 1.

3.1.5 Sorrento Valley COASTER Connection fare products are only valid on the Sorrento Valley COASTER Connection.

3.2 Fares and Pass Products

Tables 1 and 2 list transit fares available to the general public. The tables show the fare for each type of service by passenger category, and which passes are accepted on specific services. The notes below the tables show the amount of any Supplement or Discount that may be required or available.

Table 1
Pass Prices, Acceptance, and Required Supplements or Discounts

Service	Pass Type & Price						Acceptance - Supplements - Discounts for Single Ride, Round Trip, or Day Pass						
	Day Pass Price	S/D/M Day Pass Price	Monthly/ 30-Day Pass Price	14-Day Pass Price	S/D/M Monthly Pass Price	Youth Monthly	BREEZE SPRINT ER	Trolley MTS Bus	Premium	COASTER	1 Zone Rural	2 Zone Rural	Sorrento Valley Coaster Connection (SVCC)
Sorrento Valley	\$5	n/a	\$40.00	n/a	\$10.00	\$20.00	No	No	No	No	No	No	Yes
SPRINTER/ BREEZE		\$2.25	\$59.00 *1	n/a	n/a	n/a	Yes	No	No	*23	No	No	No
Regional		n/a	\$72.00	\$43.00	\$18.00	\$36.00	Yes	Yes	*56	*23	*34	*45	Yes
Premium Rapid Express	\$12.00	n/a	\$100.00	\$60.00	\$25.00	\$50.00	Yes	Yes	Yes	*12, *23	Yes	*34	Yes
COASTER 1 Zone		n/a	\$120.00	n/a	\$41.25	\$82.50	Yes	Yes	Yes	Yes	Yes	*34	No *12
COASTER 2 Zone		n/a	\$150.00	n/a			Yes	Yes	Yes	Yes	Yes	*34	No *12
COASTER 3 Zone		n/a	\$165.00	n/a			Yes	Yes	Yes	Yes	Yes	*34	No *12

Table 2
Single Boarding Fares by Service, Acceptance, Required Supplements, & Discounts

Service	Single Boarding- Fare		Passes Accepted				
	Regular	Senior Disabled and	Regional	Premium	SVCC	COASTER/ RegionPlus	SPRINTER/ BREEZE

		Medicare					
Sorrento Valley Coaster Connection	\$1.00	\$0.50	Yes	Yes	Yes	No/Yes	No
MTS Bus/MTS Rapid [#]	\$2.25	\$1.10	Yes	Yes	No	Yes/Yes	No
MTS Trolley	\$2.50	\$1.25	Yes	Yes	No	Yes/Yes	No
MTS Express/MTS Rapid [#]	\$2.50	\$1.25	Yes	Yes	No	Yes/Yes	No
MTS Premium Rapid Express	\$5.00	\$2.50	*56	Yes	No	Yes/Yes	No
Rural Bus 1 Zone	\$5.00	\$2.50	*34	Yes	No	Yes/Yes	No
Rural Bus 2 Zones	\$10.00	\$5.00	*45	*34	No	*34	No
BREEZE	\$1.75	\$0.75	Yes	Yes	No	Yes/Yes	Yes
SPRINTER	\$2.00	\$1.00	Yes	Yes	No	Yes/Yes	Yes
COASTER 1 Zone	\$4.00	\$2.00	*23	*23	No	Yes/Yes	*23
COASTER 2 Zone	\$5.00	\$2.50	*23	*23	No	Yes/Yes	*23
COASTER 3 Zone	\$5.50	\$2.75	*23	*23	No	Yes/Yes	*23

Special Notes for Tables 1 and 2

*1—Calendar Monthly Only

*21 RegionPlus Day Pass Accepted.

*32 \$0.50 Discount on Single Ride Tickets for Regular, Youth, and Senior/Disabled/Medicare Passes on-Compass-Pass; \$1.00 Discount on Round Trip Tickets for Regular, Youth, and Senior/Disabled/Medicare Passes on-Compass-Pass.

*43 \$4.00 Supplement for Regular and Youth; \$2.00 Supplement for Senior/Disabled/Medicare.

*54 \$8.00 Supplement for Regular and Youth; \$4.00 Supplement for Senior/ Disabled/Medicare.

*65 \$2.00 Supplement for Regular and Youth; \$1.00 Supplement for Senior/Disabled/Medicare.

[#] Rapid routes that run on arterial roadways will be priced the same as MTS Bus, while those Rapid routes that run primarily on freeways will be priced the same as MTS Express.

3.3 COASTER Zones

The COASTER Fares are based on three zones. The number of zones between stations is shown in Table 3. Passengers must purchase a single-trip or round-trip ticket or pass based on the number of zones between their origin and destination.

Table 3
COASTER Stations and Zones

To From	Oceanside	Carlsbad Village	Carlsbad Poinsettia	Encinitas	Solana Beach	Sorrento Valley	Old Town	Santa Fe Depot
Oceanside		1	1	1	1	2	3	3
Carlsbad Village	1		1	1	1	2	3	3
Carlsbad Poinsettia	1	1		1	1	2	3	3
Encinitas	1	1	1		1	2	3	3
Solana Beach	1	1	1	1		2	3	3
Sorrento Valley	2	2	2	2	2		2	2

Old Town	3	3	3	3	3	2		1
Santa Fe Depot	3	3	3	3	3	2	1	

One-way and round-trip tickets and passes are valid only for travel between the number of zones or the stations listed on the ticket or pass.

3.4 Rural Bus Service Zones

Zone 1 of the rural areas is west of the line that runs due south from a point 14 miles east of Interstate -15 on the San Diego – Orange County line through the mid point of Palomar Mountain State Park and then to Ramona (Ramona Station), Alpine (Tavern Road, and Alpine Blvd.Boulevard), and Tecate border crossing (Tecate Road and Thing Road). Zone 2 of the rural area is east of this line.

3.5 Senior/Disabled/Medicare

The single~~--~~trip Cash Fare for persons eligible for S/D/M fares shall be 50 percent of the single~~--~~trip regular fare, rounded down to the nearest \$0.05.

3.6 Children

NCTD and MTS may each determine how many children five years old and under may ride free on all bus, light rail, and commuter rail services when traveling with a paying passenger.

3.7 NCTD Reduced Fare Identification Card on BREEZE and SPRINTER

Passengers holding a valid NCTD issued Paratransit Reduced Fare Identification Card may ride BREEZE, or SPRINTER services without payment of any fare. A personal care attendant may also ride free accompanying the passenger with a Reduced Fare Identification Card if the requirement for a personal care attendant is noted on the NCTD Paratransit Reduced Fare Identification Card.

3.8 Regional Day Pass

3.8.1 With the exception of Juror Day Passes and special marketing programs or event tickets/passes, all ~~All~~ Day Passes shall be valid for travel on the specified services from the time of issue for the number of consecutive days indicated on the Day Pass or Compass Card product. The Day Pass is valid for travel until the end of the Service Day. The prices for all 1-Day, 14-Day, Monthly, and 30-Day Passes are shown in Table 1.

3.8.2 Regional Day Passes will also ~~will~~ be available for two, three, and four days from the Transit Store, North County Customer Service Centers, and select TVMs at the prices shown in Table 4.

Table 4
2, 3, and 4 Day Pass Prices

Day Pass	Price
----------	-------

2 Day Regular:	\$9.00
3 Day Regular	\$12.00
4 Day Regular	\$15.00

3.8.3 The price of 14-Day Passes shall be 60 percent of the cost of Monthly Passes rounded to the nearest dollar.

3.9 RegionPlus Day Pass

A RegionPlus Day Pass is valid on all services except for LIFT, ACCESS, and MTS Suburban Paratransit. Upgrade required for travel on Rural ~~z~~Zone 2. The price of a RegionPlus Day Pass is ~~\$12.00~~.

3.10 Classroom Day Tripper

Classroom Day Trippers are valid for travel between 9 a.m. and 3 p.m. and after 6 p.m. Monday ~~to through~~ Friday, and may be issued to school and youth groups (up to 18 years of age) on an advance sales basis only. Each group shall consist of a minimum of 15 people. One chaperone per every five students may ride at the Regional Classroom Day Tripper price.

Valid on	Price
MTS Bus, SPRINTER, BREEZE, and Premium-Rapid Express	\$1.50
COASTER only	\$3.00
COASTER plus any of the following: MTS Bus, MTS Trolley, Premium-Rapid Express , SPRINTER, and BREEZE	\$4.50

A maximum of 135 students and adults per group are permitted to ride a single scheduled COASTER train. Advance confirmation of the availability of space is required at the time of purchase for all COASTER Classroom Day Trippers.

3.11 SPRINTER/BREEZE Social Services Agency Day Pass

The SPRINTER/BREEZE Social Service Agency Day Pass is a one-day NCTD Day Pass, sold in packs of ten priced at ~~\$45.00~~, which is validated by social service agencies by identifying the day, month, and year. It is sold only to qualified social service agencies who agree to dispense the Day Pass according to NCTD requirements. The Social Service Agency Day Pass has a unique serial number code, and the customer may not return or exchange a Social Service Agency Day Pass. Valid for unlimited travel on SPRINTER/BREEZE for day punched.

3.12 Juror Day Pass

Any state or federal court in San Diego County may purchase Juror Passes after signing an agreement with ~~SANDAG~~MTS. Juror Passes are not valid for use on any special service with a higher fare (e.g., Stadium Bus Service) or ADA complementary paratransit service.

A Regional Juror Day Pass is valid for travel on all NCTD and MTS services except ~~PremiumRapid -Express~~, COASTER, or Rural services. A ~~Region-PlusRegionPlus~~ Juror Day Pass is valid for travel on all NCTD and MTS services except ~~2_-Zone~~ Designated Rural services.

The price for Regional Juror Day Passes sold to the courts shall be based on the price of the Regional Day Pass and included in the agreement with the court. The price for ~~Region-PlusRegionPlus~~ Juror Day Passes sold to the courts shall be based on the price of the ~~Region-PlusRegionPlus~~ Day Pass and included in the agreement with the court.

Each Juror Day Pass becomes activated/valid on the day it is tapped by the passenger.

3.13 Advance Purchase Group Day Pass Sales

Groups wishing to purchase a minimum of 100 Regional Day Passes shall be entitled to obtain passes at the rates shown in Table 5 when the passes are purchased at least 21 days in advance. Groups purchasing 1,000 or more Day Passes shall be entitled to discounts from the Table 5 prices, as shown in Table 6. Additional discounts require the approval of the SANDAG Transportation Committee or SANDAG Board of Directors.

Table 5
Prices for Advance Purchase Group Day Passes

Days	Regional
One Day	\$4.50
Two Day	\$8.00
Three Day	\$11.00
Four Day	\$14.00
Five Day	\$16.00
Six Day	\$18.00
Seven Day	\$20.00

Table 6
Additional Discount for Bulk Purchase of Advance Purchase Group Day Passes

Passes Purchased	Discount
1,000-1,999	5%
2,000-2,999	10%
3,000 - 3,999	15%
4,000 or more	20%

3.14 Monthly Passes

All Calendar Month Passes shall be valid until the end of the Service Day on the last day of the calendar month. All 30-Day Passes shall be valid for 30 consecutive days commencing on the first day the pass is validated.

3.15 Upgrades to RegionPlus Day Pass

~~Upon implementation of Stored Value, Effective January 1, 2010,~~ a Regional Day Pass residing on a Compass Card may be upgraded to a RegionPlus Day Pass upon payment of the difference between the original price paid and the new pass price. This upgrade ~~is-onlyonly~~ **is** available on Compass Cards with a sufficient ~~S~~stored ~~V~~value balance and occurs automatically when a Compass Card with a valid Regional Day Pass is tapped prior to boarding a service requiring a RegionPlus Day Pass. An upgrade does not extend the period of validity of the pass and is not available for paper Day-Passes.

SECTION 4: MULTI RIDE TICKETS ~~AND~~ TOKENS

4.1 Round Trip Tickets

Any transit operator may, at its option, sell round trip tickets at two times the price of a single-trip ticket for any fare category or service. Outbound and return trips must be taken on the same service day and are valid roundtrip from the point of origin to the destination.

4.2 Multi-Trip Ticket Packs

Any transit operator may, at their option, bundle multiple single-trip tickets for any service they operate, and sell the tickets for the full face value of the tickets or with a discount of up to ~~10~~**ten** percent.

4.3 Tokens

If tokens are made available, they ~~shall be sold for \$2.25 each, in multiples of 20 (\$45.00) or 40 (\$90.00), and~~ shall entitle the person holding the universal token to up to a ~~\$2.25~~**\$2.50** cash fare value trip on any MTS bus, ~~Trolley, BREEZE, or SPRINTER, or Trolley~~ service, except ADA paratransit services. Some services may require a cash upgrade in conjunction with the Regional Universal Token.

Tokens will not be accepted for payment of any COASTER, ~~SPRINTER~~, Access, LIFT, or ~~Premium-Rapid~~ Express single-trip fare. Multiple tokens may be used to pay fares or purchase passes with a value of more than one local bus trip, but change will not be given.

SECTION 5: ~~STORED VALUE~~ COMPASS CARDS

5.1 Card Acquisition and Registration

~~MTSSANDAG~~, the administrator of the Compass Card Program, may require a nonrefundable fee for passengers wishing to acquire a Compass Card. The fee shall not exceed ~~\$5.00~~.

Compass Card users may elect to register their card. If registered, users will be entitled to one free replacement if the card is lost or stolen. Additionally, registered users of the Compass Card are entitled to balance protection. Registered users will be reimbursed the value of their cash or transit product at the time the card is reported lost or stolen. Reimbursement will be provided on a new Compass Card. An unregistered user shall have no right to reimbursement or refund of a Compass Card balance even if the card is lost or stolen. Registered Compass Cards are not transferable.

Compass Card users may opt not to participate in the registration program, but shall be required to pay the above-mentioned fee and will not receive the benefits of registration. Whether or not a user pays a fee or participates in the registration program, the Compass Card shall be the property of ~~MTS SANDAG~~ and may be revoked and/or confiscated by ~~SANDAG~~, MTS, or NCTD.

5.2 Validating a Compass Card

Compass Card users who have a transit fare product or ~~S~~stored ~~V~~value loaded on their card must validate their card each time they board a bus or train. Passengers who fail to tap and validate their Compass Card as required may be deemed to not be in possession of a valid fare consistent with the ordinances and policies of MTS and NCTD.

5.3 Inspection and Use of Compass Cards

Users of the Compass Card must produce the Compass Card for inspection by authorized ~~SANDAG~~, MTS, or NCTD personnel or their designated agents. The Compass Card is intended as a fare payment device on MTS, NCTD, or any transportation service that is part of the San Diego Regional Fare System. Any nonauthorized use of the card is strictly forbidden.

5.4 Refunds of Stored Value and Transit Products

Refunds will not be issued for transit pass products loaded onto a Compass Card. Refunds of ~~S~~stored ~~V~~value remaining on voluntarily surrendered cards and confiscated cards will be available for registered Compass Cards only. Registered Compass Card holders seeking a refund must complete an application form available from the Transit Store or NCTD Customer Service, and follow the submission instructions on the application. Refunds will only be issued up to the maximum value of any receipts that show cash being loaded onto the subject Compass Card. All refunds are subject to a processing and waiting period of up to 90 days. ~~MTS or NCTD SANDAG~~ may refuse any improper request for refund, or may make a partial refund. ~~SANDAG and the transit operators~~ MTS or NCTD may deduct a processing fee of not more than ~~ten~~ 10 percent on any refund. Refunds will be issued as a credit on the same card as the original purchase if made by credit card. Original payments made by cash, check, or debit card will be refunded by check.

5.5 Photographs of Cardholders

A photograph of a registered card holder may be printed onto a Compass Card if requested by the registered user. ~~MTS or NCTD NCTD, MTS and SANDAG~~ may charge up to an \$8.00 fee for placement of a photograph on the Compass Card. Compass Cards bearing a photograph ~~may only~~ may be used by the person whose photograph appears on the card.

5.6 Stored Value

~~Once implemented by MTS or NCTD, the~~ ~~The~~ ~~S~~stored ~~V~~value feature of a Compass Card may be loaded with cash value. A Compass Card with ~~S~~stored ~~V~~value may not be used to purchase an additional or replacement Compass Card. A Compass Card with ~~S~~stored ~~V~~value may not be

used to purchase fare products or ~~S~~stored ~~V~~value to be loaded onto a different Compass Card.

5.7 Default Fare for Stored Value

All card holders boarding any bus or rail vehicle and paying their fare with ~~S~~stored ~~V~~value on a Compass Card will have the applicable Day Pass cost deducted from the Compass Card when a farebox or platform validator is tapped. Passengers boarding a bus must advise the driver before tapping if they wish to pay a single-trip fare or purchase a product other than the default Day Pass. Passengers boarding a service at any station or stop equipped with platform validators and TVMs must use the TVM if the passenger prefers to purchase a paper single-trip ticket or a product other than the default Day Pass for the service they will be boarding.

SECTION 6: ~~DISCOUNTED POST-SECONDARY AND GROUP PASSES POST-SECONDARY MONTHLY, QUARTER, AND SEMESTER PASS~~

6.1 ~~Post-Secondary Discounted Passes~~

~~Post-Secondary Calendar Month & Semester Regional Passes~~

MTS and NCTD shall each have the ~~exclusive~~ right to ~~sign~~ ~~negotiate~~ agreements, ~~individually or jointly~~, with educational institutions ~~within their own district boundaries~~. MTS and NCTD may establish their own policies, terms or eligibility rules regarding the sale of the passes in the sales agreements; however, the prices to the education institutions must conform to this Ordinance.

6.1.12 Discounted Calendar Monthly Post-Secondary Regional Pass

The price of a Calendar Month Pass for post-secondary institutions shall be 80 percent of the price of a Regional ~~Monthly 30-Day~~ Pass. The discounted pass shall be valid for unlimited travel during a calendar month period until the end of the Service Day on the ~~last day of the month~~ 30th day. All Regional Pass discounts, supplements, and upgrade rules apply to the Monthly Post-Secondary Pass.

6.1.23 Discounted Post-Secondary Regional Quarter/~~Trimester~~/Semester Pass

The price of the quarter/~~trimester~~/semester pass for post-secondary educational institutions shall be based on 65 percent of the price of a ~~Local & Corridor~~ Regional Monthly Pass, divided by 31 and multiplied by the number of days in the ~~quarter or semester~~ academic term. ~~The period of validity of a Post-Secondary Regional Quarter/Semester Pass shall not be less than 90 days.~~

The discounted pass shall be valid for unlimited travel during ~~a semester~~ an academic term until the end of the Service Day ~~on the last day of the academic term~~. All Regional Pass discounts, supplements, and upgrade rules apply to the Post-Secondary Regional Quarter/~~Trimester~~/Semester Pass.

6.1.34 SPRINTER/BREEZE Only ~~Post-Secondary~~ Pass

The SPRINTER/BREEZE Monthly Pass may be sold to post-secondary educational institutions with a discount of \$10.00 per month.

6.25 ~~Ecopass-Group Sales~~ Pass Program

6.2.1 Ecopass Group Sales Pass Program

This program is for businesses or groups who purchase Regional and Premium passes and who are willing to purchase sufficient passes to provide a full year of transportation for 25 employees or members at a discounted rate and execute a participation agreement.

The pass price discount would be based on the pre-purchase of a specified number of passes for a 12-month period. Only one three-month trial program is permitted per employer or group interested in testing the program. Advance payment is required for both the trial program and permanent program annual passes. Participants may purchase additional monthly passes as provided in the participation agreement at a discounted rate.

The price of the employer or group sales pass program shall be set according to the number of annual regular adult passes purchased as defined in the participation agreement. All passes purchased in excess of limits in the participation agreement will be sold at retail rates.

6.2.2 Universal Pass Program

MTS and NCTD shall each have the right to negotiate Universal Pass (UPass) agreements, individually or jointly, with sponsoring entities. MTS and NCTD may establish their own policies, terms, or eligibility rules regarding the sale of the UPass in the sales agreements.

SECTION 7: TRANSFERS WITH OTHER TRANSIT OPERATORS

7.1 MetroLink Trip Tickets and Monthly Passes

MetroLink Trip Tickets and Monthly Passes are valid as full boarding fare on NCTD buses and the SPRINTER on all routes directly serving the Oceanside Transit Center. MetroLink tickets and passes are not valid for transferring between NCTD routes or between NCTD and MTS. MetroLink tickets are not valid for transfers to the COASTER. The rules governing the acceptance of the MetroLink tickets and passes are as follows:

7.1.1 MetroLink Monthly/7Day Pass: This pass must have the correct current month, year, and list Oceanside as a valid city in order to be valid.

~~**7.1.2 MetroLink Ten-Ride Ticket:** This ticket has a validation printing area for each of ten (10) rides on METROLINK. In order to be valid to board an NCTD bus at Oceanside, the current date must appear in one of the boxes numbered 1–10.~~

7.1.23 MetroLink Round-Trip Ticket: This ticket must be imprinted with the current date and is valid until the time shown on that date on the BREEZE or the SPRINTER at Oceanside Transit Center.

7.1.34 MetroLink One-Way Ticket: This ticket must be imprinted with the current date and is valid until the time shown on that date, to board the BREEZE or the SPRINTER departing the Oceanside Transit Center.

7.2 NCTD and Orange County Transit Authority (OCTA) Transfers

The following transfer agreement is in effect with the Orange County Transit Authority (OCTA) between its Route 1 and Route 191 and BREEZE Route 395:

7.2.1 BREEZE Route 395 to OCTA Route 1 or Route 191: The passenger will pay the appropriate NCTD single Cash Fare (or Day Pass fare) and be issued an interagency transfer onboard the 395. This transfer or Day Pass will be accepted by OCTA drivers as full fare for one boarding. In addition, NCTD BREEZE Passes and Regional Passes will be accepted by OCTA as full fare for one boarding on its system.

7.2.2 OCTA Route 1 or Route 191 to BREEZE Route 395: An OCTA passenger may transfer from an OCTA bus to NCTD Route 395 by displaying a valid OCTA Day Pass, or a valid OCTA Monthly Pass. No further fare supplement will be required. The OCTA Day Pass or Monthly Pass is good for one boarding only on NCTD service. Therefore, the OCTA Day Pass or OCTA Monthly Pass is valid only on Route 395 in San Clemente, as this is the only route that connects with OCTA. Passengers continuing on other routes in Oceanside will need to pay a single Cash Fare or purchase an NCTD Day Pass.

7.3 Rail 2 Rail

The Rail 2 Rail ~~P~~program is subject to renewal with the National Railroad Passenger Corporation (Amtrak). When an agreement is in effect: persons holding valid Amtrak tickets may ride any COASTER train between Oceanside, Solana Beach, and Santa Fe Depot within the origin and destination listed on their Amtrak ticket or pass, and persons holding fares valid for COASTER use may ride Amtrak trains designated on the NCTD COASTER schedule as Rail 2 Rail trains. Passengers can determine if an agreement is in place by contacting NCTD. ~~persons holding valid Amtrak tickets may ride any COASTER train between Oceanside, Solana Beach and Santa Fe Depot within the origin and destination listed on their Amtrak ticket or pass; or, for an upgrade fee (\$59 for a one-zone pass, and \$84 for a three-zone pass) payable to Amtrak, persons holding a valid COASTER Pass may ride the Amtrak between Oceanside, Solana Beach, and Santa Fe Depot within the zones listed on their Compass Pass. Passengers can determine if an agreement is in place by contacting NCTD.~~

SECTION 8: PARTICIPATION IN THE REGIONAL FARE SYSTEM

The requirements for participation in the Regional Fare System by transportation providers shall be as follows:

8.1 Transit operators participating in the Regional Fare System must operate fixed-route transit service with fixed, published schedules.

- 8.2** Transit Operators must serve an area not currently served by an existing publicly subsidized, fixed-route bus operator.
- 8.3** New transit operators will be incorporated into the Compass Card system to the extent feasible and practical as determined by ~~SANDAG~~MTS.
- 8.4** Any transit provider selling or receiving ~~Compass Card or other MTS SANDAG~~ fare media shall have a secure handling procedure for all fare media. All tickets, passes, and transfers shall be handled as cash-value media, with appropriate security provided for acceptance, inspection, storage, distribution, and disposal.

SECTION 9: SPECIAL FARES

9.1 Sworn Peace Officers

MTS and NCTD transit operators will allow all San Diego County, state, and federal sworn peace officers, in uniform or in civilian clothes, to ride on scheduled bus and train routes without charge. Officers must show identification when requested by MTS or NCTD. This privilege does not apply to special events for off-duty officers.

9.2 Temporary, Promotional, ~~and~~ Experimental Fares

MTS and NCTD shall have the ability to set temporary, promotional, and experimental fares. Temporary, promotional, and experimental fares are defined as fares implemented for no more than ~~twelve~~ 12 months for seasonal events or for marketing purposes. These fares, because of their short term/temporary nature, are not included in this Ordinance.

SECTION 10: S/D/M ~~AND~~ YOUTH COMPASS CARDS ELIGIBILITY ~~AND~~ REQUIREMENTS

10.1 Eligibility

In order to be eligible to purchase discounted S/D/M Passes, passengers must present an S/D/M or person with disabilities Compass Card with integral photo identification or one of the valid identification cards listed in Sections 10.2 through 10.3.

10.2 Seniors

Seniors must provide a valid Medicare card, state-issued driver's license, government-issued photo identification, or an S/D/M Compass Card with integral photo identification when paying a Cash Fare, purchasing a Senior Pass, or boarding a transit vehicle with a Senior Pass.

10.3 Persons with Disabilities ~~and~~ Medicare

10.3.1 Cash Fares

All persons with a valid MTS identification card, Medicare Card, NCTD disabled identification card, State of California Department of Motor Vehicles (DMV) disabled identification card, or DMV placard identification card shall be permitted to pay the S/D/M single-cash fare.

10.3.2 Compass Cards

In order to receive a reduced fare Compass Card, a person with a disability must present for approval their completed application form and show a government-issued photo identification card and original versions of at least one of the following (photocopies will not be accepted) at the time of submitting the application:

- 10.3.2.1 State of California ~~Department of Motor Vehicles~~ DMV disabled identification card, (the white receipt from the DMV)
- 10.3.2.2 State of California ~~Department of Motor Vehicles~~ DMV placard identification card
- 10.3.2.3 ADA Paratransit Identification Card
- 10.3.2.4 Certification on the application form by a ~~D~~octor or a qualified health care professional or a statement from a physician or rehabilitation center (on original letterhead or prescription notepad with an original signature). In addition to the nature of the disability, the statement should identify whether it is permanent or temporary in nature
- 10.3.2.5 Individualized Education Program from school for disabled students
- 10.3.2.6 Current year Supplemental Security Income. (S.S.I.) or Social Security Administration (S.S.A.), or Social Security Disability Insurance (S.S.D.I.). award letter
- 10.3.2.7 Letter from the Epilepsy Foundation
- 10.3.2.8 Letter from the San Diego Center for the Blind
- 10.3.2.9 Letter from the San Diego Regional Center
- 10.3.2.10 Unexpired MTS or NCTD disabled identification card

10.4 Youth

Youth must provide on request valid school, college, or government-issued photo identification to establish eligibility for a Youth discount when boarding a transit vehicle with a Youth pass.

SECTION 11: ADA Paratransit

11.1 Fares

The Cash Fare for ADA ~~Paratransit~~ ~~paratransit~~ per ride for ADA-~~c~~ertified passengers for one complete trip, origin to destination, regardless of any need to transfer between ADA transit operators or zones, shall be double the local fixed-route fare of the typical fixed-route service linking the origin and destination based on a determination by MTS or NCTD. Such

determination must be made by calculating the regular fixed-route fare, including transfers for a trip of similar length, at a similar time of day, on the transit operators fixed-route system.

All ADA prepaid fare media ~~will only~~ will be good on the system for which it was created. ADA prepaid fare media may not be loaded onto a Compass Card.

One personal care attendant may ride free with each ADA passenger riding an ADA Paratransitparatransit or transit vehicle if requirement is identified on ADA certification.

11.2 ADA Transfers

There is no charge to transfer from any ADA service to any Local, Corridor, or Regional bus or rail service.

A transfer slip or proof of fare payment will be issued by the driver of an MTS ADA ~~Paratransitparatransit~~ service to allow ADA passengers to transfer to regular transit services. Passengers transferring from LIFT to SPRINTER or BREEZE will not require any transfer slip or proof of payment.

Passengers transferring from any fixed-route service must pay a Supplement if the fare paid on the fixed-route service is less than the fare on the ADA ~~Paratransitparatransit~~ service they are boarding. The Supplement required will be the applicable ADA ~~Paratransitparatransit~~ ~~F~~fare less the amount of any fare paid on the fixed-route service. Passengers transferring from fixed-route to ADA will only receive a transfer credit if the fare paid on the fixed-route service is a fare for which a paper transfer or proof of payment is issued. This includes single and return trip rail tickets, or Regional or ~~Region-PlusRegionPlus~~ ~~d~~Day ~~p~~Passes. If a single trip Cash Fare is deposited into a fixed-route farebox without a proof of payment, the ADA passenger will be required to pay the full fare when boarding a subsequent ADA vehicle as receipts are not issued for single trip Cash Fares deposited into the farebox.

One personal care attendant may ride free with each ADA passenger riding an ADA ~~Paratransitparatransit~~ or transit vehicle if requirement is identified on ADA certification.

SECTION 12: REGIONAL TICKET AND PASS ADMINISTRATION, REVENUE SHARING

Processes and rules regarding regional ticket and pass administration and revenue sharing may be the subject of one or more separate agreements between MTS and NCTD as they see fit.

12.1 Policy Manual

~~SANDAG shall prepare and maintain a Policy and Procedures Manual that identifies the roles, responsibilities and procedures that will be used to manage the printing, sales, revenue allocation and revenue collection for all pre-paid transit fare media. The Policy and Procedures Manual shall be reviewed and updated not less than once each year. The Manual shall cover the administration of printing, sales, boarding counts, revenue collection, and~~

revenue allocation for fare products, including tickets, passes and tokens. The Manual does not apply to ADA transit operators.

12.2 SANDAG Responsibilities

SANDAG manages transit fares for the San Diego region. Pursuant to Board Policy No. 009 SANDAG complies with state and federal laws and regulations including the Americans with Disabilities Act of 1990 (ADA), Title VI of the Civil Rights Act of 1964 (Title VI) and other federal and state discrimination laws. SANDAG's Third Party Complaint Procedures are available at www.sandag.org/legal and should be utilized in the event a person believes this Ordinance is being applied in a discriminatory manner. SANDAG is forbidden from operating transit services by state law. The transit operators are responsible for transit operations. Persons who believe they have been subjected to discrimination by a transit operator should contact the transit operator directly for assistance.

SANDAG shall:

- 12.2.1** — Ensure that each transit operator submits monthly counts by category for all fare products subject to regional revenue distribution.
- 12.2.2** — Distribute monthly the proportion of revenues from all regional fare media in accordance with Exhibit 1.
- 12.2.3** — Prepare a yearly summary of passes, tokens, and ticket riders (by transit operator).
- 12.2.4** — Fund and administer the design and printing of all regional passes, tokens, and tickets. The design of which shall be subject to approval by the transit operators.
- 12.2.5** — Fund the regional prepaid fare program encompassing the distribution and sales reconciliation of all fare products subject to regional revenue distribution.
- 12.2.6** — Prepare monthly summaries of *TransNet* local transportation sales tax subsidies for S/D/M and Youth Passes, or any other local jurisdiction subsidy by the end of the month.
- 12.2.7** — Prepare monthly summaries of regional fare products that include all ticket revenue distribution, including subsidies, and shall submit a copy of these data, SANDAG summary counts, and allocation percentages to each transit operator.
- 12.2.8** — Keep a separate fund for all pass and ticket sales revenue received.
- 12.2.9** — Distribute monthly, within ten working days from the first of the month, to each transit operator its portion of regional fare products in accordance with Exhibit 1.
- 12.2.10** — Bill local jurisdictions monthly for any subsidy payments that may result from a reduced price Monthly Pass program established by that jurisdiction and apportion such revenue to the appropriate transit operators.

12.3 Vendor Commissions

~~SANDAG may at its discretion enter into commercial agreements for the sale of transit fare products by third parties and such agreement may allow the vendor to earn a commission on the sale of products. The commission paid to any vendor may not exceed an aggregate of five percent of total product sales.~~

SECTION 13: TRANSIT OPERATOR RESPONSIBILITIES

~~13.1 Each transit operator shall determine pass riders by category and a daily record shall be maintained and kept on file for a one-year period. Such records shall be made available to SANDAG at its request.~~

~~13.2 Each transit operator shall prepare a monthly summary of pass riders by category and route, where applicable, using the formula in Exhibit 1.~~

~~13.3 Each transit operator shall permit SANDAG to be the decision maker in case of questions regarding pass counts, and SANDAG shall justify its decision to the transit operator(s) in writing.~~

SECTION 134: EFFECTIVE DATE OF ORDINANCE OR AMENDMENTS

This Ordinance shall go into effect on August 25, 2014~~January 20, 2012~~. Notwithstanding Board Policy No. 004: Rules of Procedure for Board of Directors and Committees, all amendments shall go into effect not less than ~~fifteen~~thirty30 days after the second reading and approval of the Board of Directors, unless approved in accordance with Board Policy No. 004 as an urgency measure.

PASSED AND ADOPTED this 25th of July 2014~~16th of December 2011~~.

CHAIRPERSON ATTEST: SECRETARY

Member Agencies: Cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, Vista, and County of San Diego.

ADVISORY MEMBERS: California Department of Transportation, Metropolitan Transit System, North County Transit District, Imperial County, U.S. Department of Defense, San Diego Unified Port District, San Diego County Water Authority,
Southern California Tribal Chairmen's Association, and Mexico.

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, Clerk of the Board of SANDAG, do hereby certify that the foregoing is a true copy of an Ordinance adopted by the SANDAG Board of Directors on ~~25th of July 2014~~ ~~December 16, 2012~~, at the time and by the vote stated above, which said Ordinance is on file in the office of SANDAG.

DATED: _____, 2014

Clerk of the Board

~~Exhibit 1~~

~~REVENUE SHARING AGREEMENTS~~

~~REGIONAL MONTHLY PASS REVENUE ALLOCATION FORMULA~~

~~PROCEDURE DESCRIPTION~~

~~This formula shall be applied to all Regional Monthly Passes sold. The Premium Express passes are not part of the formula except that five percent of the total revenue from the Premium Express Passes is retained for the region and combined with the Regional Monthly Pass revenue. (The five percent rate represents the transfer rate on the Premium Express routes that accept the Premium Express passes. MTS keeps all the remaining Premium Express Pass revenue.) The base pass revenue is then allocated to each transit operator that accepts the Regional Monthly Pass based on the revenue the transit operator's percentage of Regional Monthly Pass boardings for all adult passes.~~

~~PASS REVENUE ALLOCATION PROCEDURES~~

~~Step 1~~

- ~~1a. The total number of Regional Monthly Adult passes sold x current price + five percent of Premium Express Adult Monthly pass revenue = Monthly Pass base revenue.~~
- ~~1b. The total number of Regional Monthly Pass riders on all routes operated by transit operator "x" / the total number of Regional Monthly Pass riders on all routes operated by all transit operators = proportion of Regional Monthly Pass base revenue allocated to transit operator "x."~~
- ~~1c. 1a x 1b = Current Price of Regional Monthly Pass base pass revenue allocated to transit operator "x."~~

~~Step 2~~

- ~~2a. All Premium Express Monthly Pass revenue (minus the five percent included in the current Regional Monthly Pass base) is allocated to MTS.~~

~~Step 3~~

- ~~3. Any interest accrued by SANDAG as a result of the holding of Regional Monthly Pass revenues before allocation to the transit operators shall be paid to the operators.~~

~~REGULAR AND PREMIUM REGIONAL DAY PASS
REVENUE ALLOCATION FORMULA~~

~~PROCEDURE DESCRIPTION FOR REGIONAL DAY PASS~~

~~I. Applicability~~

~~This fare revenue allocation formula is applicable only to Regional Day Passes used by passengers that cross the boundary between the MTS and NCTD service areas. Regional Day Passes are passes that may be used on regular MTS and NCTD bus services (not Rural or Premium services), the SPRINTER and the Trolley. When conducting the revenue allocation formula calculations SANDAG shall treat multiple day Regional Day Passes in the same manner as a single day Regional Day Pass. Each transit operator shall retain 100 percent of revenue earned from the sale of day passes used exclusively on services within their own service area.~~

~~II. Regional Day Passes~~

~~1. At least once every year SANDAG shall conduct a survey of Regional Day Pass use on bus routes that cross the transit service area boundary between MTS and NCTD. The survey shall be conducted during the school year. Each transit operator shall retain 100 percent of the revenue earned from the sale of Regional Day Passes within their service area onboard buses and at ticket vending machines unless the following conditions occur as determined by the SANDAG survey:~~

- ~~a. The number of Regional Day Passes purchased in the NCTD service area and used on MTS services exceeds by more than ten percent the number of Regional Day Passes sold in the MTS service area and used on NCTD services; **or**~~
- ~~b. The number of Regional Day Passes purchased in the MTS service area and used on NCTD services exceeds by more than ten percent the number of Regional Day Passes sold in the NCTD service area and used on MTS services; **and**~~
- ~~c. If the ten percent margin is exceeded and there is a difference of more than 25 passes per weekday between the number of passes sold on each system, the revenue from the number of passes in the imbalance shall be shared equally between the two transit operators. The number of day passes used annually shall be calculated by SANDAG based on the ratio of Regional Day Passes to other fares and applied to the annual ridership of the services that cross the boundary between the MTS and NCTD transit service areas. If the ten percent margin is exceeded and there is a difference of less than 25 passes, then no revenue sharing shall be required.~~
- ~~d. Any interest accrued by SANDAG as a result of the holding of Regional Day Pass revenues before allocation to the transit operators shall be paid to the operators.~~

~~PROCEDURE DESCRIPTION FOR REGIONAL PREMIUM DAY PASS~~

~~The total number of Premium Day Passes issued by MTS and NCTD shall be collected and verified.~~

~~Each boarding on a MTS bus or NCTD bus with a Premium Day Pass shall be recorded and the total number of boardings shall be reported to SANDAG.~~

~~A monthly survey of Trolley riders and a quarterly survey of SPRINTER riders shall be conducted using the statistical procedures developed by SANDAG. From this survey the monthly or quarterly number of Premium Day Pass passengers shall be determined.~~

~~The NCTD percentage share of Day Pass revenue shall be calculated by dividing the number of NCTD Premium Day Pass boardings by the total (MTS + NCTD) number of boardings each reporting period. The MTS percentage share of Day Pass revenue shall be calculated by dividing the number of MTS Premium Day Pass boardings by the total (MTS + NCTD) number of boardings each reporting period.~~

~~The total revenue from the distribution of all Premium Day Passes shall be determined by adding the revenue received from one day Premium Day Passes. The revenue allocation for MTS shall be the total revenue times the percentage of Premium Day Pass Boardings on MTS. The revenue allocation for NCTD shall be the total revenue times the percentage of Premium Day Pass Boardings on NCTD.~~

~~Any interest accrued by SANDAG as a result of the holding of Premium Day Pass revenues before allocation to the transit operators shall be paid to the operators.~~

~~SENIOR/DISABLED/MEDICARE AND YOUTH
PASS REVENUE ALLOCATION FORMULA~~

- ~~1. The total number of pass riders (by category) on all routes operated by transit operator "x," divided by the total number of pass riders (by category) on all routes operated by all transit operators equals the proportion of pass revenue (by category) allocated to transit operator "x."~~
- ~~2. Any interest accrued by SANDAG as a result of the holding of Senior/Disabled/Medicare and Youth Pass revenues before allocation to the transit operators shall be paid to the operators.~~

JUROR PASS REVENUE SHARING

~~Revenues from the sale of Juror Passes shall be shared as provided in the Memorandum of Understanding for the Juror Pass Program among the courts, the transit operators, SANDAG, and sponsors.~~

~~Any interest accrued by SANDAG as a result of the holding of Juror Pass revenues before allocation to the transit operators shall be paid to the operators.~~

TOKEN PROGRAM

TOKEN REVENUE ALLOCATION

- ~~1. The monthly token boardings for all participating transit operators will be calculated by the actual tokens sold.~~
- ~~2. All tokens received will be reported to SANDAG monthly.~~
- ~~3. All token sales revenue will be remitted to SANDAG.~~
- ~~4. Transit operators shall sort tokens from other currency and deliver them in a sealed envelope to SANDAG on a monthly basis for reimbursement. The envelope should be marked on the outside with the transit operator name and the number of tokens enclosed. SANDAG will reimburse the transit operator for each token submitted based on the calculated value of each token at the time of sale using a first in-first out methodology. SANDAG will reimburse transit operators following submittal of tokens in the monthly distribution report.~~
- ~~5. Any interest accrued by SANDAG as a result of the holding of Token revenues before allocation to the transit operators shall be paid to the operators.~~

COASTER REVENUE SHARING AGREEMENT

~~Five percent of net COASTER Revenue, including single tickets, round-trip tickets, and Monthly Passes shall be allocated by NCTD to MTS.~~

~~NCTD shall advise SANDAG of the total COASTER net revenue and pay 5 percent to SANDAG. Direct payments to participating agencies (i.e., Trolley for special event coordination) shall be deducted from the 5 percent net revenue submitted to SANDAG. Based on the data provided by NCTD, SANDAG shall forward the 5 percent share to MTS once each year in the year-end distribution (June).~~

~~MTS shall have the responsibility for allocating the revenue to the transit operators within the MTS organization. SANDAG will direct the funds based on the MTS allocation. SANDAG will conduct a survey at least every three years of COASTER transfers patterns. MTS may elect to use the survey of transfer patterns to determine how the COASTER revenue is allocated among transit operators.~~

~~Any interest accrued by SANDAG as a result of the holding of COASTER revenues before allocation to the transit operators shall be paid to the operators.~~



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10-22-14P02:40 RCVD

**NOTICE OF PROPOSED AMENDMENTS TO MTS ORDINANCE NO. 4 ESTABLISHING A
SAN DIEGO METROPOLITAN TRANSIT SYSTEM FARE PRICING SCHEDULE**

Notice is hereby given that on October 30, 2014, the San Diego Metropolitan Transit System (MTS) will consider amending Ordinance No. 4 entitled: "An Ordinance Establishing a Metropolitan Transit System Fare-Pricing Schedule", at 9:00 a.m. in the Board Meeting Room on the 10th floor of the James R. Mills Building at 1255 Imperial Avenue, San Diego, California 92101.

The proposed amendments to Ordinance No. 4 would update certain provisions to conform to changes the Comprehensive Fare Ordinance adopted by the San Diego Association of Governments on July 25, 2014. Changes include recognition of Universal Pass (UPass) Agreements as a group pass sales option and the new Rapid-branded service that was launched in June 2014. Other minor language changes are proposed to better clarify certain provisions of the Ordinance.

If adopted, the amendments will take effect November 30, 2014. Certified copies of the proposed amendments to Ordinance No. 4 are posted in the MTS lobby at the above address.



**October 30, 2014
Board Meeting**

Item No. 30

**Amendments to Ordinance No. 4
(MTS Fare Pricing Schedule)**



1



Minor Amendments to Ordinance No. 4

- Similar changes to Comprehensive Fare Ordinance approved by SANDAG on July 25, 2014, effective August 25, 2014 (unanimous with 4 members absent)
- **No change in fare pricing schedule**
- Recognize UPass Agreements
- Add *Rapid* brand name
- Other minor, non-substantive changes



2



UPass Agreements

- Universal Pass (UPass) defined as:
“Provides unlimited rides on select transit services for an agreed upon period of time to individuals associated with a sponsoring entity, where the sponsoring entity guarantees universal participation/purchase by its employees, students or other membership.”



3



UPass Agreements

- New Section 4.3.1k :
“Upon entering into an agreement with MTS that meets MTS requirements, sponsoring entities may purchase a UPass at the negotiated rate to provide to the designated, guaranteed participation group. The negotiated fare/payment shall be sufficient to compensate MTS for the estimated actual ridership from the guaranteed participation group.”



4



UPass Agreements

- Language intended to recognize long-standing practice of negotiating such agreements.
 - Since 1969, MTS has had agreements with UCSD to pay for certain transit trips.
 - In May 2014, UCSD student referendum to assess a fee each quarter that would allow each UCSD to have a MTS transit pass for the applicable quarter.



5



Rapid Services

- Adds a definition of Rapid service
- Name change of Premium Express to Rapid Express
- Adds "Corridor" name to Express Service definition (consistent with SANDAG ordinance)



6



Other Minor Changes

- Changes term “curb-to-curb” to “origin-to-destination” in the definition of ADA Complementary Paratransit Services
 - Conforms to existing federal standard/terminology



7



RECOMMENDATION

- That the Board of Directors:
 - Read the title of Ordinance No. 4, An Ordinance Establishing a Metropolitan Transit System Fare-Pricing Schedule;
 - Waive further readings of the ordinance;
 - Adopt the proposed ordinance amendments; and
 - Direct publication of an ordinance summary.



8





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Agenda Item No. 31

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

AMENDED AND RESTATED MTS-BNSF-NCTD SAN DIEGO SUBDIVISION SHARED-
USE AGREEMENT (KAREN LANDERS)

RECOMMENDATION:

That the Board of Directors:

- 1) Approve the Amended and Restated Shared-Use Agreement between MTS, Burlington Northern Santa Fe (BNSF), and North County Transit District (NCTD), in substantially the same format as Attachment A; and
- 2) Authorize the Chief Executive Officer and/or the General Counsel to make minor, non-material changes to the document prior to execution by all parties.

Budget Impact

None.

DISCUSSION:

On October 30, 1992, MTS, NCTD, and six other agencies from Orange, Los Angeles, and Riverside counties entered into a purchase agreement with the Atchison, Topeka and Santa Fe Railway Company (ATSF) for certain railroad lines and property located in these counties.

Concurrent with that purchase agreement, ATSF entered into a Shared-Use Agreement with the respective purchasing agencies. The Shared-Use Agreement set forth the terms and conditions for the joint use of the newly purchased rail lines between freight and passenger rail operations. ATSF was later purchased by the Burlington Northern Santa Fe Railway (BNSF) making BNSF a party to the Shared-Use Agreement.



The Shared-Use Agreement between MTS, NCTD, and BNSF pertains to the rail alignment between Oceanside and Escondido, which is known as the Escondido Subdivision, and the rail alignment south of Orange County to San Diego along the coast, which is known as the San Diego Subdivision. NCTD owns the Escondido Subdivision property. For the San Diego Subdivision property, NCTD owns the right-of-way from Oceanside to Del Mar. MTS owns the right-of-way from Del Mar to Santa Fe Depot.

The Shared-Use Agreement for these subdivisions identified the following key elements:

1. Operations, including the prioritization of passenger operations during peak-commuter hours.
2. Maintenance responsibilities that include an annual payment from BNSF for its share of the costs.
3. Facilities and construction.
4. Easements that continue to allow BNSF to provide quality freight-rail service.
5. Insurance and indemnification.
6. Rights and responsibilities.
7. Cost allocations.

MTS, NCTD, and BNSF have amended the original Shared-Use Agreement several times with the last amendment executed on June 29, 2004.

The amendments to the Shared Use Agreement in today's proposed action are intended to address two major deficiencies in the original agreement. First, the Restated Shared-Use Agreement revises and clarifies the liability and indemnification provisions between the parties. The current language is confusing and does not logically assign risk to the party best able to control for or mitigate against that risk. Second, the current agreement reflects MTS and NCTD's joint obligations towards BNSF, but does not discuss MTS and NCTD's obligations to each other. The amended agreement formalizes the past practices of MTS and NCTD and also institutes a new requirement for NCTD and MTS to cooperate and coordinate project planning in the San Diego Subdivision to minimize impacts to each agency or conflicts with future projects.

The Restated Shared-Use Agreement includes the following key changes:

1. Coordination of Capital Improvements and Specified Maintenance Projects: The agreement specifies a protocol for NCTD and MTS staff coordination for capital projects and maintenance activities on the MTS-owned portion of the San Diego Subdivision.
2. Derailments: Under the Restated Shared-Use Agreement, BNSF is responsible for the actual costs due to derailment or damage to BNSF property when the derailment does not involve an NCTD or MTS train, and the derailment is not in whole or in part caused by the condition of the tracks or the property. In the event that the derailment is in part caused by this condition of the tracks, then

BNSF, NCTD and MTS proportionately share in the costs. MTS and NCTD property insurance would cover damages to MTS or NCTD real property and improvements.

3. Allocation of Liability: Under the Restated Shared-Use Agreement, the allocation of liability is much more precise than the allocation set out in the original Shared-Use Agreement. For example, under the original Shared-Use Agreement, in most instances regardless of the party at fault, NCTD and MTS are required to indemnify and hold harmless BNSF for the first \$10 million of liability in a single occurrence. Thereafter BNSF is liable for the next \$10 million to \$85 million incurred by BNSF and MTS/NCTD indemnifies and holds harmless BNSF for any portion of liability that exceeds \$85 million. Under the Restated Shared-Use Agreement, in the event a BNSF train is at fault, MTS, NCTD, and BNSF are solely responsible for the damages to their respective parties and third-party losses are split either 33% or 50% with BNSF. As between MTS and NCTD, each party is liable to the other only to the extent of its own negligence/fault. This retains the status quo between MTS and NCTD.
4. Additional Maintenance Payment: Under the Restated Shared-Use Agreement, BNSF will pay annually to NCTD an additional \$337,500 from 2014 to 2018 for track (other than freight tracks) and freight rail facilities maintenance. This will bring the annual maintenance payment for FY 14 to \$6,355,356. NCTD currently maintains the heavy rail tracks and charges a pro-rated portion of these costs back to BNSF. The additional payment under this provision was negotiated between NCTD and BNSF.
5. Insurance: NCTD and BNSF shall each be insured for general liability coverage for up to \$200 million. MTS shall be insured for general liability coverage for up to \$75 million. This limit matches MTS's current excess coverage.
6. Good-Faith Negotiations: All parties agree to continue periodic good-faith negotiations related to future passenger and/or freight-rail expansion needs.

The Amended and Restated Shared-Use Agreement does not alter BNSF's right to maintain "quality rail freight service" or provide any designated priority of passenger service or station space between MTS and NCTD.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Karen Landers, 619.557.4512, Karen.Landers@sdmts.com

Attachment: A. Amended and Restated Shared Use Agreement
B. Standard Operating & Maintenance Procedure for projects led by MTS or NCTD

AMENDED AND RESTATED SHARED USE AGREEMENT

THIS AMENDED AND RESTATED SHARED USE AGREEMENT (the "Restated SUA") dated as of _____, 2014, is entered into by and among BNSF Railway Company (BNSF), a Delaware corporation, the North County Transit District (NCTD) formerly known as the North San Diego County Transit Development Board, a California public agency, and the San Diego Metropolitan Transit System (MTS) also known as the San Diego Metropolitan Transit Development Board, a California public agency, collectively hereafter "the Parties."

RECITALS

- A. Whereas Atchison, Topeka and Santa Fe Railway Company (AT&SF), NCTD and MTS previously entered into that certain document entitled San Diego County Shared Use Agreement ("Original SUA") dated October 28, 1992, regarding the Property (defined below); and
- B. Whereas the Original SUA delineated the rights, duties, and responsibilities of those parties relative to their use of the San Diego Subdivision and the Escondido Subdivision; and
- C. Whereas AT&SF merged into and with BNSF on or about December 30, 1996;
- D. Whereas the Parties entered into a First Amendment to the Original SUA dated October 4, 1993, a Second Amendment to the Original SUA dated October 10, 2000, and a Third Amendment to the Original SUA dated June 29, 2004 (collectively referred to herein as "Amendments to Original SUA"); and
- E. Whereas circumstances and operations have changed since the Original SUA and the Amendments to Original SUA were signed and the Parties now wish to modify, amend, and restate their rights, title, interest and obligations with respect to the Property (as defined below), the shared use of the Property and to accommodate Passenger Rail Service and Rail Freight Service over the Property.

NOW THEREFORE in consideration of the foregoing and the mutual covenants contained herein the parties hereby amend and restate the Original SUA as follows:

ARTICLE 1 DEFINITIONS

The following capitalized terms are used in this Restated SUA and have the meanings set forth below:

- 1.1 "AAR" shall mean the Association of American Railroads.
- 1.2 "Agencies" shall mean collectively NCTD and MTS.

- 1.3 "Agency Rail Service" shall mean any rail (commuter, intercity or light) Passenger Service operated by, or provided under contract for, NCTD or MTS.
- 1.4 "Amtrak" shall mean the National Railroad Passenger Corporation.
- 1.5 "BNSF" shall mean the BNSF Railway Company, the successor by merger of AT&SF.
- 1.6 "BNSF Party" means any one or more of (i) BNSF and its affiliates and subsidiaries and one or more of their officers, directors, employees, agents, customers, tenants, licensees, successors, assignees, or contractors while using, or on, the Property in connection with performing duties of any kind for BNSF including, among others, performing duties relating to or arising under this Restated SUA; (ii) persons (other than an NCTD Party or MTS Party) receiving services of BNSF involving use of the Property or using the Property under authority of or by agreement with BNSF; (iii) any "BNSF Party," at or proximate to a Passenger Station used in Passenger Service who is struck by equipment or cargo of a BNSF Train on tracks at or adjacent to a Passenger Station; or (iv) any passenger on a BNSF business and excursion trains.
- 1.7 "BNSF Train" shall mean any freight rail vehicle, locomotive, business or excursion train operated by a BNSF Party.
- 1.8 "Burdened Portion of the Property" shall mean the portion of the Property encumbered by the Reserved Rail Freight Service Easement.
- 1.9 "Cost Index" shall mean the index of changes in material prices, wage rates and supplements combined, excluding fuel, as reported in the AAR Railroad Cost Index, Quarterly Indexes of Charge Out Prices and Wage Rates (West). An example illustrating the adjustment is set forth in Exhibit "A," attached hereto and by this reference incorporated herein.
- 1.10 "Dangerous Materials Cars" shall mean all BNSF freight cars containing explosives, radioactive materials, etiologic agents, flammable or toxic liquids or gases, combustible liquids, oxidizing or corrosive materials, compressed gases, or materials that could form toxic gases or liquids.
- 1.11 "Environmental Loss or Damage" shall mean any loss, cost (including, without limitation, any cost of remediation), claim, damage, liability, disbursement, expense, or monetary settlement, of any kind or nature, whether foreseeable or unforeseeable, arising out of or in relation to the release of Hazardous Materials.
- 1.12 "Escondido Subdivision" shall mean that portion of the tracks on the Escondido Subdivision Property from the Oceanside Transit Center extending eastbound to Third Street and Quince Street in Escondido from mile post 99.3 to 121.6.
- 1.13 "Escondido Subdivision Property" shall mean the portion of the Property described in Exhibit "B," attached hereto and by this reference incorporated herein.
- 1.14 "First Priority" means that as to a train or class of trains to which such priority is accorded under this Restated SUA, (i) such train shall not be stopped or delayed by the dispatcher in order to accommodate the operation or movement of a train of another class, whether operating in the same or opposing direction, and (ii) the dispatcher will

ensure that the train of another class will be in the clear so that the train with first priority will in no case be stopped or delayed by the train of another class. As used herein, a train of another class is one as to which another train holds first priority.

- 1.15 "FRA" shall mean the Federal Railroad Administration.
- 1.16 "Free of Charge" shall mean no rental charge or other compensation for ownership interest ever shall be due from the using or named party (or its customers), but it shall not preclude charges for maintenance, capital improvements and other expenses as set forth in this Restated SUA.
- 1.17 "Freight Rail Facilities" shall mean all Freight Track and other rail freight loading or unloading facilities and rail freight weighing scales used in the ordinary course of business exclusively for Rail Freight Service.
- 1.18 "Freight Track" shall mean any Track which, at the time in question, is used in the ordinary course of business, exclusively for Rail Freight Service, including without limitation, rail lines to shippers and receivers.
- 1.19 "Hazardous Materials" shall mean any chemical, material or substance that is now, or at any time during this Restated SUA or the Original SUA was, regulated or governed by any law pertaining to explosives, radioactive materials, etiologic agents, flammable or toxic liquids or gases, combustible liquids and materials, oxidizing or corrosive materials, compressed gases, or materials that could form toxic gases or liquids or any other material which, when released, would cause significant physical ecological damage.
- 1.20 "Loss or Damage" shall mean all fines, penalties, damages (including, without limitation, punitive damages), claims (formal or informal), actions, judgments, suits, liability, cost, injuries, deaths, losses, fees, charges, cleanups, removals and remediations of non-Hazardous Materials, requirements and expense of every character (including, without limitation, amounts paid under any State or Federal workers compensation law, and including all expenses and attorneys' fees incurred in the investigation, defense or settlement of any actual or threatened legal proceeding), incident or related to loss or destruction of or damage to property (including real property and improvements thereon, and personal property, including injury or death to animals, and including property of the Parties and of Third Parties) and injury to and death of persons (including officers, directors, agents, employees, contractors, invitees, customers, or patrons of the Parties, and Third Parties) arising from the performance under or existence of this Restated SUA or the Parties' respective use of, or activities on, the Property and those activities or occurrences at or proximate to (i) an NCTD Station or MTS Station, or (ii) other areas subject to a lease, license, easement or other right from time to time granted by BNSF, NCTD or MTS; provided that Loss or Damage does not include Environmental Loss or Damage.
- 1.21 "LRV" shall mean a light rail vehicle.
- 1.22 "Knowledge" shall mean, with respect to any party to this Agreement, and with respect to any issue or portion of the Property under this Restated SUA, the actual knowledge of such party's officers or supervisory employees with supervisory responsibility for such issue or portion of the Property.

- 1.23 "Major Safety Incident" shall mean a death or serious injury to a person or persons.
- 1.24 "MTS" shall mean the San Diego Metropolitan Transit System also known as the San Diego Metropolitan Transit Development Board.
- 1.25 "MTS Party" means any one or more of: (i) MTS and its affiliates and subsidiaries and their officers, directors, employees, agents, or contractors, including any MTS contractor while on, adjacent to or using the Property; or while performing any duties related to or arising under this Restated SUA or related to the Property; (ii) any passenger of an MTS Train while the passenger is on a MTS Train owned or operated by MTS, or its agents or contractors; or (iii) any other person boarding, alighting or riding an MTS Train, or at or proximate to (x) a MTS Station, and/or (y) other areas subject to a lease, license, easement or other right from time to time granted by MTS.
- 1.26 "MTS Station" means a station operated and/or maintained by an MTS Party on the Property for the purpose of boarding and alighting passengers, as listed in Exhibit "C," attached hereto and by this reference incorporated herein. Exhibit "C" shall be modified, as a ministerial matter, to include those stations if and when they are constructed. For stations with multiple platforms used by each party, "MTS Station" shall only refer to the platforms serving MTS passengers. For example, at Old Town Transit Center and Santa Fe Depot, "MTS Station" shall not refer to the Amtrak or COASTER platforms at such stations.
- 1.27 "MTS Train" shall mean a light rail vehicle or train owned or operated by or for an MTS Party.
- 1.28 "NCTD" shall mean the North County Transit District.
- 1.29 "NCTD Party" shall mean any one or more of: (i) NCTD, Amtrak, Metrolink and their affiliates and subsidiaries and their officers, directors, employees, agents, customers, or contractors, including any NCTD contractor while on, adjacent to or using the Property; or while performing any duties related to or arising under this Restated SUA or related to the Property; (ii) any passenger of a NCTD Train while the passenger is on an NCTD Train owned or operated by NCTD, Amtrak, their agents or contractors; or (iii) any other person (other than a BNSF Party or MTS Party) boarding, alighting or riding an NCTD Train, or at or proximate to (x) an NCTD Station, and/or (y) other areas subject to a lease, license, easement or other right from time to time granted by NCTD.
- 1.30 "NCTD Station" shall mean any station operated and/or maintained by an NCTD Party on the Property for the purpose of boarding and alighting passengers, as listed in Exhibit "C," attached hereto and by this reference incorporated herein. Exhibit "C" shall be modified, as a ministerial matter, to include those stations if and when they are constructed. For stations with multiple platforms used by each party, "NCTD Station" shall only refer to the platforms serving NCTD passengers. For example, at Old Town Transit Center and Santa Fe Depot, "NCTD Station" shall refer to the Amtrak or COASTER platforms at such stations.
- 1.31 "NCTD Train" shall mean a passenger, commuter, intercity or light rail vehicle, Diesel Multiple Unit (DMU) or other train owned or operated by or for an NCTD Party.
- 1.32 "Parties" shall mean BNSF, NCTD and MTS collectively.

- 1.33 "Passenger Service" shall mean all forms of transportation operated by NCTD or MTS (or any entity that contracts with NCTD or MTS to provide these services) for the purpose of moving or transporting people, and shall be exclusive of freight.
- 1.34 "Passenger Station" shall mean an MTS Station and/or NCTD Station.
- 1.35 "Property" shall mean the Escondido Subdivision Property and the San Diego Subdivision Property collectively, as depicted in Exhibit "D".
- 1.36 "Quality Rail Freight Service" shall mean efficient and reliable rail freight service to BNSF's current and future customers, with service and schedules that are competitive with other freight railroads serving Southern California including the rail haul portion of intermodal service offered by those other railroads in Southern California, but without reference to cost.
- 1.37 "Rail Freight Service" shall mean the operations and activities permitted under the Reserved Rail Freight Service Easement.
- 1.38 "Reserved Rail Freight Service Easement" shall mean that exclusive and permanent rail freight service easement reserved by BNSF's predecessor in the grant deed attached hereto as Exhibit "E," attached hereto and by this reference incorporated herein.
- 1.39 "Restricted Freight Periods" shall mean (a) between 5:30 a.m. and 8:30 a.m. and between 4:00 p.m. and 7:00 p.m. for all portions of the Property south of Milepost 225.1 at Fallbrook Junction and (b) between 4:30 a.m. and 8:00 a.m. and 4:00 p.m. and 7:30 p.m. for all portions of the Property north of Milepost 225.1 at Fallbrook Junction, and for all portions of the Property within the Escondido Subdivision, shall mean between the hours of 3:30 a.m. and 9:30 p.m., and shall not exceed 5 nights per week, which nights are Sunday Night through Thursday Night (allowing NCTD to operate late passenger train service on Friday and Saturday nights), subject to adjustment as provided in Section 4.2 (b) and (c).
- 1.40 "San Diego Subdivision" shall mean that portion of the tracks on the San Diego Subdivision Property from the southern border of Orange County/San Diego County boundary line to the south end crossing at Broadway in the City of San Diego from approximately mile post 207.4 to mile post 267.7.
- 1.41 "San Diego Subdivision Property" shall mean the portion of the Property described in Exhibit "F," attached hereto and by this reference incorporated herein.
- 1.42 "Schedule" shall mean to appoint a time for the departure and/or arrival of BNSF Trains, NCTD Trains, MTS Trains on the track at origin, principal intermediate points and destinations which information shall be specified in a document which contains the intended times of operation of BNSF Trains, NCTD Trains, MTS Trains on the tracks and which document shall not be changed more often than quarterly, except where agreed in writing by all Parties hereto; and also shall mean such document.
- 1.43 "Terminal Tracks" shall mean (i) sidings or other tracks, or (ii) industry tracks or team tracks, upon which the Parties mutually agree.

- 1.44 "Timetable" shall mean AT&SF's Timetable No. 2 effective 12:01 a.m., Sunday, April 7, 1991, as set forth in **Exhibit "G"**, attached hereto and by this reference incorporated herein.
- 1.45 "Third Party" or "Third Parties" shall mean any person(s) and/or entities other than a BNSF Party, MTS Party and/or NCTD Party.
- 1.46 "Tracks" shall mean all rails, tracks (including without limitation passing tracks and sidings), turnouts, crossovers, interlocking devices and plants that are located now or in the future on the Property, except such tracks used exclusively for light rail passenger services by MTS or its operator.
- 1.47 "Train" shall mean one or more locomotive units and cars, if any, attached thereto but shall not include LRVs operated by MTS or its operator.
- 1.48 "Train-Mile" shall mean the movement of a train, whether or not revenue generating, over a one mile distance on the Tracks.

ARTICLE 2

BNSF RESERVED RAIL FREIGHT EASEMENT

2.1 Rail Freight Service Easement.

- a. BNSF shall have the right to operate Rail Freight Service (but no other service or use) in the exercise of the rights reserved by BNSF (as successor in merger to AT&SF) in the Reserved Rail Freight Service Easement.
- b. BNSF shall retain for itself and others access to the Property to the extent and as described with particularity in the license granted pursuant to the provisions of Section 1(a) of the Reserved Rail Freight Service Easement. This right of access shall not be deemed to require the Agencies to take any actions or expend any funds to enable others to exercise such right of access and such access shall not more than minimally interfere with Agency Rail Service operations. In addition, BNSF has assigned to the Agencies the benefit of any and all indemnities available to BNSF under any existing contracts as of the date of the Original SUA with any agency, contractor, freight shipper or freight receiver permitting such party access to the Property, or in the absence of such assignment being effective, will indemnify the Agencies for liability for injury or death of such persons or damage to property not involving an NCTD Train or MTS Train to the extent of any indemnification available to BNSF under such contracts. With respect to contracts after the date of the Original SUA permitting such access, BNSF shall require indemnification of both BNSF and the Agencies for liability for injury or death of such persons or damage to property to the fullest extent BNSF is indemnified by such third party, or in the absence of obtaining such contractual indemnification, BNSF will indemnify the Agencies to the extent BNSF is indemnified by such third party.
- c. BNSF shall have any and all rights, duties, responsibilities and obligations arising under the Interstate Commerce Commission Termination Act which require

BNSF to serve its existing and any future rail freight shippers, it being understood and agreed that nothing set forth herein or in the Reserved Rail Freight Service Easement shall be construed to obligate, permit, or require the Agencies to assume, adopt, or acquire any duties, liabilities, responsibilities or obligations to provide any Rail Freight Service to any current or future freight shippers or freight receivers of BNSF.

- d. BNSF shall have no right to operate a BNSF Train over any portion of the Property with respect to which BNSF has abandoned its common carrier rail freight service obligations.
- e. Business and Excursion Trains. BNSF shall have trackage rights to operate over the Tracks, Free of Charge, for the purpose of the operation by BNSF of freight customer trains, board of directors' trains, employee excursion trains, trains with government officials or community representatives, or for charity events (including business cars at the end of freight trains). Such right shall be subject to scheduling and operating times acceptable to the party over whose tracks BNSF will conduct such operation and shall not more than minimally interfere with Passenger Service. BNSF will provide the Agencies with seven days' advance notice of the intended operation of excursion trains and 48 hours' advance notice of the intended operation of business cars on regularly scheduled trains.

2.2 No Fees for Shared Use. The use of the Property by BNSF under the Reserved Rail Freight Service Easement and this Restated SUA shall be Free of Charge to BNSF.

2.3 Track Agreements between BNSF and Shippers. Subject to Section 7.10, BNSF, in its sole discretion and at its sole cost and expense, may enter into agreements directly with shippers or receivers governing the construction, use and maintenance of new and existing industry Tracks for Rail Freight Service, provided that (a) such agreements do not more than minimally interfere with Agency Rail Service and (b) such agreements have been approved by the Agencies, such approval not to be unreasonably withheld or delayed. As between BNSF and the Agencies, BNSF's payment to Agencies for the costs of construction and maintenance of new and existing industry Tracks for Rail Freight Service shall be as provided by Sections 6.3 and 7.6 as more fully set forth below.

ARTICLE 3 OPERATIONS

3.1 General.

- a. BNSF shall be responsible for providing and operating Rail Freight Service on the Property. The Agencies shall be responsible for providing and operating Passenger Service on the Property.
- b. BNSF and the Agencies shall comply with:

- (i) all federal, state or local laws, regulations or rules applicable to their respective operations on the Tracks;
 - (ii) a code of operating rules promulgated by the Agencies; and
 - (iii) all of the Agencies' timetables, general orders, bulletins, and other standards relating to such operation, maintenance, condition, inspection, testing, or safety, which timetables, general orders, bulletins and other standards shall be provided in writing to BNSF by the Agencies. In promulgating the operating rules, general orders, bulletins and other standards, the Agencies shall treat BNSF fairly.
 - c. No party shall have any responsibility for inspecting, maintaining, servicing, or repairing any Trains, LRVs, or rolling stock operated or used by any other party to this Restated SUA.
- 3.2 Personnel. The Parties shall provide competent employees to operate their Trains and LRVs on the Property and the Agencies shall provide competent employees to maintain the Property. The Agencies shall have the right to exclude from the Property, after consultation with BNSF, any employee of BNSF who is in violation of the Agencies' rules, general orders, bulletins or other standards, subject to the terms of BNSF's applicable collective bargaining agreements.
- 3.3 Special Operations Issues.
- a. If a Train of any party becomes stalled or disabled on the Tracks and is unable to proceed or is crippled, or otherwise defective rolling stock is set out from any such Train, then the party whose Train or rolling stock is involved in the incident shall immediately provide notice to the other parties and shall be responsible for promptly furnishing motive power or other assistance necessary to repair or move such Train or rolling stock. If the Train is a BNSF Train or rolling stock and is not promptly removed or repaired, the Agencies shall have the right to repair or remove the BNSF Train or rolling stock and bill BNSF for the costs of this activity as set forth in Article 8, so long as the BNSF Train or rolling stock is not the subject of a federal investigation.
 - b. Whenever any Train requires rerailling, wrecking service, or wrecking train service NCTD shall arrange for such service. The costs for such service are to be borne by the party whose Train requires the service. In the case of any conflict between this payment provision and the payment provisions of Article 8, the provisions of Article 8 shall govern.
- 3.4 Regulatory Approvals. BNSF shall obtain and maintain all applicable federal, state, and/or local and all AAR regulatory approvals as may be required for the conduct of Rail Freight Service on the Property.
- 3.5 Railroad Security. None of the Parties shall have any responsibility to provide security services or measures to protect from theft, vandalism or other damage any property, lading or equipment owned or operated by any other party.

3.6 Loading and Unloading of Freight Cars. All BNSF loading and unloading of freight cars on the Property shall be in compliance with all applicable federal, state, and local safety regulations and subject only to the following restrictions:

- a. As to existing Tracks, BNSF shall load and unload freight cars only on Terminal Tracks, in addition:
 - (i) Loading and unloading of any boxcar on any Track within twenty feet from any Track used for Passenger Service shall occur only on the side opposite of any Track used for Passenger Service.
 - (ii) Loading and unloading from any open top car or lumber car on any Track shall occur only on a Track located more than twenty feet from any Track used for Passenger Service.
 - (iii) Loading and unloading of Dangerous Materials Cars shall occur only at (1) any location which has been used to load, unload or store Dangerous Materials Cars between June 18, 1990, and June 18, 1992 (which locations are identified in Exhibit "H," attached hereto and by this reference incorporated herein), provided however, that with respect to any such locations that are within fifty feet from any Track used for Passenger Service, or within 250 feet from any NCTD Station or MTS Station, if NCTD and MTS provide an alternative location reasonably acceptable to BNSF, then BNSF shall relocate such loading and unloading of Dangerous Materials Cars to the alternate location, (2) any other Track existing on the date this Restated SUA is signed which is more than 250 feet from any NCTD Station or MTS Station, or (3) on other Tracks as mutually agreed between all Parties.
 - (iv) Loading and unloading of intermodal cars shall be subject to the restrictions that (1) if side loaders are used for loading or unloading, such loading and unloading shall occur only on the side opposite of any Track used for Passenger Service, to the extent necessary to keep such loading or unloading operations at least twenty feet away from any Track used for Passenger Service, and (2) if an overhead crane is used for loading an unloading, such crane shall not be operated within twenty feet of any Track used for Passenger Service.
 - (v) Neither loading nor unloading of freight cars shall occur on the Property in a manner contrary to applicable law or within 250 feet of any grade crossing where such activity would restrict sight distance at that crossing.
 - (vi) With respect to loading or unloading of any type of freight cars not referenced in subsection (i) through (v) above, if NCTD and/or MTS discover safety problems resulting from that loading or unloading, all Parties agree to work together to explore resolution of those problems.
- b. As to Tracks to be constructed in the future, BNSF shall load and unload freight cars only on Terminal Tracks, and further BNSF:

- (i) Shall not load or unload any boxcar, open top car, or lumber car on any Track that is located within twenty feet from any Track used for Passenger Service.
- (ii) Shall not unload into any pit or conveyor system, or load from any chute or conveyor system.
- (iii) Shall not load or unload any Dangerous Materials Cars.
- (iv) Shall not load or unload within 250 feet of any grade crossing where such activity would restrict sight distance at the crossing.
- (v) Loading and unloading of intermodal cars shall be subject to the restrictions that (1) if side loaders are used for loading or unloading, such loading and unloading shall occur only on the side opposite of any Track used for Passenger Service, to the extent necessary to keep such loading or unloading operations at least twenty feet away from any Track used for Passenger Service, and (2) if an overhead crane is used for loading and unloading, such crane shall not be operated within twenty feet of any Track used for Passenger Service.

3.7 Storage of Freight Cars.

- a. As to existing Tracks, BNSF's storage of loaded and empty freight cars is restricted as follows:
 - (i) Storage of Dangerous Materials Cars shall occur only at (1) any location which has been used to load, unload or store Dangerous Materials Cars between June 18, 1990 and June 18, 1992 (which locations are identified in Exhibit "H," attached hereto and by this reference incorporated herein), provided however, that with respect to any such locations that are within fifty feet from any Track used for Passenger Service, or within 250 feet from any NCTD Station or MTS Station, if NCTD and MTS provide an alternative location reasonably acceptable to BNSF, then BNSF shall relocate such storage of Dangerous Materials Cars to the alternate location, (2) any other Track existing on the date this Restated SUA is signed which is more than 250 feet from any NCTD Station or MTS Station, or (3) on other Tracks as mutually agreed between all Parties.
 - (ii) BNSF shall comply, at its sole cost and expense, with all customary and appropriate safety and maintenance procedures (including, without limitation, derails).
 - (iii) Freight cars shall not be stored on the Property in a manner contrary to applicable law, or within 250 feet of any grade crossing where such activity would restrict sight distance at that crossing.
 - (iv) If NCTD and MTS believe that storage creates a hazard affecting their operations, at the request of either NCTD or MTS, all Parties shall work together to reduce or eliminate such a hazard in a manner acceptable to all Parties.

b. As to Tracks to be constructed in the future, BNSF's storage of loaded and empty freight cars is restricted as follows:

- (i) The restrictions set forth in Section 3.7 (a)(ii), (iii) and (iv) shall apply.
- (ii) BNSF shall not store any Dangerous Materials Cars.

3.8 Santa Fe Depot Platform Assignments. NCTD, MTS and BNSF acknowledge that future and expanded Agency Rail Service along the San Diego Subdivision may require changes to the platform assignments given to individual Trains or LRVs at the Santa Fe Depot located at MP 267.7. The Parties agree to work cooperatively to develop a mutually agreeable plan for platform assignments at Santa Fe Depot, and any other station along the San Diego Subdivision, to accommodate Passenger Service in the San Diego County region. The Parties hereto agree that any modifications subject to this Section 3.8 must meet the requirements for Quality Rail Freight Service and Passenger Service including reliability and capacity that currently exist and that any modification must not unreasonably interfere with intercity commuter or freight rail operations.

ARTICLE 4 DISPATCHING AND SCHEDULING

4.1 Dispatching responsibilities.

- a. NCTD shall provide dispatching service for all Train movements over the Tracks on the San Diego Subdivision from Milepost 207.4 to Milepost 267.7 and the Escondido Subdivision from Milepost 99.3 to Milepost 121.3. When dispatching NCTD shall give BNSF Trains, NCTD Trains and MTS Trains the priorities set forth in this Restated SUA. MTS shall dispatch MTS Trains operated on the tracks used solely by MTS.
- b. The movement and dispatching of any Trains and rolling stock over the Tracks shall, at all times be subject to the exclusive direction and control of NCTD, and in accordance with such operating rules as NCTD shall, from time to time, institute in accordance with the terms and conditions of this Restated SUA except as set forth in Article 5.
- c. BNSF and MTS shall have the right to monitor, on reasonable notice, NCTD's performance of the dispatching responsibilities under this Restated SUA. If at any time any party asserts that NCTD is not dispatching trains in a reasonably safe and prudent manner consistent with dispatching standards in the industry, the Parties will work together in good faith to resolve any safety concerns by mutual agreement.

4.2 Priorities and Permissible Times of Operation.

- a. In order to provide safe, reliable, punctual and efficient Passenger Service, all NCTD Trains and MTS Trains shall be dispatched with First Priority over any BNSF Trains. In furtherance thereof, all operating, dispatching and maintenance decisions by NCTD affecting the movement of Trains on the Tracks shall be

made in a manner that gives NCTD Trains and MTS Trains First Priority over BNSF Trains, provided however, that at times other than during Restricted Freight Periods, NCTD shall dispatch all BNSF Trains operating on the Property reasonably so as to enable BNSF to conduct Quality Rail Freight Service and to provide BNSF continued regular access to all yards and freight customers. The relative priority between NCTD Trains and MTS Trains shall be determined solely by NCTD and MTS together. Subject to the foregoing, when dispatching, NCTD shall treat BNSF Trains and MTS Trains fairly with each other and with NCTD Trains. Notwithstanding any other provision in this Section 4.2, BNSF's local Rail Freight Service on the Escondido Subdivision shall be scheduled and operated only during hours that allow NCTD to offer rail service schedules consistent with reasonable market demands and industry standards for Passenger Service, and that assures BNSF of continued ability to provide reasonable Rail Freight Service to its customers.

- b. Except as expressly provided in this Section 4.2 (b), and in Section 4.2 (d) and 4.3 (b), there shall be no Rail Freight Service during Restricted Freight Periods and BNSF shall operate BNSF Trains over the Property only during times other than Restricted Freight Periods. Occasionally if as a result of delay a BNSF Train remains on the line during any Restricted Freight Period, or is operating on the line by special arrangement approved by the Agencies, such Train may be advanced, provided that the dispatcher reasonably can determine that such Train (i) is powered by at least two locomotives and is otherwise adequately powered to maintain freight train timetable speeds, and (ii) will be in the clear at least ten minutes prior to a meet. If such conditions cannot be so determined, then the dispatcher shall hold the BNSF Train at a siding or other location until the end of the Restricted Freight Period. Upon written request by NCTD, BNSF agrees to enter into good faith negotiations with NCTD regarding potential extension of the Restricted Freight Periods, which negotiations would include potential consideration to BNSF for any agreed upon extension and be consistent with Quality Rail Freight Service. However, BNSF has no obligation to agree to any such extension.
- c. NCTD shall have the right, upon reasonable prior written notice to BNSF and MTS, to (i) revise the Restricted Freight Periods for the Property, provided that the total daily duration of the Restricted Freight Periods is not expanded as a result of such revision; and (ii) extend the time for any Restricted Freight Period, up to a maximum of thirty minutes for each morning and each evening Restricted Freight Period at any time after the execution of this Restated SUA, provided that such extension shall not more than minimally impair BNSF's ability to provide Quality Rail Freight Service, as reasonably determined by the Parties. If such extension shall more than minimally impair BNSF's ability to provide Quality Rail Freight Service, NCTD and MTS may not so extend the Restricted Freight Period until such time as sufficient capital improvements have been installed by NCTD and MTS to permit such extended Restricted Freight Periods without more than minimally interfering with BNSF's ability to provide Quality Rail Freight Service.
- d. BNSF may operate one manifest overhead BNSF Train over the portion of the Property north of Milepost 225.1 at Fallbrook Junction during each of the Restricted Freight Periods, to be scheduled by mutual agreement of BNSF and

NCTD; provided that the dispatcher reasonably can determine that the freight train (1) is powered by at least two locomotives and is otherwise adequately powered to maintain freight train timetable speeds and (2) will be in the clear at least ten minutes prior to a meet.

4.3 Schedules.

- a. NCTD shall determine the Schedules for NCTD Trains and MTS shall determine the Schedules for MTS Trains and each shall provide such Schedules, and any changes thereto, in a timely manner to BNSF.
- b. BNSF shall provide, in a timely manner to NCTD, Schedules for all BNSF Trains on the Property. NCTD shall have the right to approve BNSF's Schedules for BNSF Trains over the Property, which approval shall not be unreasonably withheld or delayed. Schedules shall comply with the restrictions and principles set forth in this Article 4. Except as set forth in Section 4.2 (d), BNSF will not Schedule any BNSF Trains during the Restricted Freight Period; provided however, if NCTD or MTS is not then using the full Restricted Freight Period for Passenger Service:
 - (i) BNSF may Schedule and operate BNSF Trains during the Restricted Freight Periods up to ten minutes prior to the first scheduled NCTD or MTS Train operating during a Restricted Freight Period or ten minutes after the last NCTD or MTS Train operating during a Restricted Freight Period; and
 - (ii) The dispatcher shall dispatch such BNSF Train according to its Schedule, provided that the dispatcher reasonably can determine that the BNSF Train (1) is powered by at least two locomotives and is otherwise adequately powered to maintain freight train timetable speeds, and (2) will be in the clear at least ten minutes prior to a meet, provided further that if NCTD's and/or MTS' Train Schedules later change, any such BNSF Train shall be rescheduled to comply with the standard set forth in (i) above, and when NCTD and/or MTS fully uses the Restricted Freight Periods, BNSF will neither Schedule nor operate BNSF Trains during such period except as set forth in Section 4.2 (b) or 4.2 (d).

4.4 Conferences. The Parties shall meet periodically to evaluate and discuss scheduling and dispatching over the Property. NCTD shall provide BNSF and MTS appropriate management review tools, including at least monthly route conflict reports, as reasonably necessary to evaluate and discuss scheduling and dispatching performance. Additionally, when in the reasonable opinion of any party there are substantial problems with scheduling and/or dispatching performance over the Property, the Parties shall establish by mutual agreement approaches or mechanisms to reduce the number of instances of route conflicts and to improve the efficiency and reliability of Passenger Service and Rail Freight Service.

4.5 Dispatching Costs.

- a. BNSF shall pay to NCTD \$0.97 per Train-Mile for dispatching costs and operation of communications, signals, and interlockers for BNSF Trains

dispatched by NCTD over the Property. Such amount shall be adjusted annually by increases or decreases in the Cost Index, commencing as of April 1, 2014, and each April 1 thereafter, based on the change in such index between the first quarter of that year and the first quarter of the immediately preceding year, as reported for the most recently published Cost Index.

- b. Bills for such dispatching costs may be submitted no more than once a month for payment as provided in Article 8, and shall contain a statement as to the calculation of such bill (including the number of Train-Miles dispatched) in such reasonable detail as the party receiving such bill may request.

- 4.6 Inapplicability to Light Rail. This Article shall not be applicable to light rail operations of MTS or its operators on tracks used exclusively for MTS Passenger Service.

ARTICLE 5 OWNERSHIP AND SAFETY

- 5.1 Ownership. Nothing in this Restated SUA shall be construed as granting or reserving to BNSF any interest or right in the Property, the Tracks, the Freight Rail Facilities, or other improvements on the Property other than the rights expressly provided herein or in the Reserved Rail Freight Service Easement.

- 5.2 NCTD Ownership.

- a Fee Title Ownership. The Parties hereto agree and acknowledge that NCTD owns that portion of the San Diego Subdivision and San Diego Subdivision Property from Milepost 207.4 to Milepost 245.6 (commonly referred to as Oceanside to the City of Del Mar) and that NCTD and BNSF operate on this portion of the San Diego Subdivision while MTS has no operations in this area. Additionally NCTD owns the Escondido Subdivision and Escondido Subdivision Property on which MTS has no operations.
- b Ownership of Heavy Rail Capital Improvements on MTS Ownership. The Parties further agree and acknowledge that, if constructed by NCTD, by the San Diego Association of Governments (SANDAG) on behalf of NCTD, or any other entity on behalf of NCTD, then all heavy rail capital improvements constructed since the date of the Original SUA (October 30, 1992) and any heavy rail capital improvements constructed in the future on the MTS Fee Ownership specified in section 5.3(a) (i.e., Milepost 245.6 to Milepost 267.7) shall be owned by NCTD, with a contingent ownership interest in federal or state funding agencies, in an amount equal to the value of the improvements that have been made thereto. NCTD agrees and acknowledges that it is solely responsible for any liability and for maintaining and insuring such capital improvements consistent with the requirements established by FRA and/or other agencies providing grant funds for such improvements. The Parties hereto further agree that NCTD shall implement a controlled access program and plan for such facilities to support safety, security and configuration management control in furtherance of the obligations set out in this Restated SUA. NCTD shall work cooperatively to provide designated BNSF and MTS personnel access to such facilities in a timely and efficient manner.

- c NCTD Track and Other Improvements. NCTD shall own all Tracks and other improvements on the Property owned in fee by NCTD, including without limitation improvements constructed on the Property at the cost and expense of BNSF (i.e., Milepost 207.4 to Milepost 245.6, and the Escondido Subdivision).

5.3 MTS Ownership.

- a Fee Title Ownership. The Parties acknowledge that MTS owns that portion of the San Diego Subdivision and San Diego Subdivision Property from approximately Milepost 245.6 to Milepost 267.7 (commonly referred to as the southern border of the City of Del Mar to the south end of the crossing at Broadway in the City of San Diego) and that NCTD and BNSF operate on the two westerly tracks of this portion of the San Diego Subdivision while MTS operates on the two easterly tracks.
- b MTS Track and Other Improvements. Subject to section 5.2(b), MTS shall own all Tracks and other improvements on the Property owned in fee by MTS, including without limitation improvements constructed on the Property at the cost and expense of BNSF (i.e., Milepost 245.6 to Milepost 267.7).

- 5.4 The Parties acknowledge and agree that although MTS and NCTD both operate Passenger Service, that NCTD operates heavy rail vehicles and MTS operates light rail vehicles and that the two forms of Passenger Service are physically separated.
- 5.5 As set forth above, NCTD and not BNSF, has the scheduling and dispatching authority for NCTD Trains and BNSF Trains operating over the San Diego Subdivision on both the portion owned by NCTD as well as the portion owned by MTS.
- 5.6 If MTS believes a Major Safety Incident (MSI), was caused by NCTD's dispatching, operating rules, or general orders, MTS shall notify NCTD of such MSI. The Chief Executive Officer of MTS and the Executive Director of NCTD shall meet and confer regarding the MSI and work together to resolve the concerns of each party.

**ARTICLE 6
MAINTENANCE AND REPAIR**

- 6.1 Maintenance Responsibilities. NCTD shall have exclusive control over the maintenance and repair of, and shall maintain and repair, the Property, Tracks, Freight Rail Facilities, and other improvements on the Property, except the real property, tracks and improvements (including signals and gates) on the San Diego Subdivision used exclusively for light rail operations by MTS which shall be maintained and controlled exclusively by MTS. Specific to the shared corridor, MP 264.2 Taylor Street to MP 267.5 Broadway, where MTS light rail operations run parallel with passenger train operations that share at grade public crossings, MTS shall be responsible for the signal and gate warning devices for light rail tracks, and NCTD shall be responsible for the signal and gate warning devices for heavy rail tracks. NCTD shall not be required to maintain or repair Tracks on the San Diego Subdivision Property that are not used for Freight Service, Agency Rail Service, or by Amtrak or any other NCTD contracted operator.

6.2 Maintenance Standards. The Tracks shall be maintained by NCTD to safe levels consistent with industry practice and applicable law, so as to permit operating speeds at least as high as those in effect in the Timetable at the time the Original SUA was executed. All Freight Rail Facilities shall be maintained and repaired by NCTD to a safe level consistent with industry practice and applicable law for the current classification of such track. NCTD shall have no duty to inspect Freight Rail Facilities and shall only be required to perform maintenance and repair work upon the written request of BNSF. To the extent practicable, all repairs and maintenance shall be performed in a manner that does not more than minimally interfere with BNSF's Quality Rail Freight Service.

6.3 Cost and Expense.

- a. Except as specifically set forth in this Section 6.3, all maintenance and repair costs on the Property shall be paid by the Agencies.
- b. As its share of maintenance costs for the Tracks (other than Freight Tracks) and Freight Rail Facilities located on the Property, BNSF shall pay NCTD \$6,003,744 per year. Such total amount shall be adjusted annually by increases or decreases in the Cost Index, commencing as of April 1, 2014, and each April 1 thereafter, based on the change in the index the first quarter of that year and the first quarter of the immediately preceding year, as reported for the most recently published Cost Index. These payments shall be made in advance in equal monthly installments on the fifteenth day of each month commencing on the execution of this Restated SUA. Conditioned on BNSF's understanding that payments made to NCTD by BNSF under this Section 6.3(b) are not reimbursements, and that any information provided by NCTD shall not be used as a basis of payment, upon request by BNSF NCTD shall provide BNSF with non-confidential information describing amounts incurred by NCTD for capital and non-capital maintenance, repair and replacement on the Property. BNSF shall pay NCTD an additional amount equal to \$337,500 each year for maintenance costs for the Tracks (other than Freight Tracks) and Freight Rail Facilities located on the Property for the years 2014 through and including 2018, commencing on January 1, 2014. Additionally, if NCTD constructs new Freight Rail Facilities for BNSF pursuant to Article 7 below, BNSF shall pay an additional annual fee for the maintenance of such facilities, which fee shall be determined by mutual agreement prior to the installation of the facilities by NCTD. BNSF shall also reimburse NCTD for all maintenance costs incurred with respect to any Freight Rail Facilities. NCTD shall provide BNSF with periodic statements for such services.
- c. The provisions of this Section 6.3 (other than payments for maintenance and repair of Freight Rail Facilities) will be subject to renegotiation every 10 years after the execution of this Restated SUA, to adjust upward or downward the maintenance charge prospectively in the event that there is a material change in the number of Car-Miles operated by BNSF on the Property measured from the date of execution of this Restated SUA. Such adjustment shall be based on the principle that BNSF shall pay all increased maintenance costs attributable to increased BNSF Car Miles and shall be entitled to a reduction for all reduced maintenance costs attributable to reduced BNSF Car Miles compared to the BNSF Car Miles. In the event either party desires to enter into negotiations pursuant to this Section 6.3(c) it shall provide written notice to the other party of

its intent at least 60 days prior to the 10th anniversary of execution of this Restated SUA, and every 10th year following thereafter.

- d. Except as specified in Section 6.3(e), below, maintenance and repair costs as referenced in this Section 6.3 shall include the costs of replacement of signal facilities, communications facilities, rails, bridges, ties, ballast, drainage and surfacing, where the replacement does not constitute additions or betterments to the Property. The cost of such additions or betterments shall be allocated between the Parties as set forth in Article 7 of this Restated SUA.
- e. In the event of a derailment of a BNSF Train, not involving an NCTD Train or MTS Train and not caused in whole or in part by the condition of the Track or Property, which derailment causes damage to the rails, ties or ballast on the Property, BNSF shall be responsible for the reasonable and actual cost of repairing such rails, ties and ballast provided however, BNSF shall not be responsible for the cost of repairing any passenger related facilities. If the derailment was caused in part by the condition of the Track or Property based on the completion of an independent investigation commissioned by BNSF and NCTD, BNSF and NCTD will share the costs of repairing damage to the rails, ties or ballast in proportionate manner based on the determination of the aforementioned independent investigation, but such determination shall have no bearing on the allocation of other costs of Loss or Damage set forth in this Restated SUA.

6.4 Coordination of Capital Improvements and Specified Maintenance Projects.

Subject to Article 7, NCTD and MTS recognize that the San Diego Subdivision from MP 267.7 to 245.6 may be improved in the future to accommodate trains and or LRVs. It is, therefore, in the best interest of MTS and NCTD to coordinate any Capital Improvement Project (CIP) or significant maintenance activity in a timely manner to avoid and or mitigate potential conflicts and allow for the most efficient and cost effective use of the Property. To accomplish this goal, NCTD and MTS agree to work together on capital improvements and to coordinate significant maintenance activities that are planned between MP 267.7 to 245.6 as follows:

- a. Regional Projects Led by SANDAG. For all projects led by SANDAG between MP 267.7 to 245.6, both MTS and NCTD will be signatories to an Addendum to the Master MOU (MTS Doc. No. G0930.0-04) that specifies project planning, development, and construction and will provide input throughout all phases of the project.
- b. Capital Improvement Projects and Maintenance Activities Led by MTS and or NCTD. With the exception of minor and routine maintenance or repairs, both NCTD and MTS agree to coordinate any CIP, maintenance activity, or any activity that could impact current or future planned operations or construction activities. Both NCTD and MTS agree to develop a detailed Standard Operating & Maintenance Procedure to accomplish this requirement. Any work performed on behalf of NCTD or MTS by a third-party contractor shall be subject to a joint right of entry permit providing insurance and indemnification to both NCTD and MTS.

- c. Projects Sponsored By Third Party Entities. MTS is the primary lead for all capital improvement projects sponsored by Third Party Entities between MP 267.7 to 245.6 and will work with NCTD to coordinate project activities. NCTD will be a co-signatory on all right of entry permits.

ARTICLE 7 FACILITIES AND IMPROVEMENTS PROVISIONS

7.1 General Rights and Responsibilities.

- a. BNSF shall have no right to construct, reconstruct, relocate or remove (or cause to be constructed, reconstructed, relocated or removed) any facilities or other improvements on the Property other than as provided in this Article 7.
- b. Unless otherwise agreed to in writing by the Parties, NCTD and MTS shall perform all construction, reconstructions, relocation or removal of facilities and improvements on the Property. No future improvements on the Property shall, after they are constructed, more than minimally interfere with BNSF Rail Freight Service on such portion of the Property except to the extent that NCTD and/or MTS operate light rail service on the Escondido Subdivision or on the San Diego Subdivision Property south of the City of Del Mar.

7.2 Ownership. Except as otherwise provided in Section 2.3, all existing and future capital improvements on the Property shall be owned by NCTD if located north of the southern border of the City of Del Mar and by MTS if south of the southern border of the City of Del Mar.

7.3 Relocation of the Main Line. Neither NCTD nor MTS shall relocate any main line track without BNSF's approval which approval shall not be unreasonably withheld.

7.4 Removal of Track. NCTD and/or MTS, after reasonable notice to BNSF and completion by NCTD and/or MTS of any discontinuance or abandonment proceedings required by applicable law, but without compensation to BNSF, may remove, take over or retire from service any Track on the Property used solely or primarily for Rail Freight Service; provided however, that if such Track is actively being used by BNSF for its Rail Freight Service at the time NCTD and/or MTS propose to remove, take over or retire the Track, then NCTD and/or MTS must first construct and provide an equivalent substitute Track for BNSF's use, Free of Charge to BNSF. As used in the foregoing sentence, the phrase "actively being used" shall mean documented use by BNSF within the last twelve months. At NCTD and/or MTS' request, BNSF from time to time shall provide NCTD and/or MTS with track diagrams and documentation showing active Tracks.

7.5 Removal of Shipper/Receiver Connection Facilities. As between the Parties, NCTD and/or MTS shall have the right to remove connection facilities and related Tracks on the Property to any freight shipper or receiver (i) with the consent of such shipper or receiver, where such shipper or receiver does not ship or receive any rail freight via such connection facilities over any period longer than twelve months but less than twenty-four months and (ii), without the consent of such shipper or receiver, where such shipper or receiver does not ship or receive any rail freight via such connection facilities over any period more than twenty four months; provided however, if such shipper or receiver

seeks through legal process the reinstallation of the connection facilities at BNSF's cost, NCTD and/or MTS shall be afforded the right to defend the claim. If BNSF is subsequently required to reinstall any such removed connection facilities or related Tracks at BNSF's cost, then the party defending the claim shall bear the cost of such reinstallation.

- 7.6 Construction of New Freight Rail Facilities. Subject to restrictions set forth in Sections 3.6 and 3.7 NCTD and MTS shall, at BNSF's request, design and construct new Freight Rail Facilities on the Property in support of BNSF's current or future Rail Freight Service needs at BNSF's sole cost. This construction shall be subject to the prompt approval of the location, design, specifications, and cost of such Freight Rail Facilities by all Parties, provided that such Freight Rail Facilities do not more than minimally interfere with Passenger Service or related activities. If such Freight Rail Facilities would more than minimally interfere with Passenger Service or related activities, then such improvements still may be constructed if BNSF pays the cost of reducing any such interference to more than minimal. In addition to the foregoing, NCTD and/or MTS may withhold or condition consent to proposed Freight Rail Facilities if such party anticipates a specific and identified future use of such portion of the Property that interferes with the proposed freight use. In the absence of restrictions or conditions so imposed by NCTD and/or MTS, should any area over which such new Freight Rail Facilities are located later be needed for NCTD or MTS Passenger Service, either NCTD or MTS may relocate such Freight Rail Facilities, at that party's cost, to another location that allows BNSF to continue to provide Quality Rail Freight Service to its shippers and receivers. Such relocation shall be subject to BNSF's approval of the location and design of such Freight Rail Facilities, which approval shall not be unreasonably withheld or delayed.
- 7.7 Signal Improvements. NCTD and/or MTS shall not, without BNSF's approval, initiate any signal improvements that would require BNSF to install cab signals and/or automatic train control in any of BNSF's locomotives, unless required by state or federal law. The Parties will cooperate to develop a mutually acceptable train control system.
- 7.8 General Cost Allocations.
 - a. As between the Parties, BNSF shall be responsible for the entire cost of future capital improvements benefiting only Rail Freight Service.
 - b. As between the Parties, NCTD and/or MTS shall be responsible for the entire cost of future capital improvements to the Property benefiting only NCTD and/or MTS Passenger Service (costs may be allocated amongst the Agencies by mutual agreement of the Agencies). In addition, NCTD and/or MTS shall be responsible for the entire cost of adding or upgrading main track sections or switching leads as necessary to commence or continue Passenger Service operations on the Property.
 - c. With respect to future capital improvements benefiting all Parties, and not covered by other specific provisions of this Restated SUA, the Parties constructing such capital improvements shall share the cost of such capital improvements in a manner to be determined on a case by case basis.
 - d. As between all Parties, NCTD or MTS shall be responsible for the entire costs of any capital improvement that is initiated by that Party that would benefit all

Parties if BNSF reasonably would not have made such improvement at the time that such improvement is made, including all capital improvements initiated by either NCTD or MTS (i) made to dispatching and signaling systems, or (ii) made to permit operating speeds higher than those shown in the Timetable for train operations on any segment of the Tracks.

- e. Pursuant to the terms of the Second Amendment to the Original SUA, dated October 10, 2000, the parties agree that BNSF shall not be responsible for any share of the cost of any grade separation projects across, or in any manner over or under any portion of the San Diego Subdivision, the Escondido Subdivision, or both. The Agencies shall pay all costs of any such grade separation projects that are assessed against any and all railroads operating on the San Diego Subdivision, the Escondido Subdivision, or both. The Agencies shall indemnify, defend and hold harmless BNSF from any cost of any kind that is related to any claim that BNSF should pay any portion of the cost of any grade separation project across, or in any manner over or under any portion of, the San Diego Subdivision, the Escondido Subdivision, or both.
- f. Each party shall have the right, exercisable on every fifth anniversary of the execution of this Restated SUA, by giving notice to all other Parties at least 3 months prior, to review and renegotiate future capital improvement allocations.

7.9 Amtrak Improvements. Nothing in this Restated SUA shall obligate any party to make or pay for capital improvements requested by Amtrak.

7.10 Restriction on Construction of New Freight Rail Facilities. BNSF shall not request NCTD and/or MTS to construct on BNSF's behalf (and neither NCTD and/or MTS shall have any obligation to construct or to allow the construction of) any new Freight Rail Facilities on either side of BNSF's main line track between Old Town, San Diego near Milepost 263.2 and the Miramar Wye track, near Milepost 253.0 (except that BNSF's access to the Miramar Wye shall not be blocked by a light rail line), except with the prior written consent of NCTD and MTS which consent shall not be unreasonably withheld. NCTD and/or MTS may reasonably withhold consent to construction of any such Freight Rail Facilities if the Property in question is being considered as a likely location for a light rail line or related facilities, or such line or facilities already have been constructed thereon.

7.11 Miramar Wye and Washington Street Wye Tracks. As provided in Section 1.1(a)(iii) of the Purchase and Sale Agreement dated October 30, 1992 by and between BNSF's predecessor AT&SF, NCTD and MTS (hereinafter "Purchase and Sale Agreement"), NCTD and MTS may, in their sole discretion, provide to BNSF equivalent alternative facilities to the Miramar Wye track and the Washington Wye track, at a location and upon terms and conditions satisfactory to BNSF, in which event BNSF shall relocate its Reserved Rail Freight Service Easement to such alternate facilities. Notwithstanding the above, the Parties acknowledge that effective July 21, 2010, the Department of Navy terminated the agreement with BNSF, eliminating MTS' and NCTD's right to operate on the Washington Street Wye.

7.12 Loading Platforms. NCTD and/or MTS may construct and use for Passenger Service and related Passenger Service activities, passenger loading platforms at Passenger Station on the Reserved Rail Freight Service Easement, on the condition that such

facilities comply with all standards of the California Public Utilities Commission and applicable FRA regulations. BNSF shall not have the right to require such construction to comply with standards more restrictive than applicable California Public Utilities Commission standards or applicable FRA regulations.

ARTICLE 8 BILLING PROCEDURES

- 8.1 Payment of Bills. Except as provided in Section 6.3(a), within thirty days after BNSF's receipt of a bill for any dispatching, maintenance, capital improvement, clearing derailments or other costs or expenses to be borne by BNSF under this Restated SUA, BNSF shall pay the amount of such bill to the party rendering the bill. If BNSF fails to pay any bill within 30 days after receipt thereof, then such bill shall accrue interest at the rate of 6.5% per year from such thirtieth day until paid. Upon payment of such bill, BNSF shall also pay any accrued interest. Neither the accrual nor payment of interest shall relieve BNSF from the obligation to pay in a timely manner the amount set forth in any bill.
- 8.2 Errors or Disputes. If any portion of the bill is in dispute, BNSF nonetheless shall pay on a timely basis the undisputed portion. No exception to any bill shall be honored, recognized or considered if filed after the expiration of two years from the last day of the calendar month during which the bill is rendered. No bill shall be rendered later than two years after either (i) the last day of the calendar month in which the expense covered thereby is incurred, or (ii) with respect to a project for which a roadway completion report is required or with respect to unliquidated liability claims, then sixty days following the date the amount is settled and/or liability is established.
- 8.3 Books and Records. Each party at a reasonable time, upon reasonable notice and at its own expense, may inspect and/or audit the books, accounts and records of the other Parties, to the extent the same relate to matters covered by this Restated SUA. If any discrepancy is found, the party owing an adjustment shall make settlement within thirty days.

ARTICLE 9 LIABILITY

- 9.1 Allocation of Liabilities for Loss or Damage. Except as set forth in Section 6.3(e), the Parties agree that liability for Loss or Damage shall be apportioned as follows:
- a. When Loss or Damage involves an NCTD Train and does not result from and is not contributed to by an accident, collision, or derailment of a BNSF Train or an MTS Train, such Loss or Damage shall, as among the Parties, be borne exclusively by NCTD; provided, however, that BNSF shall, as among the Parties, bear all Loss or Damage to a BNSF Party.

- b. When Loss or Damage to a Third Party involves a BNSF Train and does not result from and is not contributed to by an accident, collision, or derailment of an NCTD Train or an MTS Train, such Loss or Damage shall, as among the Parties, be borne exclusively by BNSF; provided, however, that NCTD shall, as among the Parties, bear all Loss or Damage to an NCTD Party and MTS shall, as among the Parties, bear all Loss or Damage to an MTS Party.
- c. When Loss or Damage involves an MTS Train and does not result from and is not contributed to by an accident, collision, or derailment of a BNSF Train or an NCTD Train, such Loss or Damage shall, as among the Parties, be borne exclusively by MTS; provided, however, that BNSF shall, as among the Parties, bear all Loss or Damage to a BNSF Party.
- d. When Loss or Damage involves an NCTD Train and an MTS Train and does not result from and is not contributed to by an accident, collision, or derailment of a BNSF Train, such Loss or Damage shall, as among the Parties, be borne exclusively by NCTD and MTS and shall not be borne by BNSF. NCTD and MTS shall allocate all such Loss or Damage according to the proportion of fault in the underlying Loss or Damage incident. Provided, however, that BNSF shall, as among the Parties, bear all Loss or Damage to a BNSF Party.
- e. When Loss or Damage to a Third Party involves a BNSF Train and an MTS Train and does not result from and is not contributed to by an accident, collision, or derailment of an NCTD Train, such Loss or Damage shall, as among the Parties, be borne exclusively by BNSF and MTS and shall not be borne by NCTD. BNSF and MTS shall allocate all such Loss or Damage based upon the following percentages: 50% to BNSF and 50% to MTS. Provided, however, that BNSF shall, as among the Parties, bear all Loss or Damage to a BNSF Party and MTS shall, as among the Parties, bear all Loss or Damage to an MTS Party.
- f. When Loss or Damage to a Third Party involves a BNSF Train and an NCTD Train and does not result from or is not contributed to by an accident, collision, or derailment of an MTS Train, such Loss or Damage shall, as among the Parties, be borne exclusively by BNSF and NCTD and shall not be borne by MTS. BNSF and NCTD shall allocate all such Loss or Damage based upon their relative use of the Property as determined by BNSF Train Miles or NCTD Train Miles as a percentage of the aggregate Train Miles operated by BNSF and NCTD on the Property during the previous calendar year. Provided, however, that BNSF shall, as among the Parties, bear all Loss or Damage to a BNSF Party and NCTD shall, as among the Parties, bear all Loss or Damage to an NCTD Party.
- g. When Loss or Damage to a Third Party involves Trains operated by all Parties, such Loss or Damage shall, as among the Parties, be borne by the Parties based upon the following percentages: 33.3% BNSF, 66.6% NCTD/MTS to be divided according to the proportion of fault in the underlying Loss or Damage incident. Provided, however, that BNSF shall, as among the Parties, bear all Loss or Damage to a BNSF Party and NCTD and MTS shall assign liability for Loss or Damage to a NCTD Party or a MTS Party according to NCTD's or MTS's proportion of fault in the underlying Loss or Damage incident. In the event neither NCTD nor MTS has any proportional fault in the underlying Loss or

Damage incident, then the Third Party Loss or Damage shall be borne by the Parties based on the following percentages: 33.3% BNSF, 33.3% NCTD, and 33.3% MTS and NCTD shall, as among the Parties, bear all Loss or Damage to an NCTD Party and MTS shall, as among the Parties, bear all Loss or Damage to an MTS Party.

- h. Loss or Damage occurring on the Property and not involving a BNSF Train, NCTD Train or MTS Train shall be borne by the party responsible for maintaining that portion of the Property on which the Loss or Damage occurred. In the event that MTS is maintaining the Property at the request of NCTD (for example at Old Town Transit Center), then NCTD shall bear the Loss or Damage. A list of Property maintained by MTS at the request of NCTD is set out in Exhibit "I," attached hereto and by this reference incorporated herein. Exhibit "I" shall be modified, as a ministerial matter, to reflect maintenance responsibility changes agreed to between MTS and NCTD.
- i. Costs incurred by MTS, or Loss or Damage incurred by MTS, including but not limited to the redesign of any station, grade crossing, platform, or other device, resulting from or arising out of NCTD's exclusive direction and control of the movement and dispatching of any Train and/or rolling stock (as set forth in paragraph 4.1) shall be borne by NCTD.

- 9.2 The allocation of Loss or Damage among the Parties provided in this Article 9 shall not be affected by any allocation of Loss or Damage as between a party hereto and another person or entity.
- 9.3 The Parties agree that in any litigation involving one or more of the Parties and any Third Party in which Loss or Damage is sought to be imposed under applicable law without regard to the provisions of this Restated SUA, the Parties will not introduce Articles 9, 10, or 11 into evidence and each Party will oppose introduction of said Articles by any Third Party to this Restated SUA.
- 9.4 For purposes of Article 9, neither BNSF, nor its employees, agents, contractors, attorneys, licensees, lessees, invitees, customers, or patrons shall be considered employees, agents, or contractors of NCTD and/or MTS or any NCTD Party and/or MTS Party and neither MTS and/or NCTD, nor their employees, agents, contractors, attorneys, licensees, lessees, invitees, customers, or patrons shall be considered employees, agents, or contractors of BNSF or any BNSF Party.
- 9.5 For purposes of Article 9, the definition of Loss or Damage shall not include losses arising out of or in relation to the release of Hazardous Materials which shall be governed by Article 10 of this Restated SUA.

ARTICLE 10 ENVIRONMENTAL LIABILITY

10.1 Environmental Liability.

- a. BNSF agrees that it shall not release any Hazardous Materials on the Property. Except as provided in Article 9 or Section 11.4, BNSF shall indemnify, defend,

and hold NCTD and MTS harmless from and against any Environmental Loss or Damage of any kind or nature, whether foreseeable or unforeseeable, arising out of or in relation to the release of Hazardous Materials on, in, or from the Property to the extent caused by (i) the activities of BNSF, or a BNSF party, (ii) the activities of BNSF's shippers and receivers in connection with rail freight shipping or receiving activities with BNSF on the Property, or (iii) the loading, unloading, and/or storage of Dangerous Materials Cars on the Property.

- b. NCTD agrees that it shall not release any Hazardous Materials on the Property. Except as provided in Article 9 or Section 11.4, NCTD shall indemnify, defend and hold BNSF and MTS harmless from and against any Environmental Loss of any kind or nature, whether foreseeable or unforeseeable, arising out of or in relation to the release of Hazardous Materials on, in, under or from the Property, to the extent caused by NCTD, or an NCTD Party, except any release of Hazardous Materials covered by Section 10.1(a).
- c. MTS agrees that it shall not release any Hazardous Materials on the Property. Except as provided in Article 9 or Section 11.4, the MTS shall indemnify, defend and hold BNSF and NCTD harmless from and against Environmental Loss of any kind or nature, whether foreseeable or unforeseeable, arising out of or in relation to the release of Hazardous Materials on, in, under or from the Property, to the extent caused by MTS, or an MTS Party, except any release of Hazardous Materials covered by Section 10.1(a).
- d. With respect to liability for a release of Hazardous Materials caused by the concurrent negligence of the Parties, the Parties shall bear such liability in proportion to their relative degrees of fault and BNSF and the Agencies hereby indemnify each other for their respective portion of such liability.

10.2 Notice of Claim.

- a. Upon receiving notice of any suit, claim, or demand asserted by a Third Party that NCTD and/or MTS believes is covered by this Section 10, such party shall give BNSF written notice of the matter and an opportunity to defend such suit, claim, or demand, at BNSF's sole cost and expense, with legal counsel satisfactory to NCTD and/or MTS. NCTD and/or MTS may also require that BNSF defend them.
- b. Upon receiving notice of any suit, claim, or demand asserted by a third party that BNSF believes is covered by this indemnity, BNSF shall give NCTD and/or MTS written notice of the matter and an opportunity to defend such suit, claim, or demand, at NCTD and/or MTS' sole cost and expense, with legal counsel satisfactory to BNSF. BNSF may also require that NCTD and/or MTS defend BNSF.

10.3 Abatement. Except as provided in Article 9, BNSF shall, at the request of NCTD or MTS, characterize and remediate or abate to the extent required by applicable federal or state statutes, orders, and regulations, at BNSF's sole cost and expense, any Hazardous Materials on, in, or under the Property arising from any release of Hazardous Materials to the extent resulting from (a) the activities of BNSF, or any BNSF Party, (b) rail freight shipping or receiving activities with BNSF on such Property, the activities of

any BNSF Party's shippers or receivers, or (c) the loading, unloading, and storage of Dangerous Materials Cars on the Property. BNSF shall conduct such characterization, remediation, and/or abatement in compliance with all applicable laws and with all guidelines of any governmental regulatory agency having jurisdiction over such matters in a manner that causes the Property to comply with all applicable federal or state statutes, orders, or regulations and eliminates any adverse effect or exposure to liability resulting from noncompliance. Any such characterization, remediation, and/or abatement shall be conducted by a reputable contractor, approved by the Agencies, such approval not to be unreasonably withheld. BNSF shall commence and complete such characterization, remediation, and/or abatement as promptly as practicable (without overtime). BNSF shall, in no event more than minimally, interfere with Passenger Service and shall otherwise conduct such characterization, remediation and/or abatement in accordance with such reasonable terms and conditions as required by the Agencies (to the extent such can be done without breaching the orders and regulations of all governmental agencies having jurisdiction over such matters).

- 10.4 If, and to the extent the release of Hazardous Materials in, on, or under the Property arising from the activities of NCTD, an NCTD Party, MTS and/or an MTS Party materially interferes with Rail Freight Service, the Agencies shall conduct such characterization, remediation, and/or abatement as is required to eliminate such interference. Any such characterization, remediation, and/or abatement shall be conducted by a reputable contractor. The Agencies shall commence and complete such characterization, remediation, and/or abatement as promptly and as practicably (without overtime) as possible.

ARTICLE 11 RELEASE AND INDEMNIFICATION

- 11.1 NCTD agrees to release and covenants not to sue BNSF (including for all purposes of this paragraph, BNSF's employees, directors, contractors, officers, agents, attorneys, predecessors, successors, and assigns) and MTS (including for all purposes of this paragraph, MTS' employees, directors, contractors, officers, agents, attorneys, subsidiaries, predecessors, successors, and assigns) from and for any claims it could otherwise assert against BNSF and/or MTS for Loss or Damage or Environmental Loss or Damage for which NCTD shall be liable under the provisions of Articles 9 or 10 other than to enforce the allocation of such liability and covenants as provided herein.
- 11.2 MTS agrees to release and covenants not to sue BNSF (including for all purposes of this paragraph, BNSF's employees, directors, contractors, officers, agents, attorneys, predecessors, successors, and assigns) and NCTD (including for all purposes of this paragraph, NCTD's employees, directors, contractors, officers, agents, attorneys, predecessors, successors, and assigns) from and for any claims it could otherwise assert against BNSF and/or NCTD for Loss or Damage or Environmental Loss or Damage for which MTS shall be liable under the provisions of Articles 9 or 10 other than to enforce the allocation of such liability and covenants as provided herein.
- 11.3 BNSF agrees to release and covenants not to sue NCTD (including for all purposes of this paragraph, NCTD's employees, directors, contractors, officers, agents, attorneys, predecessors, successors, and assigns) and MTS (including for all purposes of this paragraph, MTS' employees, directors, contractors, officers, agents, attorneys,

predecessors, successors, and assigns) from and for any claims it could otherwise assert against NCTD and/or MTS for Loss or Damage or Environmental Loss or Damage which BNSF shall be liable under the provisions of Articles 9 or 10 other than to enforce the allocation of such liability and covenants as provided herein.

- 11.4 To the maximum extent permitted by state and federal law, each party shall pay all Loss or Damage or Environmental Loss or Damage for which such party shall be liable under the provisions of Articles 9 and 11 and shall defend, indemnify and hold harmless the other party (including without limitation the other party's employees, directors, contractors, officers, agents, attorneys, predecessors, successors, assigns, and subsidiaries) against such Loss or Damage or Environmental Loss or Damage, notwithstanding any alleged or actual passive or active negligence of the party to be indemnified and held harmless.
- 11.5 The indemnification obligations assumed by the Parties hereunder shall include Loss or Damages under the Federal Employer's Liability Act, the Safety Appliance Act, the Locomotive Inspection Act, including claims for strict liability, and the California Tort Claims Act.
- 11.6 The indemnification obligations of this Article are not intended to constitute a waiver of or operate to defeat any other immunities, limitations, or defenses imposed by or available under any statute or common law to Third Parties which may be applicable to any party. Notwithstanding the previous sentence, with respect to each other only, BNSF NCTD, and MTS, by mutual negotiation, hereby waive any immunity against claims for which they have assumed an indemnification obligation hereunder that would otherwise be available under applicable law.
- 11.7 If any provision of this Restated SUA purports to indemnify a party against Loss or Damage and such indemnification would be prohibited by or unenforceable under the any applicable federal or state law, the indemnity provided by such provision shall be deemed to be limited to and operative only to the maximum extent permitted by applicable law. Further, to the extent that BNSF is thereby deprived of the protection it would otherwise have had under this Restated SUA, the Parties agree to negotiate in good faith to ensure equivalent protection for BNSF.
- 11.8 It is mutually understood and agreed that the allocations of liability, releases, and indemnifications under this Restated SUA shall survive any termination of this Restated SUA.
- 11.9 In the event a suit is commenced or a claim is asserted for or on account of a Loss or Damage or Environmental Loss or Damage against any party for which another party may be solely or jointly liable under the provisions of this Article 11, the party so sued or against whom the claim is asserted shall promptly notify the other party in writing of the pendency of the suit or claim, and thereupon such other party may assume or join in the defense of such suit or claim.
- 11.10 Each Party shall have the exclusive right to defend, investigate, settle, or cause to be settled all claims for Loss or Damage or Environmental Loss or Damage for which such Party acknowledges in writing it is responsible to bear pursuant to this Restated SUA. During the course of such Party's investigation and/or defense of any such claim, the other Parties agree to cooperate fully with such Party, including sharing relevant

information and providing access to necessary witnesses and other company experts or expertise without additional cost to such Party.

- 11.11 For any claims for which Section 11.10 above does not apply, each Party shall have the right for itself only, to settle, or cause to be settled for it, all claims for Loss or Damage or Environmental Loss or Damage, or to defend or cause to be defended all suits for such claims. In the event that a party who is liable for Loss or Damage or Environmental Loss or Damage settles a claim for such Loss or Damage by a voluntary payment of money or other valuable consideration, the settling party shall endeavor to obtain a full release from liability for and in the name of all Parties who may be jointly liable for such claim. Other parties who may be jointly liable can waive this requirement. A settlement not including all Parties who may be jointly liable hereunder shall not alter the allocations of Loss or Damage or Environmental Loss or Damage set forth in Articles 9 and 10.
- 11.12 Prior to settling any claim or suit for an amount in excess of One Hundred Thousand Dollars (\$100,000) (as adjusted for changes in the CPI) in the aggregate in any given calendar year, the settling party shall obtain the written consent of the other party named in the claim or suit, which consent shall not be unreasonably withheld. The party being requested to give consent shall provide the same within ten (10) business days of the request being made. In the event that a response is not received within said ten (10) business days it shall be conclusively presumed that such consent has been given. Giving of such consent, impliedly or expressly, shall not be deemed an admission that such claim involves joint liability.
- 11.13 No party shall be conclusively bound by any judgment against the other Parties, unless that party shall have had reasonable notice requiring it to defend and reasonable opportunity to make such defense. As between the Parties only, when such notice and opportunity shall have been given, the party so notified shall be conclusively bound by the judgment as to all matters which could have been litigated in such suit.
- 11.14 Article 11 Notices.

All notices and other communications under this Article 11 shall be in writing and shall be deemed to have been duly given (i) on the date of delivery, if delivered personally on the party to whom notice is given, or (ii) on receipt, if mailed to the party to whom notice is to be given by First Class mail, postage prepaid, and properly addressed as follows:

To BNSF:

Vice President-Environmental
BNSF Railway
2500 Lou Menk Drive AOB-3
Fort Worth, TX 76131

With a copy to:

Vice President and General Counsel
BNSF Railway
2500 Lou Menk Drive AOB-3
Fort Worth, TX 76131

To MTS:

General Counsel
San Diego Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, California 92101-7490
Telephone No.: 619-557-4512

With a copy to:

Manager of Risk & Claims
San Diego Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, California 92101-7490
Telephone No.: 619-557-4502

To NCTD:

General Counsel
North County Transit District
810 Mission Avenue
Oceanside, California 92054
Telephone No.: 760-966-6532

With copy to:

Risk & Insurance Management Specialist
North County Transit District
810 Mission Avenue
Oceanside, California 92054
Telephone No.: 760-967-2847

**ARTICLE 12
INSURANCE**

12.1 Each party shall procure and maintain for the duration of this agreement insurance against claims for injuries to persons or damage to property which may arise from or in connection with their operations as respects this agreement. The requirements of each party, and all parties as a whole, are as described in each of the following sections:

12.2 Insurance Requirements for NCTD

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. A standard public entity liability policy form covering general and automobile liability with no exclusion for the ownership or operation of a railroad.
2. Workers' Compensation insurance as required by the State of California and

Employers' Liability insurance.

3. "All Risk" (Special Form) property insurance covering any owned property (including rolling stock) that is within the subject of this agreement.

B. Minimum Limits of Insurance

Limits of coverage shall be maintained in amounts not less than:

- | | |
|--|--|
| 1. General Liability:
(Including premises &
operations, products &
completed operations.) | \$200,000,000 per occurrence for bodily injury,
personal injury and property damage. |
| 2. Automobile Liability: | \$1,000,000 per accident for bodily injury and
property damage. |
| 3. Workers' Compensation | As required by the State of California. |
| 4. Employers' Liability: | \$1,000,000 each accident, \$1,000,000 policy limit
bodily injury by disease, \$1,000,000 each employee
bodily injury by disease. |
| 5. Property: | Replacement cost for real and personal property,
actual cash value for rolling stock. |

12.2 Insurance Requirements for MTS

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. A standard public entity liability policy form covering general and automobile and omissions liability with no exclusion for the ownership or operation of a railroad.
2. Workers' Compensation insurance as required by the State of California and Employers' Liability insurance.
3. "All Risk" (Special Form) property insurance covering any owned property (including rolling stock) that is within the subject of this agreement.

B. Minimum Limits of Insurance

Limits of coverage shall be maintained in amounts not less than:

- | | |
|---|---|
| 1. General Liability
(Including premises &
operations, products &
completed operations.) | \$75,000,000 per occurrence for bodily injury, personal
injury and property damage. |
| 2. Automobile Liability: | \$1,000,000 per accident for bodily injury and property
damage. |
| 3. Workers' Compensation | As required by the State of California. |

- 4. Employers' Liability: **\$1,000,000** each accident, **\$1,000,000** policy limit bodily injury by disease, **\$1,000,000** each employee bodily injury by disease.
- 5. Property: Replacement cost for real and personal property, actual cash value for rolling stock.

12.3 Insurance Requirements for BNSF

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. A standard public entity liability policy(s) form covering general and automobile and omissions liability with no exclusion for the ownership or operation of a railroad.
2. Coverage for BNSF's obligations under the Federal Employers' Liability Act.
3. "All Risk" (Special Form) property insurance covering any owned property (including rolling stock) that is within the subject of this agreement.

B. Minimum Limits of Insurance

Limits of coverage shall be maintained in amounts not less than:

- 1. General Liability (Including premises & operations, products & completed operations.) **\$200,000,000** per occurrence for bodily injury, personal injury and property damage.
- 2. Automobile Liability: **\$1,000,000** per accident for bodily injury and property damage.
- 3. Workers' Compensation Not applicable
- 4. Federal Employers' Liability Act: As required by applicable Federal regulation
- 5. Property: Replacement cost for real and personal property, actual cash value for rolling stock.

12.4 Insurance Provisions Applying to all Parties

A. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared at least annually to the other parties to this agreement. Excepting BNSF, in no event shall any party retain more than \$10,000,000 without the express written consent of the other parties. BNSF may elect to self-insure any and all insurance requirements established by this Agreement without the express written consent of the other parties, subject to any applicable governmental regulations. Any deductible, self-insured retention or other financial responsibility for claims not covered by insurance shall be covered directly by each respective party.

B. Additional Insured Status

The General Liability and Automobile Liability policies for each party to this agreement are to contain, or be endorsed to contain, the following provisions as respects the other parties to this agreement:

“...its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the named insured; and with respect to liability arising out of work or operations performed by or on behalf of the named insured.”

Each policy shall include as additional insureds the following entities:

- BNSF Railway Company (BNSF)
- North County Transit District (NCTD)
- San Diego Metropolitan Transit System (MTS)
- San Diego Trolley, Inc. (SDTI)
- San Diego and Arizona Eastern Railway (SD&AE) and
- San Diego Transit Corporation (SDTC)

C. Cancellation

Should any of the required policies be cancelled before their expiration date, notice will be delivered in accordance with the policy provisions.

D. Claims Made Policy Provisions

If any required coverage is written on a “claims made” basis (however labeled) then:

1. The retroactive date must be shown, and must be before or on the effective date of this agreement.
2. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after the termination of this agreement.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the insured party must purchase extended reporting period coverage for a minimum of three (3) years after cancellation or non-renewal.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A-:VII, unless otherwise acceptable to the parties. An exception to this requirement is granted for any coverage provided by the State Compensation Insurance Fund.

F. Verification of Coverage

The parties shall each provide to the other certificates of insurance at least annually verifying that insurance is in place in compliance with this Article. Further, each party shall provide to the other copies of endorsements or complete copies of policies that effect coverage required by this Article. In the event a party to this agreement elects to self-insure all or part of its obligations herein, a letter describing the program of self-insurance from an authorized representative in lieu of a certificate of insurance is acceptable.

G. Waiver of Subrogation

The parties hereby agree to waive rights of subrogation which any insurer may acquire by virtue of the payment of any loss.

H. Subcontractors

If any portion of the operation is to be subcontracted by any party, that party shall either list such subcontractor as an additional insured under its policies, or shall require and ensure that such subcontractor shall provide and maintain insurance coverage(s) as set forth herein, naming the other respective Parties as an additional insured, and shall require that the subcontractor shall release, defend and indemnify the other respective Parties to the same extent and under the same terms and conditions as the subcontracting party is required to release, defend and indemnify the other respective Parties herein.

I. Insurance Requirement Section Review

At intervals of five (5) years from the effective date of this Agreement or during any cessation of service under this Agreement, the Parties shall meet and confer in good faith to reassess and re-evaluate their exposure, and the insurance requirements set out in Article 12 (including, but not limited to, the amount of deductible or self insurance retention and major changes in the insurance market affecting availability and cost of liability coverage including coverage for railroad operations), and to reopen and renegotiate a new level of insurance intended to reflect the Parties' exposure to liability, and to make an increase or reduction, if necessary, to the insurance coverage required by this Article.

J. Amtrak Reform and Accountability Act of 1997

In the event the provisions of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. § 28103) (or a successor provision) is changed, or held by a court of competent jurisdiction, to be inapplicable to Passenger Service of the nature to be provided under this Agreement, then the Parties agree to reopen and renegotiate new terms for the general liability (including that for rail operations) insurance intended to reflect any resulting change in either party's exposure to liability, giving due consideration to the additional costs or savings of such a change.

K. Lapse of Insurance

With the exception of approved self-insurance, in the event that any party fails to maintain the insurance set forth in this Article, the party whose insurance has lapsed shall immediately cease all operations until such time as the party complies with the

insurance requirements of this Article. In addition, either of the remaining two parties may jointly or separately procure the insurance required by this section and the party who failed to maintain such insurance shall be liable to the party or Parties for their costs to procure the insurance. Acceptance or receipt of a certificate of insurance that does not comply with the provisions of this Article shall not operate as a waiver of any party's obligations there under

ARTICLE 13 BREACHES AND DEFAULT

- 13.1 Default Notice and Cure. In the event that NCTD, MTS or BNSF fails to perform or comply with any of its obligations or the terms contained in this Restated SUA, the injured party shall have all rights and remedies available at law or in equity, including damages, and specific performance, termination of this Restated SUA, and all remedies available in the Reserved Rail Freight Service Easement, which remedies shall be cumulative and not exclusive, except for circumstances where an exclusive remedy is otherwise specified, or the time or manner of bringing a claim is specified, elsewhere in this Restated SUA.
- 13.2 Costs of Enforcement. In any action to enforce this Restated SUA and/or any of its terms, to collect damages as a result of a breach of its provisions, or to collect any indemnity provided for herein, the prevailing party also shall be entitled to collect all its costs in such action, including, without limitation, the costs of investigation, settlement, expert witnesses, and reasonable attorneys' fees and costs, together with all additional costs incurred in enforcing or collecting any judgment rendered.
- 13.3 Penalties and Fines. If any failure on the part of any party to perform in accordance with this Restated SUA shall result in a governmental fine, penalty, cost, or charge being imposed or assessed on or against another party, such other party shall give prompt notice to the noncomplying party, and the nonperforming party shall promptly reimburse, defend, and indemnify the other party for such fine, penalty, cost, or charge and all expenses and reasonable attorneys' fees incurred in connection therewith.

ARTICLE 14 ALTERNATIVE DISPUTE RESOLUTION

- 14.2 Alternative Dispute Resolution Regarding the Restated SUA.

The Parties agree that every effort shall be made to resolve any dispute arising under this agreement informally through their designated representatives. If the informal efforts are unsuccessful, then any party may request mediation by submitting a written request signed by an officer with the authority to bind the party. Within five (5) business days of the request of any party, the Parties shall mutually agree on the person or alternative dispute resolution agency to conduct the mediation. If the Parties are unable to agree on the person or alternative dispute resolution agency to conduct the

mediation, the initiating party may arrange for the office of the Judicial Arbitration and Mediation Services (JAMS) in downtown San Diego, California, to perform the mediation. The initiating party shall then schedule the mediation so that it is conducted within fifteen (15) business days of the mediator's appointment. The costs of the mediation and fees of the mediator, if any, shall be borne by the requesting party. Any dispute not resolved through the mediation may proceed to litigation in a court of competent jurisdiction in the County of San Diego, State of California, unless the Parties agree in writing to submit the dispute to binding arbitration. In the event matters under this SUA proceed to litigation, the parties agree to waive the right to a jury for all such claims.

BNSF

MTS

NCTD

ARTICLE 15 FIBER-OPTICS PROVISIONS

- 15.1 Fiber Optic Rights. The Grant Deed attached to this Restated SUA as Exhibit "E" reserves unto BNSF rights relating to its rights and obligations under the, MCI Telecommunications Corporation ("MCI") agreement between BNSF and MCI negotiated in accordance with the letter agreement between BNSF and MCI dated April 6, 1992. BNSF's reservation of fiber optics rights is coextensive in scope and time with rights granted to MCI, and following relinquishment of MCI of its rights, BNSF shall have no further fiber optics rights with respect to the Property. BNSF shall indemnify the Agencies in connection with the fiber optics rights as provided in Article 18 of the Reserved Rail Freight Services Easement.

ARTICLE 16 TERM

- 16.1 Term of the Restated SUA. This Restated SUA shall be effective on the date of closing of the sale of the Escondido Subdivision Property and the San Diego Subdivision Property, respectively, with respect to each portion of the Property, and shall continue in effect in perpetuity however, subject to the terms of Section 13.1 herein. Notwithstanding the foregoing, immediately upon BNSF's abandonment of rail service, this Restated SUA shall terminate as to BNSF and the abandoned portion of the Property.

ARTICLE 17 ASSIGNMENTS

- 17.1 BNSF.
- a. BNSF's rights and obligations hereunder may be assigned only as set forth in the Reserved Rail Freight Service Easement.

b. Shortline Assignment.

- (i) NCTD and MTS consent to BNSF assigning to Pacific Sun Railroad Company the right to conduct (1) all rail freight service over the Escondido rail line, and a trackage rights license to conduct all connecting rail service between the Escondido line and Stuart Mesa rail yard; and (2) all local Rail Freight Service on the San Diego Subdivision rail line to and from San Onofre, on the north, and Miramar, on the south, and any other locations on the San Diego Subdivision rail line between San Onofre and Miramar.

17.2 Agencies.

- a. Either NCTD or MTS may appoint an agent to exercise any or all of their rights under this Restated SUA subject to the terms and conditions of this Restated SUA.
- b. Either NCTD or MTS, without the consent of BNSF, may transfer or assign the Burdened Portion of the Property, and all of its rights hereunder, to one or more of the agencies signatory to the Purchase and Sale Agreement. If the transferee under such an assignment assumes in writing, for the benefit of BNSF, all of the transferor's obligations under this Restated SUA, then upon such transfer, the transferor shall be released from all liability under this Restated SUA.
- c. Except as set forth in Section 17.2(b), either NCTD or MTS may transfer or assign the Burdened Portion of the Property and all of its rights hereunder to, and all of its corresponding obligations and duties hereunder may be assumed by any party on the conditions that (i) any transferee or assignee must assume in writing, for the benefit of BNSF, all of the party's obligations under this Restated SUA with respect to the portion of the Property or rights transferred, (ii) any transferee or assignee must be capable, in BNSF's reasonable judgment, of adequately maintaining the Burdened Portion of the Property, (iii) any transferee or assignee must not, in BNSF's reasonable judgment, jeopardize safe and efficient Rail Freight Service on any of the Burdened Portion of the Property, and (iv) any transferee or assignee must be financially capable, in BNSF's reasonable judgment, of maintaining any liability insurance required by this Restated SUA.

**ARTICLE 18
TRackage RIGHTS**

18.1 Grant of Trackage Rights.

In addition, BNSF has granted to NCTD, continuing in perpetuity, Passenger Service trackage rights, Free of Charge to NCTD, between San Diego Subdivision Milepost 267.2 in San Diego, and the southern right-of-way line of 8th Avenue (Milepost 268.74) in San Diego, immediately south of the connection between the San Diego Subdivision and the MTS rail yard in San Diego (hereinafter "Trackage Rights Line"). The location of the Trackage Rights Line is depicted on the map set forth in Exhibit "J," attached hereto and by this reference incorporated herein. The grant of trackage rights is made on the

condition that if Passenger Service on the Trackage Rights Line interfere, in the reasonable judgment of BNSF, with BNSF's freight train movements or with BNSF's yard switching operations in or out of, or within, BNSF's 22nd Street (Crosby Street) yard, NCTD will pay the cost of extending the eastern lead track to just north of Fifth Avenue, and adding a turnout, as necessary to permit efficient BNSF Rail Freight Services.

18.2 Operations.

- a. NCTD shall have the right to operate its Trains over the Trackage Rights Line for Passenger Service. Employees of NCTD shall have such access to the Trackage Rights Line and adjacent property of BNSF as is reasonably necessary in connection with providing Agency Rail Service, provided that such right of access shall not be deemed to require BNSF to take any actions or expend any funds to enable such persons to exercise such rights of access (other than as set forth in this Restated SUA), and provided further that such access shall not more than minimally interfere with Quality Rail Freight Service. All rights and obligations with respect to the Trackage Rights Line are exclusively contained in or expressly cross-referenced in this Article 18.
- b. In operating on the Trackage Rights Line, BNSF and NCTD shall comply (i) with all applicable federal, state, or local laws, regulations or rules governing operations on the Trackage Rights Line, (ii) with an agreed code of operating rules, and (iii) with timetables, general orders, bulletins, and other standards relating to operations, and all of which shall treat the parties fairly. Neither NCTD nor BNSF shall have any responsibility for inspecting, maintaining, servicing, or repairing any equipment used by the other party on the Trackage Rights Line.
- c. The Parties shall provide competent employees to operate their Trains that use the Trackage Rights Line. The parties shall have the right to exclude from the Trackage Rights Line, after consultation, any employee of either party who is in violation of applicable rules, general orders, bulletins or other standards.
- d. If any MTS Train, NCTD Train or BNSF Train becomes stalled or disabled on the Trackage Rights Line and is unable to proceed, or if crippled or defective rolling stock is, in an emergency, set out from any NCTD Train, MTS Train or BNSF Train, then the party whose train or LRV is involved shall immediately provide notice to the other party and promptly shall furnish the motive power or other assistance necessary to move or repair such train or LRV. The parties shall immediately consult and determine responsibility for performing such service. The costs of such service are to be borne by the party whose train requires such service. In the case of any conflict between the payment provisions of this Section 18.2(d) and the payment provisions of Article 6, the provisions of Article 6 shall govern.
- e. The provisions of Sections 3.5 and 3.6 of this Restated SUA shall apply on the Trackage Rights Line.

18.3 Dispatching and Scheduling. The provisions of Article 4 of this Restated SUA, as they relate to the San Diego Subdivision Property south of Fallbrook Junction, shall apply to Trains on the Trackage Rights Line.

18.4 Maintenance and Repair. Except as provided in the BNSF-MTS agreement dated December 21, 1988 (attached as Exhibit "K"), with respect to maintenance of flashing light signals and gates, BNSF shall have exclusive responsibility for the maintenance and repair of the Trackage Rights Line, at no cost to NCTD, except that if BNSF constructs any new rail facilities or improvements on or along the line for NCTD pursuant to Section 19.5, NCTD shall pay an annual fee for maintenance of those facilities or improvements in an amount or on a basis which shall be determined by mutual agreement prior to such construction. The Trackage Rights Line shall be maintained by BNSF to a safe condition consistent with industry practice and at least at such a level as to allow continued Train operations at the speeds shown in the Timetable. Maintenance and repair costs shall be as defined in Section 6.3(d).

18.5 Capital Improvements.

- a. BNSF shall own the Trackage Rights Line and all improvements that constitute the line or are located on BNSF property along the Trackage Rights Line, including any improvements constructed at the cost of NCTD.
- b. NCTD shall have no right to construct, reconstruct, relocate, or remove any facilities or other improvements that constitute the Trackage Rights Line or are located on BNSF property along the Trackage Rights Line. Upon the request of NCTD, BNSF shall construct on or along the Trackage Rights Line any facilities or improvements to be used for Passenger Service, so long as such facilities and improvements do not more than minimally interfere with BNSF's Quality Freight Rail Service, or, if they are signal improvements initiated by the Agencies, so long as they also do not require BNSF to install cab signals and/or automatic train control in any of BNSF's locomotives.
- c. The allocation of costs of capital improvements shall be as set forth in Section 7.8.

18.6 Assignments. Any and all rights hereunder may be assigned by the holder thereof, without obtaining the consent of the other party, and without remaining liable under this Restated SUA, on the condition that the transferee assumes in writing, for the benefit of the other party, all of the transferring party's existing and continuing obligations under this Restated SUA.

18.7 Convention Center Operations. BNSF shall also grant to NCTD, Free of Charge, a license to permit NCTD to build, operate and maintain a passenger loading and unloading platform along the west side of the Trackage Rights Line between First and Eighth Avenues to serve the San Diego Convention Center, and to operate NCTD Trains between the San Diego passenger station, this Convention Center passenger platform and the MTS yard, on the conditions that (1) the NCTD Train will not block the main track south of Fifth Avenue for longer than ten minutes, and (2) the NCTD Train would be operated only after BNSF had been given at least a seven-day advance notice of the exact date and time of this train operation. The provisions of Section 7.12 shall govern with respect to the construction of the platform. Passengers shall have such access to the Trackage Rights Line as to allow them the intended use of the Convention Center platform. Liability terms with respect to these trains, or use or construction of the passenger loading platform, shall be as set forth in Article 9.

18.8 Other Matters.

Billing procedures shall be as set forth in Sections 8.1 and 8.2 of this Restated SUA with billing and payment by the appropriate party. Personal and property liability and indemnity responsibility shall be allocated between BNSF and NCTD on the terms set forth in Article 9 of this Restated SUA. The liability insurance provisions of Article 9 shall apply to operations on the Trackage Rights Line. Articles 13, 14, and 19 of the Restated SUA also shall apply to these trackage rights.

ARTICLE 19 MISCELLANEOUS

- 19.1 Force Majeure. Neither party shall be liable to the other in damages nor shall a default be deemed to have occurred, and each party shall be excused from performance of any of its obligations hereunder (except obligations involving the payment hereunder of money to the other party or to a third party for activities not related to any suspended obligations), during the time when such nonperformance is occasioned by fire, earthquake, flood, unusual rainfall, mud slide, washout, storm, blockage, explosion, wreck, derailment, mechanical breakdown, casualty, strike, lockout, unavoidable accident, riot, insurrection, civil disturbance, acts of civil or military authorities, act of public enemy, embargo, war, act of God, inability to obtain labor, materials or supplies, frustration of railroad operations caused by governmental actions, terrorism, or any other similar cause beyond the party's reasonable control; provided, that if either party suffers a work stoppage due to a labor dispute, such party shall make such reasonable efforts, if practicable, to staff its operations so as to minimize disruptions to rail operations on the Property. Each party agrees to notify the other party promptly when the nonperformance of its obligations hereunder is the result of any of the circumstances described in this Section 19.1 and, except when the circumstance involves a labor dispute, shall use all reasonable efforts to remedy the situation. Each party further agrees to provide the other party with periodic reports describing in reasonable detail the current condition of such circumstance for so long as such circumstance prevents the performance of an obligation required hereunder. In the event of any strike, lockout or other labor dispute against BNSF, BNSF promptly shall remove any BNSF train from the tracks that impedes Passenger Service, using management personnel, if necessary, and arrange for such repairs to the Trackage Rights Line to allow continued Agency Rail Service as necessary with the cooperation of the Agencies.
- 19.2 Amendment or Waiver. No provision of this Restated SUA shall be altered, amended, modified, revoked, or waived except by an instrument in writing signed by the party to be charged with such alteration, amendment, modification, revocation, or waiver. NCTD and BNSF may separately agree in writing to alter, amend, modify, revoke or waive any provision of this Restated SUA, without MTS approval so long as such alteration, amendment, modification, revocation or waiver does not materially impact MTS' rights provided under this Restated SUA.
- 19.3 Headings. The article and section headings in this Restated SUA are for convenience only and shall not be used in its interpretation or considered part of this Restated SUA.
- 19.4 Notices.

Except with regard to notices required under Article 11, all notices and other communications under this Restated SUA shall be in writing and shall be deemed to have been duly given (i) on the date of delivery, if delivered personally on the party to whom notice is given or (ii) on receipt, if mailed to the party to whom notice is to be given by First Class mail, postage prepaid, and properly addressed as follows:

To BNSF:

Assistant Vice President-Passenger Operations
BNSF Railway
2500 Lou Menk Drive AOB-3
Fort Worth, TX 76131

With a copy to:

Vice President and General Counsel
BNSF Railway
2500 Lou Menk Drive AOB-3
Fort Worth, TX 76131

To MTS:

Mr. Paul C. Jablonski
Chief Executive Officer
San Diego Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, California 92101-7490
Telephone No.: 619-231-1466

With a copy to:

General Counsel
San Diego Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, California 92101-7490
Telephone No.: 619-557-4512

To NCTD:

Mr. Matt Tucker
Executive Director
North County Transit District
810 Mission Avenue
Oceanside, California 92054
Telephone No.: 760-967-2869

With a copy to:

General Counsel
North County Transit District

810 Mission Avenue
Oceanside, California 92054
Telephone No.: 760.966.6532

- 19.5 Survivability. Articles 9, 10, and 15 and Section 2.1(b) shall survive termination of this Restated SUA as to matters arising from events occurring prior to termination, and any and all obligations to make payments in respect of costs incurred at or prior to the date of termination shall survive termination of this Restated SUA.
- 19.6 Merger of Prior Agreements. This Restated SUA, the Purchase and Sale Agreement, the Grant Deed constitute the entire agreement between the Parties relating to the subject matter described herein and therein and supersedes all prior and contemporaneous agreements and understandings between the Parties relating to the subject matter herein and therein.
- 19.7 No Third-Party Rights. The provisions of this Restated SUA are for the exclusive benefit of BNSF, the agencies and their permitted successors and assigns, and no other person or entity shall have any right or claim, or shall be entitled to enforce any provision, against any party by reason of any provision of this Restated SUA.
- 19.8 Governing Law. This Restated SUA shall be governed and construed in accordance with the laws of the State of California.
- 19.9 Counterparts. This Restated SUA may be executed in counterparts, each of which shall have the force and effect of an original.
- 19.10 [Reserved.]
- 19.11 Amtrak. The parties agree that this Restated SUA does not affect the rights of Amtrak under its Basic Agreement with BNSF, as amended or supplemented, which shall continue in full force and effect according to its terms unless otherwise amended or supplemented by the parties thereto. In the event that the Agencies do not elect to accept assignment of the Amtrak Basic Agreement, BNSF shall retain all rights with respect to the Property necessary to perform its duties and obligations under such Basic Agreement as amended or supplemented. In the event the Agencies elect to accept such assignment, they may do so or otherwise enter into an agreement transferring such rights and obligations only upon terms mutually agreeable to BNSF and the Agencies. BNSF agrees to cooperate in the process of review by the Agencies of the provision of service under such Basic Agreement and agree to provide operational data, data on incentives, expenses, and compensation associated with Amtrak service over the Property.
- 19.13 No Partnership. The parties do not intend that this Restated SUA create, and this Restated SUA shall not create, any partnership, joint venture, or other relationship between BNSF and the Agencies, other than the express contractual relationship of the parties under this Restated SUA in accordance with and subject to the terms of this Restated SUA.

- 19.14 Approvals. The persons executing this Restated SUA on behalf of the Agencies and BNSF have obtained the approval of their respective board of directors, board of commissioners, or other appropriate executive body.

IN WITNESS WHEREOF, the parties to this Restated SUA have duly executed it as of the date first set forth above to be effective upon the date of signing.

BNSF:

BNSF RAILWAY COMPANY
a Delaware Corporation

By: _____
Richard E. Weicher
Vice President and General Counsel-
Regulatory

THE AGENCIES:

**SAN DIEGO METROPOLITAN TRANSIT
SYSTEM**

By: _____
Paul C. Jablonski
Chief Executive Officer

Approved as to form:

By: _____
Karen Landers
General Counsel

NORTH COUNTY TRANSIT DISTRICT

By: _____
Matthew O. Tucker
Executive Director

Approved as to form:

By: _____
Lori A. Winfree
General Counsel

**MEMORANDUM OF UNDERSTANDING BETWEEN
SAN DIEGO METROPOLITAN TRANSIT SYSTEM AND NORTH COUNTY TRANSIT
DISTRICT CONCERNING COORDINATION OF WORK ON THE SAN DIEGO SUBDIVISION**

Standard Operating & Maintenance Procedure

THIS Memorandum of Understanding (MOU) is made and entered into this ____ day of _____, 2014, by the San Diego Metropolitan Transit System (also known as the San Diego Metropolitan Transit Development Board)(MTS) and the North County Transit District (NCTD, collectively referred to herein as the "Parties" or individually as a "Party.").

RECITALS

WHEREAS, MTS owns the San Diego Subdivision railroad right-of-way, designated as Milepost 245.6 to Milepost 267.7 (SDSROW) (commonly referred to as the southern border of the City of Del Mar to the south end of the crossing at Broadway in the City of San Diego) in San Diego, California;

WHEREAS, pursuant to an Amended and Restated Shared Use Agreement (SUA) (MTS Doc. No. L0143.4-93), NCTD has the right to operate on the San Diego Subdivision;

WHEREAS, pursuant to the SUA, NCTD is required to maintain the Property, Tracks, Freight Rail Facilities (as each term is defined in the SUA), and other improvements on the SDSROW, except the real property, tracks and improvements (including signals and gates) on the SDSROW used exclusively for light rail operations by MTS;

WHEREAS, the Parties may have Capital Improvement Projects (CIPs) on the SDSROW in the future;

WHEREAS, the Parties wish to avoid conflicts in CIPs design and construction that may impact future projects planned for the SDSROW;

WHEREAS, the Parties recognize that Emergency Repairs (as defined in Addendum 18 to the Master MOU – MTS Doc. No. G0930.18-04) will present unique circumstances that must be addressed, but nonetheless desire to establish basic guidelines which, in combination with the general principles established through the SUA and this MOU and other addenda thereto will define the functions and responsibilities in the rapid and efficient pursuit of such Emergency Repairs;

WHEREAS, the implementation of the CIPs and Emergency Repairs benefit regional transit and transportation goals through continued and expanded transit and freight capacity and accessibility;

WHEREAS, the CIPs and Emergency Repairs will consist of implementing each project through design, construction and project implementation in a coordinated manner on the SDSROW; and

WHEREAS, as agreed to in Section 6.4 of the SUA, the Parties seek to implement a single MOU that clarifies the responsibilities of the Parties when they are coordinating their efforts on CIPs or Emergency Repairs.

AGREEMENT

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

I. ROUTINE MAINTENANCE.

- a. Maintenance Responsibilities. Pursuant to Article 6 of the SUA, NCTD and MTS have assigned responsibility for routine maintenance of the SDSROW as follows:

6.1 *Maintenance Responsibilities.* NCTD shall have exclusive control over the maintenance and repair of, and shall maintain and repair, the Property, Tracks, Freight Rail Facilities, and other improvements on the SDSROW, except the real property, tracks and improvements (including signals and gates) on the SDSROW used exclusively for light rail operations by MTS which shall be maintained and controlled exclusively by MTS. Specific to the shared corridor, MP 264.2 Taylor Street to MP 267.5 Broadway, where MTS light rail operations run parallel with passenger train operations that share at grade public crossings, MTS shall be responsible for the signal and gate warning devices for light rail tracks, and NCTD shall be responsible for the signal and gate warning devices for heavy rail tracks. NCTD shall not be required to maintain or repair Tracks on the SDSROW that are not used for Freight Service, Agency Rail Service, or by Amtrak or any other NCTD contracted operator.

- b. The Parties agree that no advance notice or coordination is required for routine maintenance activities, as further defined in attached Exhibit "A" and pursuant to Section 6.1 of the SUA, unless such activity will impact the other party's operations. All applicable Federal Railroad Administration (FRA) and California Public Utilities Commission (CPUC) rules and regulations shall be followed.

II. PROJECT COORDINATION. Subject to Article 7 of the SUA, NCTD and MTS recognize that the SDSROW may be improved in the future to accommodate trains and or light rail vehicles. It is, therefore, in the best interest of MTS and NCTD to coordinate any Capital Improvement Project (CIP) or significant maintenance activity in a timely manner to avoid and/or mitigate potential conflicts and allow for the most efficient and cost effective use of the Property. To accomplish this goal, NCTD and MTS agree to work together on CIPs and to coordinate significant maintenance activities that are planned on the SDSROW as follows:

- a. Regional Projects Led by SANDAG. For all projects led by SANDAG on the SDSROW, planning, design and construction shall be according to the terms of the Master MOU, Addendum 18 (MTS Doc No. G0930.18-04).

- b. Capital Improvement Projects and Maintenance Activities Led by MTS or NCTD. With the exception of minor and routine maintenance or repairs as defined in Section 6.1 of the SUA, both NCTD and MTS agree to coordinate any CIP, maintenance activity, or any activity that could impact current or future planned operations or construction activities. For all such projects, MTS and NCTD agree to involve the other party at the earliest possible time in the project planning so as to identify and avoid design conflicts with future projects and other concerns.
1. Staff Contacts. Each Party shall inform the following MTS or NCTD contact of proposed projects: MTS Manager of Real Estate Assets and NCTD Director of Real Estate and Facilities.
 2. Early Involvement. Each Parties' staff contact will be invited to an initial meeting or project briefing early enough in the planning process that design suggestions and modifications may feasibly be taken into consideration. Subsequent participation in the design and planning process by the MTS or NCTD contact shall be determined on a case-by-case basis as needed by the particular project and its potential to impact other projects or operations on the SDSROW. Where it is determined by a Party after its participation in the initial meeting that further participation in the design and processing is not required, that Party will notify the other Party in writing.
 3. Plan Review. MTS or NCTD shall be provided with the design plans at the 30%, 60%, 90% and 100% milestones for review and comment. Draft specifications for the construction contract shall also be provided to confirm that the project coordination and insurance provisions are sufficient.
 4. Right-of-Entry. An executed construction contract or job order shall require its construction contractor and its subcontractors to obtain a Joint Right of Entry (JROE) Permit from MTS and NCTD to access the SDSROW in accordance with the contract requirements. Prior to admittance onto the SDSROW all other NCTD or MTS contractors, consultants, and sub-contractors, shall obtain a JROE Permit from MTS and NCTD, in using the Parties' then-current JROE Permit form, which will address the Parties' conditions including adherence to laws and regulations, safety, work plans, schedules, flag protection, work windows, staging and material storage areas, site access, insurance, indemnity provisions, and any other requirements therein listed. In the event the general contractor's railroad protective insurance policy covers work by subcontractors, then no separate JROE permit is required for the general contractor's subcontractors. The Parties may recover staff time for processing the JROE permit, either through a direct fee to the CIP contractor or by a charge against the CIP account.

- c. Projects Sponsored By Third Party Entities. MTS is the primary lead for all CIPs sponsored by Third Party Entities on the SDSROW and will work with NCTD to coordinate project activities. NCTD will be a co-signatory on all JROE permits.

III. EMERGENCY REPAIR PROJECTS

- A. Emergency Contacts. Whenever personnel from NCTD or MTS determine that any event may reasonably necessitate Emergency Repairs to MTS property or its operating system, the following individuals (Emergency Contacts), or their then-current designees, shall be notified at the earliest reasonable opportunity:
- NCTD Executive Director
 - MTS Chief Executive Officer
- B. Repair or Replacement. To the extent the Emergency Repairs involve only the repair and/or replacement of existing equipment, facilities or improvements, the Emergency Repair work shall be performed in accordance with Section I - Routine Maintenance.
- C. Emergency Repairs Involving Relocation or New Installation. To the extent the Emergency Repairs involve the relocation of existing equipment, facilities or improvements or the installation of new equipment, facilities or improvements, the Emergency Repairs shall follow the protocols set forth in Section II - Project Coordination.

IV. INDEMNIFICATION

- A. NCTD. Neither NCTD nor any officer, employee or agent thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by MTS, San Diego Trolley Inc. (SDTI), San Diego & Arizona Eastern Railway Co. (SD&AE), their contractors, or their agents or employees, under or in connection with any work, authority or jurisdiction delegated to MTS under this agreement. It is understood and agreed that MTS shall fully defend, indemnify and hold NCTD and its contractors, directors, officers, employees, and agents, harmless from and against any and all liability or claim of liability, loss or expense, including reasonable defense costs and legal fees and claims for damages of whatsoever character, nature and kind, whether directly or indirectly arising from or connected with an act or omission of MTS, SDTI, SD&AE, their contractors, or any of their respective employees, agents, invitees, or other persons acting by or on behalf of MTS, SDTI, SD&AE or their contractors, on or about the SDSROW under or in connection with any work, authority or jurisdiction delegated to MTS under this agreement, including, but not limited to, liability, expense, and claims for bodily injury, death, personal injury, or property damage; provided, however, that nothing herein shall relieve any party indemnified hereunder from liability to the extent that such liability arises from such party's sole established negligence or willful misconduct. This indemnity shall not require payment of a claim by NCTD, or its respective directors, officers, employees, or agents, as a condition precedent to NCTD's recovery hereunder. MTS's obligation to indemnify hereunder shall not be restricted to insurance proceeds, if any, received by NCTD or its contractors, or their respective

directors, officers, employees, or agents.

- B. MTS. Neither MTS, SDTI, SD&AE, nor any officer, employee or agent thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by NCTD, or its contractors, agents, or employees under or in connection with any work, authority or jurisdiction delegated to NCTD or its contractors under this agreement. It is understood and agreed that NCTD shall fully defend, indemnify and hold MTS, SDTI, SD&AE, and their respective directors, officers, employees, and agents, and their contractors, harmless from and against any and all liability or claim of liability, loss or expense, including reasonable defense costs and legal fees and claims for damages of whatsoever character, nature and kind, whether directly or indirectly arising from or connected with an act or omission of NCTD, or any employee, agent, invitee, contractor of NCTD, or other person acting by or on behalf of NCTD on or about the SDSROW under or in connection with any work, authority or jurisdiction delegated to NCTD or its contractors under this agreement, including, but not limited to, liability, expense, and claims for: bodily injury, death, personal injury, or property damage; provided, however, that nothing herein shall relieve any party indemnified hereunder from liability to the extent that such liability arises from such party's sole established negligence or willful misconduct. This indemnity shall not require payment of a claim by MTS SDTI, SD&AE, their contractors, or their respective directors, officers, employees, or agents as a condition precedent to MTS's recovery hereunder. NCTD's obligation to indemnify hereunder shall not be restricted to insurance proceeds, if any, received by MTS, its contractors, SDTI, SD&AE, their contractors, or their respective directors, officers, employees, or agents.
- C. This agreement is not intended to affect the legal liability of the Parties by imposing any standard of care for delivering projects different from the standards imposed by law.
- D. The Parties will notify each other of any potential lawsuits, claims, or legal action pertaining to projects covered by this agreement. The Parties will confer and collaborate to resolve legal actions affecting any projects covered by this agreement and will include each other in opportunities to pursue early resolution.
- E. In order to retain resolution possibilities for potential future claims, the Parties will confer on construction claims that may affect delivery of projects, or Parties' liability or responsibility under this agreement. Neither Party will prejudice the rights of the other Party until after the Parties confer on the claim.
- F. If a potential conflict of interest arises between Parties, the Parties will discuss the issue, and either Party may involve outside counsel at their own expense, and/or enter into a separate agreement concerning any appropriate waiver or method for reducing the potential conflict. This agreement does not, nor is it intended to, constitute a waiver of any conflict of interest which may apply to a given situation, but merely offers a method of addressing potential conflicts of interest.

V. GENERAL PROVISIONS

- A. Heirs and Assigns. All terms, conditions and provisions herein shall inure to and shall bind each of the Parties hereto, and each of their respective heirs, executors, administrators, and assigns.
- B. Independent Entities. For purposes of this agreement, the relationship of the Parties is that of independent entities and not as agents of each other or as joint venturers or partners. The Parties shall maintain sole and exclusive control over their personnel, agents, consultants and operations.
- C. Modifications. No modifications of the terms of this agreement shall be valid unless made in writing and signed by the Parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.
- D. Third Parties. Nothing in the provisions of this agreement is intended to create duties or obligations to or rights in third parties to this agreement or affect the legal liability of the parties to third parties.
- E. Execution in Counterparts. This agreement may be executed in any number of identical counterparts, each of which shall be deemed to be the original, and all of which together shall be deemed to be one and the same instrument when each party has signed one such counterpart.

IN WITNESS HEREOF, the Parties have caused this agreement to be executed as of the date above set forth.

NORTH COUNTY TRANSIT DISTRICT

SAN DIEGO METROPOLITAN TRANSIT
SYSTEM

Matt Tucker
Executive Director

Paul Jablonski
Chief Executive Officer

APPROVED AS TO SUFFICIENCY OF
FORM AND LEGALITY:

APPROVED AS TO FORM:

NCTD Office of General Counsel

MTS Office of General Counsel

Exhibit "A" - Routine Maintenance Activities

Routine Maintenance Activities shall include, but are not limited to:

1. Removal, upgrade, repair, maintenance and replacement of tracks, ties, ballast, signals and switches within the SDSROW; provided, however, that such work does not affect existing supports or slopes or any existing structure, facility or crossing used by MTS.
2. Weed control within the SDSROW.
3. Inspections of the SDSROW, both from the rails and from the ground.
4. Repair, replacement, maintenance and inspection of drainage facilities, including culverts, pipes and other facilities within the SDSROW; provided, however, there is no material alteration to the location or volume of the discharge outside of the SDSROW or violation of any applicable law or regulation caused by such repair, replacement, maintenance or inspection.
5. Repair, maintenance and inspection of trestles, bridges, access ways and other buildings and structures within the SDSROW.
6. Temporary storage of rails, ties, ballast, signal equipment and related supplies and equipment within SDSROW. NCTD and MTS acknowledge that future projects may require relocation of materials and equipment storage areas to a location outside of the SDSROW.

**October 30, 2014
Board Meeting**

Item No. 31

**Amended and Restated
MTS-BNSF-NCTD
Shared Use Agreement**



1



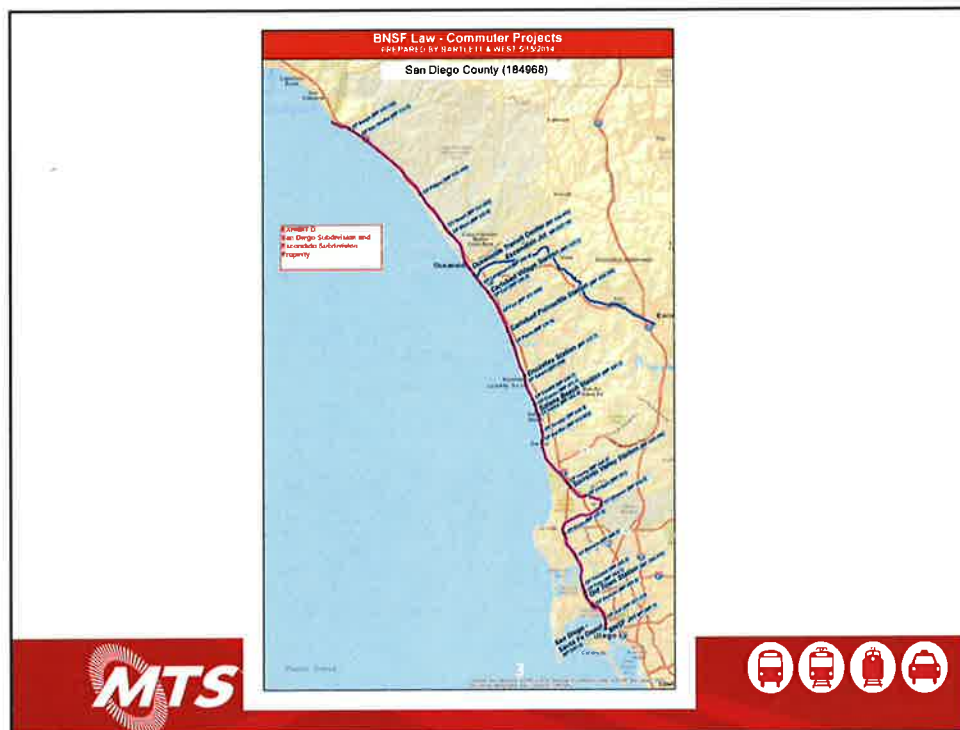
Background

- 1992 - MTS & NCTD Purchase of right of way from Atchison, Topeka and Santa Fe Railway Co. (ATSF)
 - San Diego Subdivision (generally Orange County line to Santa Fe Depot)
 - MTS Owns: Santa Fe Depot to Del Mar
 - NCTD Owns: Del Mar to Orange County line
 - Escondido Subdivision (generally Oceanside to Escondido) → NCTD Owns



2





Background

- ATSF acquired by Burlington Northern Santa Fe Railway (BNSF)
- At time of purchase, MTS, NCTD and BNSF entered into a Shared Use Agreement
 - Sets forth terms and conditions of joint use of ROW
 - MTS/NCTD rights as compared to BNSF rights
 - Prioritization of passenger operations during peak commuter hours
 - BNSF right to maintain “quality freight rail service”
 - Maintenance - annual payment from BNSF
 - Insurance and Indemnification



Reasons for Amended Shared Use Agreement

- Confusing indemnification and liability provisions
 - Does not logically assign risk to the party best able to control for or mitigate against that risk
 - MTS/NCTD responsible for first \$10M in liability and \$85M +, even if BNSF solely at fault
 - BNSF responsible for \$10M-\$85M if at fault
 - Does not address MTS and NCTD obligations to each other



5



Restated and Amended SUA - NCTD & MTS

- MTS-NCTD Project Coordination
 - Specifies a protocol for NCTD and MTS staff coordination of capital projects and maintenance activities on MTS-owned portion of ROW
 - SANDAG-led projects
 - NCTD or MTS-led projects
 - 3rd Party projects
 - New SOP for NCTD or MTS-led projects



6



Restated and Amended SUA - All Parties

- Derailments:
 - BNSF responsible if caused by BNSF train and not caused by track condition
 - If caused by track condition - BNSF and NCTD will share costs to repair damage to rails, ties or ballast
 - BNSF not responsible for repairing passenger related facilities (parties insurance to cover - MTS has \$600M property limits)
- NCTD responsible for damage to MTS caused by NCTD dispatching



7



Restated and Amended SUA - All Parties

- Third Party Liability:
 - As against BNSF: if MTS train involved with BNSF or BNSF and NCTD trains, then MTS shares liability 50% or 33% (regardless of fault).
 - BNSF is giving up right to have MTS and NCTD cover first \$10M and over \$85M of BNSF's liability
 - Liability shift based on assumption of risk by NCTD/MTS deciding to comingle passenger operations with freight (freight was here first)
 - As against NCTD: MTS and NCTD are liable for own negligence/degree of fault
 - Continues status quo between NCTD and MTS
 - E.g., if Coaster, Metrolink or Amtrak train hits MTS trolley "innocently" sitting at Old Town trolley station, then NCTD 100% responsible
 - Losses not involving a train are borne by party responsible for maintaining property where loss occurred



8



Restated and Amended SUA - All Parties

- Insurance:
 - NCTD & BNSF (Heavy Rail) - Tort Liability Insurance up to \$200M
 - MTS (Light Rail) - Tort Liability Insurance up to \$75M (current limits)
 - Property - limits up to replacement value



9



Restated and Amended SUA - All Parties

- Good-Faith Negotiations:
 - Parties agree to continue good faith negotiations related to future passenger and/or freight rail expansion needs
 - E.g., Mid-Coast and Santa Fe Depot platform needs
- Removes Arbitration Provisions
 - Informal Mediation
 - Right to litigate
 - Waive right to jury trial



10



Restated and Amended SUA - NCTD and BNSF

- Additional Maintenance Payment
 - NCTD & BNSF share costs of maintenance of heavy rail improvements
- NCTD @ Convention Center
 - BNSF grants NCTD right to build operate and maintain a passenger platform at San Diego Convention Center (between 1st and 8th Ave) on BNSF trackage rights
 - this continues from original Shared Use Agreement



11



RECOMMENDATION

- Approve the Amended and Restated SUA between MTS, BNSF and NCTD (in substantially same format as Attachment A); and
- Authorize CEO and/or the General Counsel to make minor, non-material changes to the document prior to execution by all parties.



12





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

Agenda Item No. 45

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

PACIFIC IMPERIAL RAILROAD (PIR) DESERT LINE AGREEMENT – STATUS
UPDATE (KAREN LANDERS)

INFORMATIONAL ONLY

Budget Impact

None. To date, MTS has received \$1,500,000 in revenue related to this lease agreement. In addition, inspections have been undertaken of the Desert Line infrastructure by engineering firm JL Patterson, Inc. at no cost to MTS.

DISCUSSION:

Staff will give a status update on the PIR Desert Line agreement.

Current Status

As of October 23, 2014, the status of the contract is as follows:

1. Lease payments resulting in \$1,500,000 in revenue to MTS. \$1,000,000 in these funds have been programmed for two capital projects on the Orange Line, which is right-of-way owned by San Diego & Arizona Eastern Railway Company (SD&AE) – the MTS subsidiary that owns the Desert Line. Because SD&AE has not previously generated sufficient income to pay for capital projects owned by that entity, all funding for projects on SD&AE property has come through MTS or SANDAG. Since this lease revenue is unrestricted, it has been designated for the following projects approved in the FY 15 Capital Improvement Program (updated FY 15 CIP approved by Board on June 19, 2014):



- Grade Crossing Replacements at North Avenue, Merlin and Central Street
- Main Line Drainage Improvements (Orange Line at Hill Street)

The remaining \$500,000 received in July 2014 (and the next payment of \$500,000 if received in January 2015) will be programmed as part of the FY16 budget and CIP process.

2. Business Plan submitted on time. (Required within 30 days of execution of contract). This document will require updating as the project proceeds and is further developed.
3. Desert Line Reconstruction Plan (DLRP) approved on August 28, 2014. (See Attachment A.) MTS provided PIR with instructions on how to move forward with repairs and construction, including submittals required before any work can begin. This approval established a September 1, 2015 deadline for the Initial Repairs Milestone and an October 1, 2015 deadline for the Test Train Operations Milestone.
4. Inquiry from Congress. On June 27, 2014, MTS received a letter from Congressman Duncan Hunter and Congressman Jeff Denham concerning the PIR Agreement. A detailed response was submitted on July 9, 2014. A second letter dated July 16, 2014 was responded to on July 29, 2014. MTS CEO Paul Jablonski and Board Vice Chair Ron Roberts met with Congressman Hunter on September 10, 2014. No further inquiries have been received.
5. Mexico Freight Rights/Agreement Negotiations. A status update from PIR regarding negotiations with Baja California Railroad (BJRR) is provided in Attachment B. A chronology of the 2014 negotiations for freight rights in Mexico is as follows:
 - *January to March 2014:* Negotiations between PIR, BJRR (Fernando Beltran – majority shareholder), the State of Baja California and MTS concerning a proposed limited right to operate in Mexico (Lindero Transload Facility Option). Draft Memorandum of Intent was negotiated but never signed by the State of Baja California or BJRR.
 - *May to June 2014:* Negotiations between PIR and BJRR (through meetings with Fernando Beltran and his attorney George Gonzalez) concerning a joint venture or other business arrangement between the two entities. Non-Disclosure Agreements (NDA) executed and PIR provided thousands of pages of documents to BJRR for review. PIR requested reciprocal BJRR documents (i.e., Freight Operating Agreement/Concession detailing rights BJRR has to operate freight in Mexico). Documents were not provided by BJRR. Negotiations terminated by Mr. Gonzalez on or about June 25, 2014.
 - *July to August 2014:* MTS/SD&AE hires legal counsel in Mexico City to assist with issues related to Mexico railroad law and potentially aid in cross-border negotiations. Mexico legal counsel submitted requests for

copies of the BJRR Freight Operating Agreement/Concession to the appropriate entities in Baja California but the requests were denied, citing the confidentiality of the agreement.

- *August to September 2014:* On August 22, 2014, MTS CEO Paul Jablonski and Board Vice Chair Ron Roberts met with Fernando Beltran, US Consul General for Tijuana Andrew Erickson, and other interested parties to discuss the project and negotiations. Fernando Beltran stated he is interested in negotiating a deal and offered to share any documents requested by MTS, including BJRR's Freight Operating Agreement/Concession. Mr. Beltran stated that BJRR has a 50 year concession from the State of Baja California.¹ Follow up email requests for the concession document were sent to Mr. Beltran on August 29 and September 15, 2014. The September 15, 2014 email also requested a joint meeting with BJRR, PIR, MTS and the State of Baja California to discuss the negotiations between PIR and BJRR. No response was received to either email. (See Attachment C.) Attempts to reach out through intermediaries also did not result in a response.
- *August to October 2014:* PIR initiates negotiations with Fernando Beltran through his new attorney, Frank Schreck. Negotiations centered around the proposed binational rail project and a potential joint venture between PIR and BJRR that would allow the Desert Line repairs to be completed and continuous freight operations between the Tecate/Tijuana region and the Desert Line. On or about October 17, 2014, PIR was informed that Mr. Beltran was not interested in negotiating a binational railroad agreement with PIR.
- *Next Steps – November to December 2014:* In previous meetings with MTS's Mexico Legal Counsel, officials from SCT have expressed support for the proposed binational railroad project and a willingness to help mediate a solution/agreement between MTS/PIR and the State of Baja/BJRR. Because all private negotiations between PIR and BJRR appear to have been exhausted without success, MTS staff is working with Mexico Legal Counsel to determine the most effective course of

¹ MTS does have a copy of the December 19, 2000 document assigning responsibility for the Tijuana-Tecate Shortline Railway from the federal agency in charge of Mexico's railroad system, the Secretariat of Communications and Transportation (SCT) to the State of Baja California. That document grants the State of Baja California a 30 year exclusive right to (i) manage the Tijuana-Tecate Shortline Railroad; and (ii) provide the public service of freight railroad transportation. The Assignment gives the State of Baja California an additional 20 years (for 50 years total) of non-exclusive rights to provide freight services along the line. However, it appears that beginning on December 20, 2030, SCT will be entitled to also grant assignments or concessions to third parties. Therefore, based on the documentation available to MTS, it appears that the State of Baja California's exclusive rights to the railroad system expire on December 19, 2030 and the non-exclusive rights are currently scheduled to expire on December 19, 2050. It is unclear which of these rights the State of Baja California has assigned to BJRR. The BJRR Freight Operating Agreement/Concession document would presumably reveal the term and expiration date of BJRR's freight operating rights, the royalty payments owed to the State of Baja California for the concession rights, circumstances that would lead BJRR to be in default and other terms and conditions that could impact the financial terms of a joint venture or other agreement between PIR and BJRR.

action to move the proposed binational railroad operations portion of this project forward.

6. Alternative Operations Plan. PIR is developing an alternative freight operating plan to meet the milestones in its contract with MTS. In the event the negotiations between PIR and BJRR for a joint operation continue to be unsuccessful, then PIR will proceed with freight operation in the United States only, trucking containers from Tecate to load onto the Desert Line.

Future Milestones:

The next steps and milestones are as follows:

- A. January 1, 2015: \$500,000 Lease Payment Due.
- B. July 1, 2015: \$500,000 Lease Payment Due.
- C. September 1, 2015: **Initial Repairs** are defined as those repairs and/or maintenance required to rehabilitate the Desert Line to qualify for Class I track (Federal Railroad Administration track safety standards), at a minimum. This is generally understood to require freight operations at 10 mph or less.
- D. October 1, 2015: **Test Train Operations** are due within 30 days of completion of Initial Repairs. Test Train Operations are defined as a test of a single locomotive plus three loaded rail cars over the entire Desert Line.
- E. December 20, 2015: **Limited Operations** are due within 36 months of execution of the contract. Limited Operations require the Desert Line to be repaired to meet Class II track standards and to operate at least three trains per week.
- F. January 1, 2016: \$250,000 Lease Payment or 10% of Gross Freight Revenue (whichever is greater) Due. Upon commencement of Limited Operations, the lease payments shift to quarterly payments of \$250,000 or a percentage of revenue, increasing from 10% in Year 1 to 15% in Year 6 and beyond.
- G. April 1, 2016: \$250,000 Lease Payment or 10% of Gross Freight Revenue (whichever is greater) Due.
- H. July 1, 2016: \$250,000 Lease Payment or 10% of Gross Freight Revenue (whichever is greater) Due.
- I. October 1, 2016: \$250,000 Lease Payment or 10% of Gross Freight Revenue (whichever is greater) Due.
- J. January 1, 2017: \$262,500 Lease Payment or 11% of Gross Freight Revenue (whichever is greater) Due. Pursuant to the lease, starting in 2017, the minimum lease payment shall be increased by 5% every five years.

K. April 1, 2017: \$262,500 Lease Payment or 11% of Gross Freight Revenue (whichever is greater) Due.

L. July 1, 2017: \$262,500 Lease Payment or 11% of Gross Freight Revenue (whichever is greater) Due.

M. October 1, 2017: \$262,500 Lease Payment or 11% of Gross Freight Revenue (whichever is greater) Due.

N. December 20, 2017: **Full Scale Repairs** are due within 60 months of execution of the contract. Full Scale Repairs are defined as the repairs required to meet Class II track standards, or to a higher standard if a portion of the Desert Line met a higher track standard at the time the contract was executed. Repairs must be maintained to support full-time operations.

O. January 1, 2018: \$262,500 Lease Payment or 12% of Gross Freight Revenue (whichever is greater) Due.

P. January 20, 2018: **Full Scale Operations** are due within 30 days of completion of Full Scale Repairs. Full Scale Operations are defined as full time uninterrupted and efficient flow of freight shipments in an economically viable transportation mode.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Karen Landers, 619.557.4512, Karen.Landers@sdmts.com

Attachments: A. Desert Line Reconstruction Plan
B. PIR Status Update
C. Email Correspondence



Metropolitan Transit System

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



August 28, 2014

Donald Stoecklein
Pacific Imperial Railroad, Inc.
401 West A Street, Suite 1150
San Diego, CA 92101

Re: Pacific Imperial Railroad – Desert Line Reconstruction Plan Approval & Initiation of Initial Repairs Milestone

Dear Mr. Stoecklein:

As you know, the Desert Line Lease and Operating Agreement (Agreement) requires Pacific Imperial Railroad (PIR) to submit a Desert Line Reconstruction Plan (DLRP) to MTS for review and approval no later than 90 days from the Effective Date of the Lease. (Agreement §1.2.2.) In furtherance of this milestone, PIR submitted an initial draft DLRP to MTS on March 20, 2013. Under the Agreement, the DLRP is required to

"include, at a minimum, a detailed schedule and description of the work to be completed prior to and in conjunction with each stage of operations (i) Test Train Operations as described in Section 1.2.4, (ii) Limited Operations as described in Section 1.2.6, and (iii) Full Scale Operations as described in Section 1.2.8." (Agreement §3.3.) The Agreement further requires that prior to Test Train Operations, "the DLRP shall be updated and submitted to SD&AE and at a minimum shall: (a) update the October 2007 Osmose Services Bridge Report, (b) repair and/or remediate the deficiencies identified in the Osmose Services Bridge Report, (c) commission a study of the tunnel and track conditions on the Desert Line including ultrasonic rail flaw, loaded gauge, track geometry and tunnel clearance testing by a contractor approved by SD&AE, and (d) repair and/or remediate any track or tunnel deficiencies identified through such testing..."

(Agreement §3.3.1.) As required by Section 3.3.1, PIR hired JL Patterson to update the Osmose Services Bridge Report and study the tunnel and track condition of the Desert Line. PIR submitted a supplemental DLRP on June 24, 2014, reflecting the updated inspection work completed by JL Patterson. As will be noted below, it is our understanding that there is still additional work for JL Patterson and/or its subcontractors to complete before work on certain

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



Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc., San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations), and San Diego Vintage Trolley, Inc., a 501(c)(3) nonprofit corporation, in cooperation with Chula Vista Transit. MTS is the taxicab administrator for seven cities. MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego. A-1

Donald Stoecklein
 Pacific Imperial Railroad, Inc.
 August 28, 2014
 Page 2

portions of the right-of-way can be commenced. However, MTS staff has determined that the DLRP is sufficiently complete for MTS "approval" and to begin the 12 month milestone period for Initial Repairs. (Agreement § 1.2.3, "Initial Repairs, at PIR's sole cost, shall be completed within 12 months after approval of the DLRP.") Initial Repairs are defined as "those repairs and/or maintenance required to rehabilitate the Desert Line to qualify the Class of Track at a minimum as a Class I Track pursuant to Federal Railroad Administration ("FRA") track safety standards." (Agreement § 1.2.3.)

Therefore, please consider this letter as formal approval of the DLRP for purposes of Section 1.2.3 of the Agreement. **Initial Repairs must be completed within 12 months, or by September 1, 2015. Test Train Operations must take place by October 1, 2015.**

Notwithstanding the above approval of the DLRP for the purposes of initiating the Initial Repairs milestone, the following supporting reports must be completed and submitted to MTS for review and approval before work on an individual segment of Desert Infrastructure may begin:

- JL Patterson work product (it is our understanding that JL Patterson has not completed the final reports for the inspections it conducted and that additional subcontractor inspections may not have been scheduled):
 - Bridge Repairs. Complete report for each individual bridge structure citing existing conditions, detail of each repair needed, cost estimates based on those recommendations, and a reconstruction schedule. The supplemental DLRP contains some, but not all, of this information.
 - Tunnel Condition Review. Although it is our understanding that JL Patterson conducted visual inspections of each tunnel, a written report documenting the findings of each inspection has not been submitted. A written report for each tunnel should be submitted including recommendations for track geometry testing using LiDAR or similar means, engineering experts, geotechnical consultants, and/or structural consultants as needed. Following such additional testing, a detailed repair recommendation for each tunnel, cost estimate, and repair schedule must be submitted to MTS. No test trains may run through a tunnel until the above reports are provided.
 - Track Condition Review. It is our understanding that subcontractor Nordco conducted ultrasonic testing for rail defects and provided raw data to PIR. Still to be provided is a final detailed report with a milepost basis of rail conditions. Similarly, it is our understanding that subcontractor Holland conducted track geometry, rail profile, and track gauge strength testing and provided the raw data to PIR. A detailed report still needs to be prepared showing the results on a per milepost basis. The results of these two reports should then be used to develop track rehabilitation strategies, cost estimates and repair schedules. This needs to be completed so repairs necessary for the Initial Repairs milestone, if any, are identified.

Donald Stoecklein
Pacific Imperial Railroad, Inc.
August 28, 2014
Page 3

- Tie Inspections. It is our understanding that JL Patterson completed tie inspections on the Desert Line. However, no detailed reports of these inspections have been prepared by JL Patterson. This work must be completed and submitted to MTS with a detailed replacement recommendation, cost estimate and replacement schedule.
- Railroad Signaling Conditions. It is unclear if these inspections and analyses of work needed, if any, was completed by JL Patterson. An evaluation of the signaling infrastructure and compliance with FRA standards must be completed before Limited Operations (Agreement § 1.2.6) can take place.
- Hazardous Materials Issues. It is anticipated that the repairs necessary to complete the Initial Repairs Milestone will require the use of at least some hazardous materials. In addition, PIR must confirm that the Jacumba Depot property has been remediated to the satisfaction of applicable regulatory authorities. Therefore, prior to commencing any repairs on the Desert Line, PIR must take the following action:
 - Obtain a valid Unified Program Facility Permit from the County of San Diego Hazardous Materials Division for all locations that utilize hazardous materials.
 - Prepare and submit a Hazardous Materials Business Plan for all locations that utilize hazardous materials.
 - If PIR believes that a Unified Program Facility Permit and a Hazardous Materials Business Plan are not required, PIR must provide MTS with a written justification detailing why these are not required.
 - For all facilities operated by PIR, provide written confirmation that all drums or any other containers with hazardous waste that have been at any site for more than 180 days have been properly disposed of.
 - Provide written confirmation that PIR has obtained professional training on how to properly label and store hazardous waste to prevent the unauthorized disposal of hazardous waste to the environment, and to prevent a fire or explosion.
 - Provide written confirmation that PIR has implemented proper procedures relating to the labeling, storage, and disposal of hazardous waste at all locations that utilize hazardous materials.
 - Provide written confirmation that PIR has obtained professional training for its employees on how to conduct timely and proper inspections to ensure that hazardous wastes, including used oil filters, are properly labeled, stored, and disposed of, and that all facilities are properly maintained.
 - Provide written confirmation that PIR has obtained professional training for its employees on how to handle, store and dispose of hazardous materials and hazardous waste and how to properly respond in emergency situations.
 - Provide written confirmation that PIR has obtained a professional environmental audit to confirm that its operations are in accordance with all local, state, and federal environmental laws and regulations.

Donald Stoecklein
Pacific Imperial Railroad, Inc.
August 28, 2014
Page 4

- o The "written confirmation" listed above must be submitted by the environmental professional engaged by PIR to assist in these tasks.

If you have any questions or need clarification of the conditions listed above, please contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Landers", with a long horizontal flourish extending to the right.

Karen Landers
General Counsel

cc: Paul C. Jablonski, MTS Chief Executive Officer
Wayne Terry, SDTI Chief Operating Officer-Rail
Fred Byle, SDTI Superintendent, Maintenance of Way
Tim Allison, MTS Manager of Real Estate Assets



PACIFIC IMPERIAL RAILROAD, INC.

October 23, 2014

Ms. Karen Landers
General Counsel
Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, California 92101-7490

RE: Pacific Imperial Railroad-Mexico Status Report

Dear Ms. Landers:

This letter is in follow up to our meeting of October 20, 2014 and your follow up email dated October 23, 2014, in reference to Pacific Imperial Railroad's ("PIR") negotiations to open a connection between the Desert Line and Mexico, primarily through an interchange with Baja Rail. Understanding that the information being provided herein will be available to the public, and the fact that PIR has executed a Confidentiality Agreement with Baja California Railroad (Baja Rail), the information herein will be limited.

In the first quarter of 2014, PIR met several times with Carlos Bonfante, Secretary of Economic Development, representing the Governor of Baja, and several other members of the Mexican team, including Fernando Beltran, majority owner of Baja Rail, and Victor Celis, owner of the Lindero property proposed for the Intermodal site in Mexico, for purposes of establishing an interchange facility in Mexico. As you recall, MTS was represented by yourself and Paul Jablonsky, during at least one of the meetings.

As a result of the inaction following the above meetings, I met with Jorge Ramos, prior mayor of Tijuana, Fernando Beltran, Arturo Alemany, and others in a meeting in Rosarito Beach wherein Jorge Ramos was acting as a mediator to facilitate the establishment of a Bi-National Railroad between PIR and Baja Rail. It was understood, following that meeting that PIR and Baja Rail would immediately execute a Confidentiality Agreement and NDA which would facilitate the exchange of due diligence between Baja Rail and PIR. The Confidentiality Agreement was executed on or about May 12, 2014, and immediately thereafter, PIR established a Dropbox with thousands of pages of documentation and agreements, which link was provided to counsel for Baja Rail, George Gonzalez. On May 14, 2014, Fernando Beltran, as CEO and President of Baja Rail, confirmed in a letter to MTS, of Baja Rail's intent to enter into a business transaction with PIR. On May 16th, 2014 Jorge Ramos notified MTS that he

would be the liaison between PIR and Baja Rail. On May 27, 2014 George Gonzalez requested PIR send the due diligence request to him for Baja Rail, which was sent immediately; however no documents were ever produced by Baja Rail, including the much discussed Concession Agreement with the State of Baja California. On June 25, 2014, I met with Mr. Gonzalez to discuss the various options for a transaction with Baja Rail; however was told by Mr. Gonzalez that it was unlikely a transaction could be formulated.

During August and September there were various meetings with individuals representing PIR and Baja Rail, mostly coordinated by Arturo Alemany, attempting to bring the parties together for any type of business arrangement which would facilitate rail on both the US and the Mexico side of the border.

During late September, Arturo Alemany and I traveled to Las Vegas to meet with Frank Schreck, an attorney whose law firm represents Fernando Beltran, wherein we also collectively met with Nick Nauman of Luzich Partners, an investor interested in the rail project. Following that meeting, On October 1, 2014, Schreck met with Fernando Beltran to discuss the benefits of a bin-national rail project, and a potential joint venture between Baja Rail, PIR, and Luzich as an investment arm. Unfortunately, the message delivered back to PIR was that Fernando Beltran believes he is better off without PIR as a joint venture partner.

It appears, contrary to Mr. Beltran's letter of May 14, 2014, that Baja Rail in fact has no intention of entering into a transaction with PIR, or in the establishment of a Bi-National Railroad.

As a result of the recent approval on August 28, 2014 by MTS of the Desert Line Reconstruction Plan, which is a triggering event under the terms of the Desert Line Lease, and the lack of interest by Baja Rail in pursuing an agreement with PIR, PIR has activated its Secondary Transportation and Logistics Plan which does not involve transiting on rail into Mexico; however involves the utilization of current trucking operations in a transload operation in the United States. This will significantly diminish the amount of containers which PIR will be capable of transloading; however will allow PIR to maintain the milestones in its Desert Line Lease until such time as a solution is developed in Mexico for the Bi-National Railroad.

We at PIR are committed to facilitating the infrastructure and operations required to assist the Cali-Baja Region in eliminating a significant portion of the cross border inefficiencies which are costing the region in excess of \$1 billion dollars in lost revenues and thousands of lost jobs. Unfortunately as a result of the failed attempts to negotiate with Mexico, we will most likely be unable to facilitate high volumes of freight movement as initially planned. That being said, as a result of the substantial sums we have spent on bridge, tunnel, tie, and rail inspections, which have been substantially completed, we are now prepared to move toward the next phase of this project, the commencement of initial repairs to effectuate our "Test Train" Operations as mandated by the Lease, with subsequent commencement of operations via a concurrent trucking operation.

We look forward to MTS's continued support in the project, in addition to that of the other San Diego and Baja regional groups interested in seeing this railroad re-activated.

Sincerely,

A handwritten signature in black ink, appearing to read "George Gonzalez", with a stylized flourish at the end.

Donald J. Stoecklein, Chief Executive Officer

From: Paul Jablonski
Sent: Monday, September 15, 2014 4:33 PM
To: zanferllc@prodigy.net.mx
Subject: RE: MTS request

Fernando,

I wanted to follow up on my email to you from August 29th, when MTS formally requested a copy of Baja California Railroad's concession agreement with Admicarga and the State of Baja California for the railroad operating rights along the Tijuana & Tecate Short Line railroad. MTS needs this information to complete our due diligence and to work with our contractor, Pacific Imperial Railroad, to develop an offer to BJRR to allow the Desert Line project to move forward. At our meeting on August 22nd, you offered to share this information with us. Is there someone on your staff who we should work with to obtain this information?

In addition, we would like to set up a joint meeting between BJRR, PIR, MTS, the State of Baja California and other interested parties to further discuss the negotiations between BJRR and PIR and the Desert Line project. We are hoping to schedule something for the week of September 22 or September 29, or October 6-8. Since it is important for you to be there, are there any dates during these weeks that work for your schedule? MTS would host the meeting at our headquarters at 1255 Imperial Avenue, Suite 1000, San Diego, CA 92101

Paul Jablonski

Paul Jablonski, Chief Executive Officer

✉ Metropolitan Transit System, 1255 Imperial Avenue, Suite 1000, San Diego, CA 92101-7490

☎ Phone: 619-557-4583

Cell: 619-838-6250

📠 Fax: 619-234-3172

📧 paul.jablonski@sdmts.com

From: Paul Jablonski
Sent: Friday, August 29, 2014 3:30 PM
To: zanferllc@prodigy.net.mx
Subject: MTS request

Fernando,

It was nice to meet with you last Friday. As we discussed, the Desert Line project is a priority at MTS. We are interested in assisting in the negotiations between PIR and BJRR to reach an agreement that allows the Desert Line project to proceed as quickly as possible, and allows all parties to benefit from this binational effort. You generously offered to provide MTS with whatever documents are necessary for our due diligence efforts. We understand that some documents we request may be confidential trade secret documents that should not be distributed to the general public or to BJRR's competitors. Therefore, MTS is willing to sign a Non-Disclosure Agreement to protect the confidentiality of any documents that we may need to review. We have attached a signed copy for your review.

If this is sufficient to protect your confidentiality concerns, could you please send us a copy of BJRR's agreement with Admicarga for the rights related to the Tijuana-Tecate Shortline Railroad?

Best Wished,

Paul

NON-DISCLOSURE AGREEMENT

This NON-DISCLOSURE AGREEMENT ("**Agreement**") is entered into as of this 29th day of August 2014, by and between SAN DIEGO METROPOLITAN TRANSIT SYSTEM, a California public agency ("**MTS**"), and FERNANDO BELTRAN/BAJA CALIFORNIA RAILROAD, S.A. de C.V., a Mexican corporation/BAJA CALIFORNIA RAILROAD, INC., a Delaware corporation (collectively "**BJRR**"), and is made with reference to the following facts:

RECITAL

A. MTS owns the 70 mile railroad right-of-way known as the Desert Line, which begins at the United States/Mexico border near Division, California and Tecate, Baja California. MTS has entered into a long-term lease with Pacific Imperial Railroad, Inc. ("**PIR**") for the rehabilitation and renewed operation of the Desert Line for freight railroad traffic ("**Desert Line Project**").

B. BJRR is the lessee/assignee of the freight operating rights for a connecting railroad right-of-way on the Mexico side of the border, the Tijuana-Tecate Shortline Railroad.

C. In order for the Desert Line Project to be successful, BJRR and PIR must reach an agreement for the operation of freight between the two sections of railroad.

D. MTS is assisting in the negotiations between BJRR and PIR. Certain documents that MTS needs to review to assist in the negotiations, such as BJRR's contract with the Government of Baja California ("**Admicarga**") and other documents related to BJRR's current and planned operations, are confidential trade secrets belonging to BJRR. BJRR has agreed to allow MTS to review the confidential information subject to the protections set forth in this Agreement.

NOW THEREFORE, in consideration of the above, the parties agree as follows:

1. MTS and BJRR agree and acknowledge that BJRR's contract with the Admicarga and other documents related to BJRR's current and planned operations are confidential and proprietary and not readily accessible to the public (hereinafter the "**Confidential Information**").

2. MTS recognizes and acknowledges that BJRR considers its Confidential Information to be confidential and that the improper disclosure or use of such Confidential Information by the MTS or others, directly or indirectly, as a result of the breach of the terms of this Agreement, could cause irreparable injury to BJRR, compromising and perhaps eliminating the competitive advantage that BJRR holds or may hold because of the existence and secrecy of the Confidential Information.

3. MTS is authorized to use the Confidential Information to conduct a due diligence investigation for the purposes of assisting in the negotiations between BJRR and PIR related to the Desert Line Project ("**Permitted Use**") and to share the Confidential Information with legal

and other professional advisors, provided, however, that any such advisors agree to be bound by the terms of this Agreement.

4. MTS covenants and agrees that it will not (i) disclose or threaten to disclose the Confidential Information to any person, entity or business without the express consent of the other; (ii) use or threaten to use the Confidential Information in any way that is inconsistent with the provisions of this Agreement or contrary to the instructions or interests of the other; or (iii) directly or indirectly, intentionally or negligently allow or assist others in using the Confidential Information in any way that is inconsistent with the provisions of this Agreement, the Permitted Use, or contrary to the instructions of BJRR; provided, however, that notwithstanding anything herein to the contrary, MTS may disclose the Confidential Information in response to a subpoena or other legal process, or as may otherwise be required by law, or upon the request or demand of any regulatory agency or authority having jurisdiction over MTS; provided, however, that in the event MTS is requested or required by law, regulation or legal process to disclose any of the Confidential Information of the other, MTS shall provide BJRR with prompt written notice, to the extent permitted by law, of any such request or requirement so that BJRR may seek a protective order or other appropriate remedy.

5. Upon completion of the Permitted Use, MTS agrees to destroy all copies of the Confidential Information; provided, however, that legal counsel for MTS may retain a copy of the Confidential Information of the other for its files.

6. Because a breach of this Agreement may cause irreparable harm for which money is inadequate compensation, BJRR shall be entitled to seek injunctive relief for a breach of the provisions of this Agreement by MTS, in addition to damages and other available remedies. Nothing in this Agreement shall limit the remedies available to a non-defaulting party.

7. This Agreement shall be governed and construed in accordance with the laws of the State of California. The prevailing party in any action brought to enforce the terms of this Agreement shall be entitled to an award of its legal fees and costs.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties on the date set forth above.

FERNANDO BELTRAN
BAJA CALIFORNIA RAILROAD, S.A. de
C.V., a Mexican corporation
BAJA CALIFORNIA RAILROAD, INC., a
Delaware corporation

SAN DIEGO METROPOLITAN TRANSIT
SYSTEM



Fernando Beltran, CEO & President

Paul C. Jablonski, Chief Executive Officer

**October 30, 2014
Board Meeting**

**Pacific Imperial Railroad
Desert Line Agreement
Status Update
(Item 45)**



1



PIR Milestones Achieved

- Business Plan submitted - January 21, 2013
- Desert Line Reconstruction Plan
 - Initial draft submitted March 20, 2013
 - JL Patterson hired June 2013; field work July -Dec 2013
 - Supplemental DLRP submitted June 24, 2014;
 - DLRP conditionally approved August 28, 2014, establishes:
 - Additional submittals required before construction can begin
 - Initial Repair Milestone - September 1, 2015
 - Test Train Operations - October 1, 2015



PIR Milestones Achieved

- \$1,500,000 in lease payments received
 - \$500,000 contributed to CIP for Orange line grade crossing replacements
 - \$500,000 contributed to CIP for Orange Line drainage improvements at Hill Street in El Cajon
 - \$500,000 still to be programmed in MTS FY16 budget process
- Next payment due January 1, 2015



Status of PIR and BJRR Negotiations - Unify Line and Obtain Mexico Rights

- January to March 2014: Lindero transload facility (option to purchase; negotiate freight railroad rights)
 - Negotiations with PIR, Lindero, MTS, State of Baja California (SBC) and Baja California Railroad (BJRR)/Fernando Beltran (majority shareholder BJRR)
 - Draft MOI never signed by SBC or BJRR



Status of PIR and BJRR Negotiations - Unify Line and Obtain Mexico Rights

- May to June 2014: PIR-BJRR negotiations
 - PIR negotiations with Fernando Beltran and his attorney, George Gonzalez, re joint venture or other business arrangement for binational freight operations
 - PIR provided thousands of pages of documents to BJRR for due diligence
 - BJRR documents (SBC concession document) not provided
 - Negotiations terminated by Atty Gonzalez on or about June 25, 2014



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Status of PIR and BJRR Negotiations - Unify Line and Obtain Mexico Rights

- July to August 2014: MTS/SD&AE hire Mexico legal counsel
 - Submit requests to appropriate agencies for copies of BJRR freight operating/concession agreement; requests denied
 - Assisting with Mexico railroad law issues and contacts with federal agencies in Mexico City



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Status of PIR and BJRR Negotiations - Unify Line and Obtain Mexico Rights

- August to September 2014:
 - August 22, 2014 meeting between MTS CEO, Vice Chair Roberts, US Consul General-Tijuana, Fernando Beltran and others to discuss project and negotiations
 - Beltran states he is interested in negotiating a deal and will provide whatever documents needed, including concession agreement (states he has a 50 year concession)
 - Follow up contacts by Paul Jablonski to Beltran on August 29 and September 15 requesting document and a joint negotiating meeting remain unanswered



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Status of PIR and BJRR Negotiations - Unify Line and Obtain Mexico Rights

- August to October 2014: PIR-BJRR Negotiations
 - PIR negotiations with Fernando Beltran thru his new attorney, Frank Schreck
 - On or about October 17, 2014, PIR was informed that Mr. Beltran was not interested in negotiating a binational railroad agreement with PIR



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Status of PIR and BJRR Negotiations - Unify Line and Obtain Mexico Rights

- **Next Steps - November to December 2014:**
 - MTS working with Mexico legal counsel to determine most effective course of action to achieve binational freight operations
 - SCT has expressed support for project and willingness to help mediate a solution/agreement between MTS/PIR and SBC/BJRR
 - PIR is developing an alternative freight operating plan to meet the milestones in the contract with MTS
 - Trucking containers from Tecate to load onto Desert Line



9





AGENDA ITEM NO.

45

REQUEST TO SPEAK FORM

ORDER REQUEST RECEIVED

/

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

1. INSTRUCTIONS

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

(PLEASE PRINT)

DATE	10-30-14		
Name	ROBERTO FOMAZANDIA TAMAYO.		
Address	CEO BATA RAIL		
Telephone			
Organization Represented			
Subject of Your Remarks			
Regarding Agenda Item No.			
Your Comments Present a Position of:	<input type="checkbox"/>	<input checked="" type="checkbox"/> SUPPORT	<input type="checkbox"/> OPPOSITION

2. TESTIMONY AT NOTICED PUBLIC HEARINGS

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

3. DISCUSSION OF AGENDA ITEMS

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

4. GENERAL PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA

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

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



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

Agenda Item No. 46

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

SAN DIEGO TRANSIT CORPORATION (SDTC) PENSION INVESTMENT STATUS
(LARRY MARINESI AND JEREMY MILLER, REPRESENTATIVE FROM RVK)

INFORMATIONAL ONLY

Budget Impact

None at this time.

DISCUSSION:

Representatives from RVK will provide the Board with an update as to the performance of the SDTC Employee Retirement Plan (Plan). RVK's pension investment performance analysis (Attachment A) for the Plan as of June 30, 2014 includes assets with a market value of \$165,209,671.

During fiscal year 2014, the Plan's assets increased by approximately \$16.1 million. This resulted from a net payout of benefits and expenses less contributions of \$3.3 million and a net investment gain of \$19.4 million. The Plan's fourteen managers achieved a combined investment return of +13.21% for the year. This performance over-performed our Policy Index by +37 basis points and over-performed our actuarial target of 7.5%. The Plan's returns over the past five years and since inception (10/1/1982) are 10.76% and 9.74% respectively.

The Plan's investment advisor, Jeremy Miller, will be attending the meeting to discuss capital markets' performance in general and the Plan's performance specifically. This report is being provided to the Board as an informational item only.

A handwritten signature in cursive script that reads 'Sharon Cooney' followed by the word 'for'.

Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. RVK Pension Investment Performance Analysis



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

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



San Diego Transit Corporation Employees Retirement Plan

Investment Performance Analysis

Period Ended: June 30, 2014

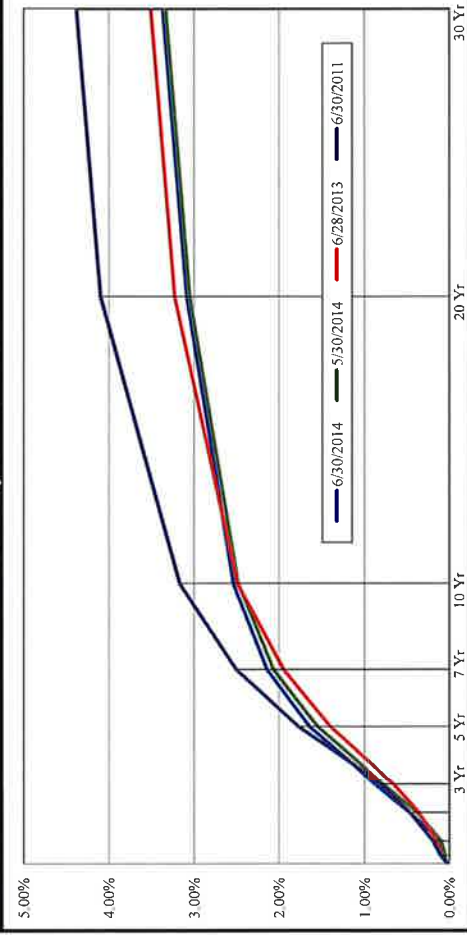


Capital Markets Review As of June 30, 2014

General Market Commentary

- Driven by growth in several segments, nonfarm payrolls generated 288,000 jobs in June, marking five consecutive months of growth in excess of 200,000 jobs. This streak represents the longest period of successive gains since 2000. Additionally, while the labor force participation rate remained unchanged, the unemployment rate fell to 6.1%.
- In June, the Federal Open Market Committee cited "sufficient underlying strength in the broader economy" as justification for continuing to reduce its asset purchases. However, the Committee noted it will maintain an accommodative policy stance until the labor market improves significantly.
- Equity markets posted positive returns in June as the S&P 500 (Cap Wtd) Index returned 2.07% and the MSCI EAFE (Net) Index returned 0.96%. Emerging markets returned 2.66% as measured by the MSCI EM (Net) Index.
- The Barclays US Aggregate Bond Index returned 0.05% in June, outperforming the Barclays US Treasury return of -0.13%, as measured by the Barclays US Treasury Intermediate Term Index. International fixed income markets returned 1.17%, as measured by the Citi Non-US World Government Bond Index.
- Public real estate, as measured by the Wilshire US REIT Index, returned 1.00% in June and 24.04% over the trailing five-year period.
- The Venture Economics All Private Equity Index returned 20.84% for the trailing one-year period and 15.51% for the trailing five-year period ending December 2013.
- Absolute return strategies, as measured by the HFN FOF Multi-Strat Index, returned 0.92% for the month and 7.59% over the trailing one-year period.
- Crude oil's price increased by 2.59% during the month and has increased by 9.12% over one year.

Treasury Yield Curve



Market Indicators	06/30/14	05/31/14	06/30/13	20 Yr	40 Yr
Federal Funds Rate	0.09%	▲	0.08%	0.07%	3.01%
Breakeven Inflation - 1 Year	1.46%	▲	1.37%	0.74%	1.18%
Breakeven Inflation - 5 Year	2.07%	▲	1.98%	1.77%	1.93%
Breakeven Inflation - 10 Year	2.24%	▲	2.21%	1.99%	2.05%
Breakeven Inflation - 30 Year	2.35%	▲	2.30%	2.21%	2.33%
Barclays US Agg Bond Index - Yield	2.22%	▲	2.17%	2.35%	4.92%
Barclays US Agg Bond Index - OAS	0.38%	▼	0.40%	0.61%	0.69%
Barclays US Agg Credit Index - OAS	0.96%	▼	0.98%	1.44%	1.53%
Barclays US Corp. HY Index - OAS	3.37%	▼	3.51%	4.92%	5.86%
Capacity Utilization	79.10%	—	79.10%	77.80%	79.70%
Unemployment Rate	6.10%	▼	6.30%	7.50%	6.50%
PMI - Manufacturing	55.30%	▼	55.40%	52.50%	52.10%
Baltic Dry Index - Shipping	850	▼	934	1,171	1,619
Consumer Conf (Conf Board)	85.18	▲	82.21	82.13	93.42
CPI YoY (Headline)	2.10%	—	2.10%	1.80%	2.40%
CPI YoY (Core)	1.90%	▼	2.00%	1.60%	2.10%
PPI YoY	2.70%	▲	2.40%	2.30%	2.40%
M2 YoY	6.70%	—	6.70%	6.90%	6.00%
US Dollar Total Weighted Index	75.91	▼	76.65	77.72	86.43
WTI Crude Oil per Barrel	\$105	▲	\$103	\$97	\$52
Gold Spot per Oz	\$1,327	▲	\$1,250	\$1,235	\$335

All data courtesy of Bloomberg Professional Service. Performance is annualized for periods greater than one year. 20- and 40-year average Gold spot prices are adjusted for inflation. CPI figures are seasonally adjusted. NCREIF performance is reported quarterly; trailing period returns are shown as "N/A" on interim-quarter months. Performance for the HFN FOF Multi-Strat Index is preliminary and subject to change.

Treasury Yield Curve	05/31/14	06/30/13	06/30/11
3 Month	0.02%	0.03%	0.01%
6 Month	0.06%	0.05%	0.10%
1 Year	0.10%	0.09%	0.18%
3 Year	0.87%	0.77%	0.80%
5 Year	1.63%	1.54%	1.76%
7 Year	2.13%	2.06%	2.50%
10 Year	2.53%	2.48%	3.16%
20 Year	3.08%	3.22%	4.09%
30 Year	3.36%	3.33%	4.37%

Market Performance	MTD	QTD	CYTD	1 Yr	3 Yr	5 Yr	10 Yr
S&P 500 (Cap Wtd)	2.07	5.24	7.14	24.61	16.59	18.83	7.78
R 2000	5.32	2.05	3.19	23.64	14.57	20.21	8.70
MSCI EAFE (Net)	0.96	4.09	4.78	23.57	8.10	11.77	6.93
MSCI EAFE SC (Net)	1.49	2.08	5.50	29.08	9.84	15.21	8.78
MSCI EM (Net)	2.66	6.60	6.14	14.31	-0.39	9.24	11.94
Barclays US Agg Bond	0.05	2.05	3.93	4.38	3.67	4.85	4.93
BoFA ML 3 Mo US T-Bill	0.01	0.01	0.02	0.06	0.07	0.11	1.63
NCREIF ODCE (Gross)	N/A	2.93	5.53	12.75	12.45	10.00	7.14
Wilshire US REIT	1.00	7.22	18.08	13.54	11.69	24.04	9.55
HFN FOF Multi-Strat	0.92	1.41	2.17	7.59	3.57	4.00	3.18
Bloomberg Cndy Index (TR)	0.60	0.08	7.08	8.21	-5.17	1.99	0.87

San Diego Transit Corporation Employees Retirement Plan
AA by Manager, AA vs. Target, and Schedule of Investable Assets
As of June 30, 2014

Asset Allocation by Manager
June 30, 2014 : \$165,209,671

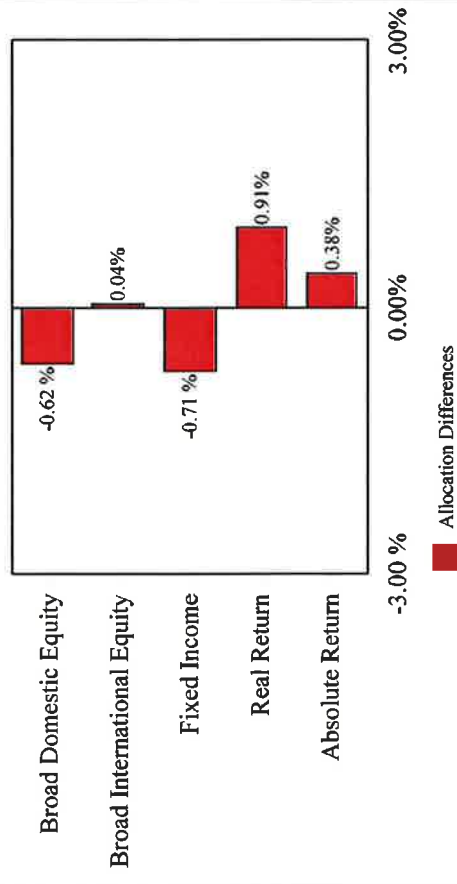


	Market Value (\$)	Allocation (%)
PIMCO:All Ast Ath;Inst (PAUIX)	21,240,245	12.86
MFS International Growth (CF)	17,073,347	10.33
Research Affiliates Global AC Ex-US, L.P. (CF)	16,033,226	9.70
Westwood AllCap Value (CF)	15,947,929	9.65
Loomis Sayles Strategic Alpha (CF)	13,881,430	8.40
Analytic US Low Volatility Equity (CF)	13,817,279	8.36
PIMCO:Tot Rtn;Inst (PTTRX)	12,811,113	7.75
JPMorgan Core Bond Trust (CF)	12,760,285	7.72
GMO:Behmk-Fr All;III (GBMFX)	10,371,759	6.28
PAAMCO Pacific Hedged Strat (CF)	10,065,898	6.09
Vanguard Infl-Prot;Inst (VIPIX)	6,823,063	4.13
Wellington DIH Portfolio (CF)	6,481,138	3.92
Hussman Inv:Strat TR (HSTRX)	4,974,782	3.01
The Boston Co. SMid Cap Grth (CF)	2,255,404	1.37
Contribution Account	338,503	0.20
Disbursement Account	334,271	0.20

Asset Allocation vs. Target Allocation

	Market Value (\$)	Allocation (%)	Target (%)
Broad Domestic Equity	32,020,612	19.38	20.00
Broad International Equity	33,106,573	20.04	20.00
Fixed Income	40,125,601	24.29	25.00
Real Return	34,544,446	20.91	20.00
Absolute Return	25,412,439	15.38	15.00
Total Fund	165,209,671	100.00	100.00

Asset Allocation vs. Target Allocation Differences



Schedule of Investable Assets

Periods Ending	Beginning Market Value (\$)	Net Cash Flow (\$)	Gain/Loss (\$)	Ending Market Value (\$)	%Return	Unit Value
FYTD	149,103,000	-3,334,358	19,441,029	165,209,671	13.21	113.21

Allocations shown may not sum up to 100% exactly due to rounding. Performance shown is gross of fees.

San Diego Transit Corporation Employees Retirement Plan
Comparative Performance
As of June 30, 2014

	MTD	QTD	CYTD	1 Year	3 Years	5 Years	10 Years	2013	2012	2011	Since Incep.	Inception Date
San Diego Transit Total Fund	1.17	3.47	5.32	13.21	6.34	10.76	6.03	9.74	12.42	-3.09	9.74	10/01/1982
Policy Index	1.18	3.39	5.03	12.84	6.86	11.11	6.18	9.78	10.45	0.31	9.89	
Difference	-0.01	0.08	0.29	0.37	-0.52	-0.35	-0.15	-0.04	1.97	-3.40	-0.15	
Westwood AllCap Value (CF) (1)	2.86	5.47	7.67	24.05	15.13	18.16	10.35	34.61	14.76	-1.86	11.21	07/01/1986
R 3000 Value Index (2)	2.75	4.89	7.95	23.71	16.70	20.03	8.38	32.69	17.55	0.01	10.36	
Difference	0.11	0.58	-0.28	0.34	-1.57	-1.87	1.97	1.92	-2.79	-1.87	0.85	
Analytic US Low Volatility Equity (CF)	1.04	2.87	6.75	17.57	N/A	N/A	N/A	24.58	N/A	N/A	17.21	10/01/2012
MSCI USA Minimum Volatility Index (Net)	1.25	3.74	5.72	16.46	14.42	16.99	8.22	24.37	10.20	11.94	15.70	
Difference	-0.21	-0.87	1.03	1.11	N/A	N/A	N/A	0.21	N/A	N/A	1.51	
R 1000 Index	2.27	5.12	7.27	25.35	16.63	19.25	8.19	33.11	16.43	1.50	22.66	
Difference	-1.23	-2.25	-0.52	-7.78	N/A	N/A	N/A	-8.53	N/A	N/A	-5.45	
The Boston Co. SMid Cap Grth (CF)	4.48	1.59	2.10	23.95	16.74	21.58	N/A	41.47	15.39	6.74	23.25	04/01/2009
R 2500 Growth Index	5.27	2.90	3.97	26.26	14.88	21.65	9.94	40.65	16.13	-1.57	25.13	
Difference	-0.79	-1.31	-1.87	-2.31	1.86	-0.07	N/A	0.82	-0.74	8.31	-1.88	
Research Affiliates Global AC Ex-US, L.P. (CF)	1.06	4.22	6.15	29.42	N/A	N/A	N/A	24.39	N/A	N/A	15.76	03/01/2012
FTSE RAFI Div'd Ex US 1000 TR Index	1.85	5.31	7.13	29.64	7.91	12.32	8.62	25.41	15.90	-14.35	15.23	
Difference	-0.79	-1.09	-0.98	-0.22	N/A	N/A	N/A	-1.02	N/A	N/A	0.53	
MSCI ACW Ex US Index (Net)	1.68	5.03	5.56	21.75	5.73	11.11	7.75	15.29	16.83	-13.71	10.44	
Difference	-0.62	-0.81	0.59	7.67	N/A	N/A	N/A	9.10	N/A	N/A	5.32	
MFS International Growth (CF)	1.23	5.07	4.33	18.44	N/A	N/A	N/A	N/A	N/A	N/A	11.68	03/01/2013
MSCI ACW Ex US Growth Index (Net)	1.44	4.45	4.77	19.33	5.48	11.35	7.66	15.49	16.67	-14.21	12.23	
Difference	-0.21	0.62	-0.44	-0.89	N/A	N/A	N/A	N/A	N/A	N/A	-0.55	
JPMorgan Core Bond Trust (CF)	0.16	1.92	3.81	4.43	4.60	6.54	6.10	-1.05	6.43	7.93	5.60	06/01/2003
Barclays US Agg Bond Index	0.05	2.05	3.93	4.38	3.67	4.85	4.93	-2.02	4.21	7.84	4.45	
Difference	0.11	-0.13	-0.12	0.05	0.93	1.69	1.17	0.97	2.22	0.09	1.15	
PIMCO: Tot Rtn;Inst (PTTRX)	0.41	2.49	3.95	5.37	4.80	6.88	6.81	-1.47	10.85	4.64	6.22	06/01/2003
Barclays US Agg Bond Index	0.05	2.05	3.93	4.38	3.67	4.85	4.93	-2.02	4.21	7.84	4.45	
Difference	0.36	0.44	0.02	0.99	1.13	2.03	1.88	0.55	6.64	-3.20	1.77	

Performance shown is gross of fees with the exception of GMO:Bchmk-Fr All;III (GBMFX), Hussman Inv:Strat TR (HSTRX), and PAAMCO Pacific Hedged Strat (CF) which are shown net of fees. RVK endorses GIPS and calculates performance for composites and investment managers using different methodologies. Please see Addendum for custom hybrids denoted with a number in parentheses.



San Diego Transit Corporation Employees Retirement Plan
Comparative Performance
As of June 30, 2014

	MTD	QTD	CYTD	1 Year	3 Years	5 Years	10 Years	2011	Since Incep.	Inception Date
Loomis Sayles Strategic Alpha (CF) (3)	0.45	1.56	2.22	4.89	3.51	6.90	6.31	5.08	7.90	07/01/1992
Barclays US Agg Bond Index (4)	0.05	2.05	3.93	5.52	2.16	3.96	5.00	6.35	6.78	
Difference	0.40	-0.49	-1.71	-0.63	1.35	2.94	1.31	-1.27	1.12	
BofA ML 3 Mo US T-Bill Index + 3% (5)	0.25	0.75	1.51	3.06	3.25	3.29	5.03	3.35	6.39	
Difference	0.20	0.81	0.71	1.83	0.26	3.61	1.28	1.73	1.51	
Wellington DIH Portfolio (CF)	2.94	6.39	8.91	17.69	-0.18	8.09	N/A	-7.74	-2.49	06/01/2008
Wellington Dvfd Infl Hedge Comp Index	2.85	5.81	9.61	16.75	1.67	8.37	N/A	-4.09	0.37	
Difference	0.09	0.58	-0.70	0.94	-1.85	-0.28	N/A	-3.65	-2.86	
Consumer Price Index + 5%	0.59	2.11	4.80	7.18	6.92	7.12	7.42	8.11	6.66	
Difference	2.35	4.28	4.11	10.51	-7.10	0.97	N/A	-15.85	-9.15	
PIMCO:All Ast Ath;Inst (PAUIX)	1.14	4.21	6.80	8.23	6.06	10.15	N/A	3.64	6.89	06/01/2008
All Asset Custom Index (6)	0.83	2.76	4.42	7.81	5.90	9.22	6.54	6.78	5.17	
Difference	0.31	1.45	2.38	0.42	0.16	0.93	N/A	-3.14	1.72	
Consumer Price Index + 5%	0.59	2.11	4.80	7.18	6.92	7.12	7.42	8.11	6.66	
Difference	0.55	2.10	2.00	1.05	-0.86	3.03	N/A	-4.47	0.23	
Vanguard Infl-Prot;Inst (VIPIX)	0.34	3.77	5.95	4.55	3.62	N/A	N/A	13.44	4.68	08/01/2010
Barclays US Trsy: US TIPS Index	0.30	3.81	5.83	4.44	3.55	5.55	5.25	13.56	4.65	
Difference	0.04	-0.04	0.12	0.11	0.07	N/A	N/A	-0.12	0.03	
GMO:Behmk-Fr All;III (GBMFX)	0.61	3.33	N/A	N/A	N/A	N/A	N/A	N/A	3.33	04/01/2014
60% MSCI ACW (Net)/40% BA Index	1.15	3.84	5.34	15.31	7.86	10.74	6.81	-1.13	3.84	
Difference	-0.54	-0.51	N/A	N/A	N/A	N/A	N/A	N/A	-0.51	
Consumer Price Index + 5%	0.59	2.11	4.80	7.18	6.92	7.12	7.42	8.11	2.11	
Difference	0.02	1.22	N/A	N/A	N/A	N/A	N/A	N/A	1.22	
Hussman Inv:Strat TR (HSTRX)	2.10	3.73	6.76	6.19	N/A	N/A	N/A	1.14	-0.13	10/01/2011
Barclays US Agg Bond Index	0.05	2.05	3.93	4.38	3.67	4.85	4.93	7.84	2.60	
Difference	2.05	1.68	2.83	1.81	N/A	N/A	N/A	-3.07	-2.73	
BofA ML 3 Mo US T-Bill Index + 5% (7)	0.41	1.24	2.49	5.06	5.26	5.29	7.07	5.35	5.25	
Difference	1.69	2.49	4.27	1.13	N/A	N/A	N/A	-4.31	-5.38	
PAAMCO Pacific Hedged Strat (CF)	0.92	0.29	3.10	9.59	5.49	6.64	N/A	-4.69	3.50	06/01/2007
HFRI FOF Cnsvt Index	0.70	1.30	2.62	6.68	3.46	4.12	2.81	-3.55	0.57	
Difference	0.22	-1.01	0.48	2.91	2.03	2.52	N/A	-1.14	2.93	
BofA ML 3 Mo US T-Bill Index + 5% (7)	0.41	1.24	2.49	5.06	5.26	5.29	7.07	5.35	6.16	
Difference	0.51	-0.95	0.61	4.53	0.23	1.35	N/A	-10.04	-2.66	

Performance shown is gross of fees with the exception of GMO:Behmk-Fr All;III (GBMFX), Hussman Inv:Strat TR (HSTRX), and PAAMCO Pacific Hedged Strat (CF) which are shown net of fees. RVK endorses GIPS and calculates performance for composites and investment managers using different methodologies. Please see Addendum for custom hybrids denoted with a number in parentheses.



San Diego Transit Corporation Employees Retirement Plan

Addendum

As of June 30, 2014

Performance Related and Miscellaneous Comments

- Manager inception dates shown represent the first full month following initial funding.
- Performance is annualized for periods greater than one year.
- RVK endorses GIPS and calculates performance for composites and investment managers using different methodologies. For additional information, please see the "Performance Methodology" definition in the Glossary of the most recent quarterly performance report.
- PIMCO:All Ast Ath;Inst (PAUIX) performance prior to Aug-2011 is represented by PIMCO:All Asset;Inst (PAAIX).
- Vanguard Infr-Prot;Inst (VIPIX) performance prior to Jun-2012 is represented by Vanguard Infr-Prot;Adm (VAIPX).
- The return for the month of October 2012 for Analytic US Low Volatility Equity (CF) may differ from what the manager reports because Analytic did not calculate performance starting from the beginning of the month.
- Performance shown for GMO:Bchmk-Fr All:III (GBMX), Hussman Inv:Strat TR (HSTRX), and PAAMCO Pacific Hedged Strat (CF) is net of fees.
- Enhanced RAFI Global AC Ex-US, L.P. (CF) was renamed as Research Affiliates Global AC Ex-US, L.P. (CF) beginning July 1, 2014.
- Fiscal year ends June 30th.

Custom Hybrid Comments

- The Policy Index is calculated monthly and currently consists of 20% Russell 3000 Index, 20% MSCI ACW Ex US Index (Net), 25% Barclays US Agg Bond Index, 20% Real Return Actual Allocation Index, and 15% HFRI FOF Cnsvt Index.
- The Real Return Actual Allocation Index is an active index which is calculated monthly using beginning of month investment weights applied to each corresponding primary benchmark within the Real Return Composite.
- Performance shown for Westwood AllCap Value (CF) (1) represents Westwood AllCap Value (CF) from Aug-2011 through present; begin of month market value weighted average of Westwood LargeCap Value (CF) and Westwood SMidCap Equity (CF) from Jul-2008 through Jul-2011; Westwood LargeCap Value (CF) from Oct-2004 through Jun-2008; begin of month market value weighted average of Westwood LargeCap Value (CF) and Westwood SmallCap Growth (CF) from Jan-1997 through Sep-2004; and Westwood LargeCap Value (CF) from Jul-1986 through Dec-1996.
- Performance shown for R 3000 Value Index (2) represents Russell 3000 Value Index from Aug-2011 through present; begin of month market value weighted average of Westwood LargeCap Value (CF) and Westwood SMidCap Equity (CF) applied to the Russell 1000 Value Index and Russell 2500 Value Index, respectively, from Jul-2008 through Jul-2011; Russell 1000 Value Index from Oct-2004 through Jun-2008; begin of month market value weighted average of Westwood LargeCap Value (CF) and Westwood SmallCap Growth (CF) applied to the Russell 1000 Value Index and Russell 2000 Growth Index, respectively, from Jan-1997 through Sep-2004; and Russell 1000 Value Index from Jul-1986 through Dec-1996.
- Performance shown for Loomis Sayles Strategic Alpha (CF) (3) represents Loomis Sayles Strategic Alpha (CF) from Oct-2013 through present; begin of month market value weighted average of Loomis Sayles Strategic Alpha (CF) and Loomis Sayles World Bond Trust (CF) from Feb-2012 through Sep-2013; begin of month market value weighted average of Loomis Sayles:Strat Alpha;Y (LASX) and Loomis Sayles World Bond Trust (CF) for the month of Jan-2012; Loomis Sayles World Bond Trust (CF) from Jul-2008 through Dec-2011; Loomis Sayles:Gl Bd;Inst (LSGBX) from Jan-2002 through Jun-2008; begin of month market value weighted average of Loomis Sayles Core Fixed Income and Loomis Sayles:Gl Bd;Inst (LSGBX) from Jun-1998 through Dec-2001; and Loomis Sayles Core Fixed Income from Jul-1992 through May-1998.
- Performance shown for Barclays US Agg Bond Index (4) represents Barclays US Agg Bond Index from Oct-2013 through present; begin of month market value weighted average of Loomis Sayles Strategic Alpha (CF) and Loomis Sayles World Bond Trust (CF) applied to the Barclays US Agg Bond Index and Citi World Gov't Bond Index, respectively, from Feb-2012 through Sep-2013; begin of month market value weighted average of Loomis Sayles:Strat Alpha;Y (LASX) and Loomis Sayles World Bond Trust (CF) applied to the Barclays US Agg Bond Index and Citi World Gov't Bond Index and Citi World Gov't Bond Index, respectively, for the month of Jan-2012; Citi World Gov't Bond Index from Jan-2002 through Dec-2011; begin of month market value weighted average of Loomis Sayles Core Fixed Income and Loomis Sayles:Gl Bd;Inst (LSGBX) applied to the Barclays US Agg Bond Index and Citi World Gov't Bond Index, respectively, from Jun-1998 through Dec-2001; and Barclays US Agg Bond Index from Jul-1992 through May-1998.
- Performance shown for BofA ML 3 Mo US T-Bill Index + 3% (5) represents BofA ML 3 Mo US T-Bill Index + 3% from Feb-2013 through present; and ICE 3 Month LIBOR Index + 3% from Jan-1980 through Jan-2013.
- Performance shown for All Asset Custom Index (6) represents All Asset Custom Index from Jan-2014 through present; and All Asset Composite Index from Jan-2007 through Dec-2013.
- Performance shown for BofA ML 3 Mo US T-Bill Index + 5% (7) represents BofA ML 3 Mo US T-Bill Index + 5% from Feb-2013 through present; and ICE 3 Month LIBOR Index + 5% from Jan-1980 through Jan-2013.

San Diego Transit Corporation Employees Retirement Plan
Addendum
As of June 30, 2014

- The All Asset Custom Index is an equal-weighted hybrid created independently by RVK specifically for PIMCO's All Asset strategies, and it consists of the following benchmarks:
 1. *Short Term Strategies*: BofA ML 1 Year T-Bill Index
 2. *US Core and Long Maturity Bond Strategies*: Barclays US Aggregate Bond Index
 3. *EM and Global Bond Strategies*: PIMCO GLADI Index*
 4. *Credit Strategies*: BofA ML US High Yield Master II Index
 5. *Inflation Related Strategies*: Barclays US Treasury: US TIPS Index
 6. *US Equity Strategies*: Russell 3000 Index
 7. *Global Equity Strategies*: MSCI All Country World Index (USD) (Net)
 8. *Alternative Strategies*: BofA ML 3 Mo US T-Bill Index + 3%

* Performance for the PIMCO Global Advantage Bond Index-London Close prior to January 2004 consists of the JPMorgan EMBI Global Diversified Total Return Index (USD).
- The All Asset Composite Index is an equal-weighted hybrid of the 14 benchmarks for each of the core funds held by PIMCO:All Asset;Inst (PAAIX). RVK began calculating the benchmark returns in January 2007. Prior performance was calculated by PIMCO.

PORTLAND

CHICAGO

NEW YORK

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San Diego Transit Corporation Employees Retirement Plan
AA by Manager, AA vs. Target, and Schedule of Investable Assets
As of June 30, 2014

Asset Allocation by Manager

June 30, 2014 : \$165,209,671

	Market Value (\$)	Allocation (%)
■ PIMCO All Ast Ath Inst (PAUTX)	21,240,245	12.86
■ MFS International Growth (CF)	17,073,347	10.33
■ Research Affiliates Global AC Ex-US, L.P. (CF)	16,033,226	9.70
■ Westwood AllCap Value (CF)	15,947,929	9.65
■ Loomis Sayles Strategic Alpha (CF)	13,881,430	8.40
■ Analytic US Low Volatility Equity (CF)	13,817,279	8.36
■ PIMCO Tot Rtn Inst (PTRX)	12,811,113	7.75
■ JPMorgan Core Bond Trust (CF)	12,760,285	7.72
■ GMO Belink-Fr All III (GBMFX)	10,371,759	6.28
■ PAAMCO Pacific Hedged Strat (CF)	10,065,898	6.09
■ Vanguard Inl-Prot Inst (VPIPX)	6,823,063	4.13
■ Wellington DIH Portfolio (CF)	6,481,138	3.92
■ Husman Inv Strat TR (HSTRX)	4,974,782	3.01
■ The Boston Co. Mid Cap Grth (CF)	2,255,404	1.37
□ Contribution Account	338,503	0.20
■ Disbursement Account	334,271	0.20

Asset Allocation vs. Target Allocation

	Market Value (\$)	Allocation (%)	Target (%)
Broad Domestic Equity	32,020,612	19.38	20.00
Broad International Equity	33,105,573	20.04	20.00
Fixed Income	40,125,601	24.29	25.00
Real Return	34,544,446	20.91	20.00
Absolute Return	25,412,439	15.38	15.00
Total Fund	165,209,671	100.00	100.00

Asset Allocation vs. Target Allocation Differences

Asset Class	Allocation Difference (%)
Broad Domestic Equity	-0.62%
Broad International Equity	0.04%
Fixed Income	-0.71%
Real Return	0.91%
Absolute Return	0.38%

Schedule of Investable Assets

Periods Ending	Beginning Market Value (\$)	Net Cash Flow (\$)	Gain/Loss (\$)	Ending Market Value (\$)	%Return	Unit Value
FYTD	149,103,000	-3,334,358	19,441,029	165,209,671	13.21	113.21

2

San Diego Transit Corporation Employees Retirement Plan Asset Allocation & Comparative Performance As of June 30, 2014											
	Allocation		Performance (%)								
	Market Value (\$)	%	1 Year	5 Years	2013	2012	2011	2010	2009	Since Incep.	Inception Date
San Diego Transit Total Fund	165,209,671	100.00	13.21	10.76	9.74	12.42	-3.09	14.41	21.28	9.74	10/01/1982
Policy Index			12.84	11.11	9.78	10.45	0.31	13.71	21.09	9.89	
Difference			0.37	-0.35	-0.04	1.97	-3.40	0.70	0.19	-0.15	
Domestic Equity Composite	32,020,612	19.38	21.44	17.60	31.19	14.86	-1.93	18.89	22.95	7.06	03/01/2005
R 3000 Index			25.22	19.33	33.55	16.42	1.03	16.93	28.34	8.00	
Difference			-3.78	-1.73	-2.36	-1.56	-2.96	1.16	-5.39	-0.94	
International Equity Composite	33,106,573	20.04	24.03	11.33	21.80	18.79	-18.49	11.18	29.73	3.97	03/01/2005
MSCI ACW Ex US Index (Net)			21.75	11.11	15.29	16.83	-13.71	11.15	41.46	6.22	
Difference			2.28	0.22	6.51	1.96	-4.78	0.03	-11.73	-2.25	
Fixed Income Composite	40,125,601	24.29	5.11	6.76	-1.07	8.22	6.78	9.64	13.74	6.32	03/01/2005
Barclays US Agg Bond Index			4.38	4.85	-2.02	4.21	7.84	6.54	5.93	4.83	
Difference			0.73	1.91	0.95	4.01	-1.06	3.10	7.81	1.49	
Real Return Composite	34,544,446	20.91	7.92	10.03	-3.69	13.57	2.46	15.81	31.59	3.05	06/01/2007
Real Return Actual Alloc Index (Active)			7.69	9.22	-0.24	10.03	3.70	12.93	21.81	4.05	
Difference			0.23	0.81	-3.45	3.54	-1.24	2.88	9.78	-1.00	
Absolute Return Composite (Net)	25,412,439	15.38	7.98	4.70	1.89	6.10	-4.42	6.13	18.64	2.17	06/01/2007
HFRI FOF Cnsvt Index			6.68	4.12	7.70	4.22	-3.55	5.07	9.65	0.57	
Difference			1.30	0.58	-5.81	1.88	-0.87	1.06	8.99	1.60	



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Agenda Item No. 47

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

SEMI-ANNUAL SECURITY REPORT (JANUARY 1, 2014 THROUGH JUNE 30, 2014)
(BILL BURKE)

INFORMATIONAL ONLY

Budget Impact

None.

DISCUSSION:

Statistics related to security incidents concerning the transit system are compiled by staff based on reports generated by security personnel and Code Compliance Inspectors (CCIs). This information is augmented by reports from local police authorities and is then compiled, summarized, and submitted to the Board of Directors on a midyear and year-end basis. The year-end report covers the period from January 1, 2014, through June 30, 2014.

Federal Grants

MTS was awarded a \$1,000,000 grant from the FY 2014 Transportation Security Grant Program (TSGP) to fund overtime costs for local law enforcement agencies to conduct enforcement operations within and along the trolley system in conjunction with MTS personnel. MTS applied for the grant in Fiscal Years 2012 and 2013 but did not receive the award. This year, staff is currently developing a strategic implementation plan for this multi-agency approach. The grant will reimburse law enforcement agencies the overtime costs for their respective employees involved in MTS enforcement operations. All law enforcement agencies that are serviced by MTS Rail will have an opportunity to participate. The ultimate goal is to implement a law enforcement component, in conjunction with code enforcement and security, to improve safety for all trolley patrons and employees.



Transportation Security Administration (TSA)

MTS is a member of the "Regional Transportation Security Working Group," which focuses on ground transportation terrorism threats and homeland security issues. The group is comprised of both private-sector transportation security organizations and local, federal, and state law enforcement agencies. Meetings are conducted quarterly and consist of regional intelligence briefings and presentations containing information relating to area activity in technology advances and other terrorism prevention and mitigation strategies. MTS Security made a presentation at the May quarterly meeting to share information regarding copper wire thefts along the rail right-of-way and the potential hazards it may create during train operations.

MTS also worked with the TSA in conducting Visual Intermodal Prevention and Response (VIPR) operations. The mission of a VIPR is to observe high-density public transit centers that may be attractive targets for terrorist activity. Their role is to observe and report any suspicious activity to MTS's enforcement personnel. TSA conducted 19 total VIPR operations from January 1st to June 30th.

Canine Teams and Counter Terrorism Activities

MTS continued the Transportation Security Administration (TSA) funded canine program, which has been in place since 2006. Primary duties include ongoing training in explosive detection, patrol of trains, buses and facilities, fare enforcement, and responding to check suspicious packages. The Canine Unit responded to eight reports of suspicious packages and one bomb threat call during the first six months of this year.

In May 2014, MTS canine teams joined forces with the Military, Harbor Police Department, San Diego Police Department, Coronado Police Department, Federal Police and other government agencies in securing the course for the Bay Bridge Run, which was attended by approximately 10,000 participants. MTS was also the lead canine agency in securing the Rock 'n' Roll Marathon for the second consecutive year.

From January 2014 through June 2014 the canine teams participated in 125 training scenarios as part of their regular training.

Regional Training – Rock 'n Roll Marathon

On June 1st, 2014, the annual San Diego Rock 'n' Roll Marathon took place in the City of San Diego, drawing an estimated 100,000 spectators and participants to the downtown area. Many of the spectators and participants used public transportation to and from the event. Due to the Boston bombing incident in 2013, MTS continued to operate with a heightened level of security.

The Marathon was designated as a Live Training Exercise to enhance skills and procedures while working in conjunction with other agencies. The exercise was funded by the TSGP Homeland Security Training Grant. MTS was the lead agency for the exercise as well as the lead transportation agency and canine agency. We partnered with the North County Transit District, the Orange County Sheriff's Department, the Los Angeles County Sheriff's Department, the San Diego Police Department, San Diego Fire and Rescue, the Department of Homeland Security, the Federal Air Marshalls (VIPR), the Amtrak Police Department, and the Department of Alcohol, Tobacco, Firearms and Explosives. MTS put together a comprehensive plan, over a three-month period, to ensure the safe transportation for our trolley and bus patrons, as well as for those attending the event. Twenty-two canine teams, from various agencies, conducted bomb

sweeps at Petco Park, the Petco Parking Lot, 12th and Imperial Avenues, the Imperial Avenue Division (IAD), vendors, the MTS parking structure and 20 United Postal Service trucks. Our teams also assisted with medical emergencies at the event.

In June, staff attended the Federal Emergency Management Agency (FEMA) Americans with Disabilities Act (ADA) Training at the Orange County Transportation Authority in Santa Ana, California. Numerous law enforcement professionals were in attendance including police officers, sheriffs, and district attorneys.

“If You See Something, Say Something” Text Messages

During the reporting period, MTS continued to receive notifications via the text messaging system. The texts received have included not only quality of life issues, but also reports of medical issues, crimes in progress and lost items. Officers are dispatched to reports of criminal activity, including nuisance crimes, and other disturbances. Staff continues to distribute small handout cards to educate the riding public regarding the “See Something, Say Something” program. In addition, all of the light rail vehicles now have the “If You See Something, Say Something” slogan and phone number posted inside.

Closed-Circuit Television (CCTV)

MTS completed the full installation of onboard CCTV systems on all of the 2000, 3000, and 4000 Series Light Rail Vehicles as well as the vintage trolley. There are no CCTV installations scheduled for the U-2 vehicles, as they are nearing the end of their service life. The CCTV enhances MTS’s ability to document incidents and provide video evidence to law enforcement. The Operations Control Center continues to become more efficient and has been upgraded with two additional advanced dispatch workstations. The workstations have been equipped with state of the art hardware upgrades, as well as the latest Computer Aided Dispatching software to further improve and simplify field communications.

Because of the addition of higher resolution cameras at several Orange Line stations, the increased video file size has caused storage issues on several of the current Digital Video Recorders (DVRs). In order to rectify this problem a project is underway to upgrade six Orange Line stations with higher capacity DVRs. This will allow MTS to retain the 14 days of video needed for claims, complaints or requests by outside agencies.

Technology Projects

During the reporting period, the CCI Department tested both the Taser Axon and the Wolfcom 3rd Eye body cameras, and ultimately chose the Wolfcom 3rd Eye for the initial purchase of 50 body cameras. The body camera is designed to be worn on the outside of an officer's uniform, and to record daily contacts in the field.

Prior to field testing, body camera operations policies and procedures were developed and the CCI staff was provided training. An intermediate field testing period began in late June, which included using the body cameras, configuring a storage server, and implementing related software.

As of March 2014, staff has integrated a new automated method of recording Hand Held Unit (HHU) fare inspections. Prior to implementation, for the first three months of the reporting period, the inspection rate (percentage of riders checked) was 8.03%. Since the implementation of the automated method, our inspection percentage has nearly

doubled to 15.42%, indicating the number of fare inspections was underreported. The department recently purchased 25 new HHUs. The additional HHUs have enabled us to significantly increase the number of patron inspections by utilizing our security personnel to assist in fare checks. In June, with the automated method fully in place, along with the new HHUs, the inspection rate peaked at 21.49%.

Emergency Operations Center

During the reporting period, plans were finalized for the design and implementation of a new Emergency Operations Center (EOC). The EOC will provide a centralized location for MTS management and key personnel from outside agencies to assemble for the purpose of gathering information, providing logistical support and interoperable communications during emergency operations. The EOC will be equipped with computer terminals with internet access for each member, radio and telephone capabilities and will have up to date emergency operation plans and contingencies. In the event of a power failure, the EOC will be powered by an emergency backup generator located at the Transit Enforcement building.

Eagle Team

The Eagle Team is a special unit that is deployed on late night trains on the Orange and Blue Lines. The Eagle team was developed to deter crimes such as robbery, theft, drinking, fare evasion and other unruly behavior on late night trains. Each night, the Eagle Team consists of eight security officers and two Code Compliance Inspectors (CCIs). Four security officers and one CCI are assigned to the Orange Line and four security officers and one CCI are assigned to the Blue Line. The Eagle Team officers work from 8:00 p.m. to the end of service, seven days a week. Since its inception in December 2012, the Eagle Team has been highly successful in deterring crime on late night trains on both service lines. We are currently evaluating the benefit of deploying an Eagle Team on the Green Line.

Special Enforcement Unit (SEU)

From January 1, 2014 to June 30, 2014, 18 SEU's were conducted at various trolley stations on the three respective trolley lines. The purpose of an SEU is to check all patrons (those already on board, boarding or disembarking the trains), for proper fare. Local law enforcement agencies (San Diego Sheriff's Office, San Diego Police Department, San Diego County Probation Department and the La Mesa Police Department) took part in five of the SEU details. The following are the results of those details:

- Patrons inspected 60,928
- Citations Issued 1992
- Written Warnings 37
- Fare evasion Rate 3.3%

Transient Encampment and Homeless Outreach Details

From January 1, 2014 to June 30, 2014, 25 encampment details were performed on MTS property. These details included bus stops, trolley stations, rail yards, right-of ways and other MTS properties in the San Diego River area and Sweetwater Wildlife Refuge. This reporting period, we performed several camp details with the San Diego

County Sheriff's, San Diego Police, and Probation Departments. These multi-agency details have been very successful and usually resulted in several subjects being booked into jail for warrants or probation violations.

Copper Wire Theft Detail

From April 30, 2014 to May 13, 2014, MTS had 16 incidents in which Copper Wire was cut and ultimately stolen from trolley lines. The thefts occurred in the early morning hours when the trains were not in operation. The thefts were discovered when trains began morning operations and discovered signals were malfunctioning. In addition to the financial loss, the thefts created significant hazards and, in several cases, the cut wires created electric arcing, which caused damage to several tracks.

In response to the copper wire thefts, our security teams conducted overnight undercover details for a one month period and increased uniform patrols in the targeted areas. Three arrests were made during the details for charges unrelated to the thefts. Two of the suspects, however, had bolt cutters and were likely involved in other criminal activity. In addition to the arrests, numerous field interviews were conducted and several citations were issued for trespassing on MTS property.

As a permanent response to the copper wire thefts, the Eagle Team patrols the last trains and then checks the right-of-ways for copper wire theft as part of their regular patrols. In addition, MTS is now a part of the countywide Metal Theft Task Force, a group of law enforcement personnel from agencies throughout the county that focuses on and shares information regarding metal thefts.

Downtown Partnership

The Downtown San Diego Partnership is dedicated to addressing issues that pertain to the downtown San Diego area. The issues addressed during Downtown Partnership meetings that pertain to MTS generally relate to criminal activity in the vicinity of downtown Trolley Stations and Bus Stops. Homeless related issues, drug sales, loitering, thefts and various nuisance crimes are the most commonly cited issues.

From January 1, 2014 to June 30, 2014, MTS Transit Enforcement performed 18 special details in the Downtown San Diego area, including eight SEU details. Several of the details have been joint operations with the San Diego Police Department. During the downtown operations, 1332 citations were issued for various trolley related violations.

Border Transportation Council

The Border Transportation Council (BTC) has monthly meetings that focus on issues related to the United States & Mexican border transportation services. From January 1, 2014 to June 30, 2014, members of the MTS Transit Enforcement Department, along with other MTS staff, attended the monthly meetings with Caltrans, Department of Homeland Security, San Diego Police Department, SANDAG, Customs and Border Protection, California Highway Patrol, U.S. Border Patrol, San Ysidro Chamber of Commerce, Public Utilities Commission and several privately owned transportation companies. MTS Transit Enforcement and the other attending law enforcement entities work together to develop solutions to transportation related issues and to coordinate special enforcement details for chronic criminal activity occurring on MTS property.

Construction at the San Ysidro private carrier terminal (behind McDonald's on Rail Court) began on June 26, 2014. Due to the construction and the temporary closure of

the ADA ramp several of the privately owned bus companies have been diverted to the MTS bus loop at the San Ysidro Transit Center. Once the ADA ramp is completed, services on Rail Court will return to normal.

Bus Rapid Transit (BRT)

On June 8, 2014, the Bus Rapid Transit (BRT) began service along the Interstate 15 corridor from downtown to North County. Twenty hours of security coverage was added per day to the City College Station to cover the BRT bus stops. During the construction of the Sabre Springs/Penasquitos Transit Center, Transit Systems Security (TSS) was called upon to provide periodic security at the facility. This included a four day period from March 3 to March 7, 2014 when there was 24 hour coverage and a period from March 10 to April 4, 2014 when there was coverage 20 hours a day (excluding weekends). The coverage was minimal once the facility gates became operational.

Buses and Bus Stops

During this reporting period, MTS Code Compliance Inspectors and Transit System Security Officers patrolled and conducted enforcement at bus stops and at bus facilities throughout the system. This included periodic bike and foot patrols along the Broadway and C Street corridors downtown. Over 40,000 patrons were contacted and 124 citations were issued during the six month period. In addition, 22 special details were conducted to address problem areas. Many of those details were conducted by the plain clothes teams and were generally complaint driven. Some of the complaints included people sleeping at bus stops, juveniles throwing objects from buses, smoking and drinking at bus stops, and tour buses parking at bus stops during special events.


Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Board FTA 405 Reports

<input type="checkbox"/> Form not applicable NTD ID <input type="checkbox"/> Form 005 Included		<h2 style="margin: 0;">BOARD 405 REPORT</h2> <p style="font-size: small; margin: 5px 0;">Based on the Uniform Crime Reporting Handbook</p>		<div style="border: 1px solid black; padding: 2px; font-size: x-small;">Required from transit agencies serving UZAs of 200,000 or more population.</div> <div style="text-align: right;"> Mode Type of Service </div>	
Security Items		In Vehicle	In Station	Other Transit Prop.	
Location SDTI					
Part I Offenses (Reports)					
Violent Crime	Inc Inv	Arrests			
Homicide	0	0	Patrons 0	0	0
			Employees 0	0	0
			Others 0	0	0
Forcible rape	0	0	Patrons 0	0	0
			Employees 0	0	0
			Others 0	0	0
Robbery	17	14	Patrons 4	8	3
			Employees 0	0	0
			Others 0	1	1
Aggravated assault	13	6	Patrons 6	5	1
			Employees 0	0	1
			Others 1	0	1
Property Crime	Inc Inv	Arrests			
Burglary	0	0	0	0	0
Larceny/theft	50	5	Patrons 9	8	12
			Employees 0	0	1
			Others 0	6	16
Motor vehicle theft	7	0	Patrons 0	0	6
			Employees 0	0	0
			Others 0	0	1
Arson	0	0	0	0	0
Part II Offenses (Arrests)					
Inc Inv	Arrests				
Other assaults	72	51	15	33	3
Vandalism	64	39	11	24	4
Sex offenses	3	2	1	1	0
Drug abuse violations	112	113	13	87	13
Driving under the influence	5	5	0	1	4
Drunkenness	110	35	3	29	3
Disorderly conduct	441	422	137	264	21
Trespassing	344	303	0	0	303
Fare evasion	6,541	6,343	2,876	3,467	0
Curfew & loitering laws	104	101	0	75	26
Total Transit Property Damage			\$ 126,793.48		
<h1 style="margin: 0;">Internal Use Only</h1>					
Report Run Date		Report Run Time		Reporting Period	
10/01/2014		09:59:05AM		01/01/2014 To 06/30/2014	

<input type="checkbox"/> Form not applicable NTD ID <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>			BOARD 405 REPORT			Required from transit agencies serving UZAs of 200,000 or more population		
<input type="checkbox"/> Form 005 Included						Mode <input type="text"/>		
Based on the Uniform Crime Reporting Handbook								
Security Items			In Vehicle		In Station		Other Transit Prop.	
Location SDTC								
Part I Offenses (Reports)								
Violent Crime			Inc Inv		Arrests			
Homicide	0		0					
					Patrons	0	0	0
					Employees	0	0	0
					Others	0	0	0
Forcible rape	0		0					
					Patrons	0	0	0
					Employees	0	0	0
					Others	0	0	0
Robbery	1		2					
					Patrons	0	0	1
					Employees	0	0	0
					Others	0	0	0
Aggravated assault	0		0					
					Patrons	0	0	0
					Employees	0	0	0
					Others	0	0	0
Property Crime			Inc Inv		Arrests			
Burglary	0		0					
Larceny/theft	2		0					
					Patrons	1	0	1
					Employees	0	0	0
					Others	0	0	0
Motor vehicle theft	0		0					
					Patrons	0	0	0
					Employees	0	0	0
					Others	0	0	0
Arson	0		0					
					Patrons	0	0	0
Part II Offenses (Arrests)			Inc Inv		Arrests			
Other assaults	8		3					
Vandalism	19		7					
Sex offenses	1		0					
Drug abuse violations	3		3					
Driving under the influence	1		1					
Drunkennes	16		1					
Disorderly conduct	69		14					
Trespassing	0		0					
Fare evasion	3		3					
Curfew & loitering laws	32		27					
Total Transit Property Damage					\$ 2,580.23			
Internal Use Only								
Report Run Date			Report Run Time			Reporting Period		
10/01/2014			09:59:05AM			01/01/2014 To 06/30/2014		

☐ Form not applicableNTD ID ☐☐ Form 005 Included**BOARD 405 REPORT**

Required from transit agencies serving UZAs of 200,000 or more population

Mode ☐Type of Service ☐

Based on the Uniform Crime Reporting Handbook

Security Items	In Vehicle	In Station	Other Transit Prop.
Location MTS CONTRACT			
Part I Offenses (Reports)			
Violent Crime	Inc Inv	Arrests	
Homicide	0	0	
	Patrons	0	0
	Employees	0	0
	Others	0	0
Forcible rape	0	0	
	Patrons	0	0
	Employees	0	0
	Others	0	0
Robbery	1	0	
	Patrons	0	1
	Employees	0	0
	Others	0	0
Aggravated assault	0	0	
	Patrons	0	0
	Employees	0	0
	Others	0	0
Property Crime	Inc Inv	Arrests	
Burglary	0	0	
Larceny/theft	3	0	
	Patrons	2	0
	Employees	1	0
	Others	0	0
Motor vehicle theft	1	1	
	Patrons	0	0
	Employees	0	1
	Others	0	1
Arson	0	0	
	Patrons	0	0
	Employees	0	0
	Others	0	0
Part II Offenses (Arrests)			
Other assaults	10	6	
Vandalism	9	5	
Sex offenses	2	1	
Drug abuse violations	2	1	
Driving under the influence	0	0	
Drunkenness	5	1	
Disorderly conduct	13	9	
Trespassing	0	0	
Fare evasion	0	0	
Curfew & loitering laws	2	1	
Total Transit Property Damage		\$ 966.39	

Internal Use Only

Report Run Date

Report Run Time

Reporting Period

10/01/2014

09:59:05AM

01/01/2014 To 06/30/2014

<input type="checkbox"/> Form not applicable NTD ID <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="checkbox"/> Form 005 Included		BOARD 405 REPORT <i>Based on the Uniform Crime Reporting Handbook</i>		<div style="border: 1px solid black; padding: 2px; font-size: small;"> Required from transit agencies serving UZAs of 200,000 or more population. </div> Mode <input type="text"/> Type of Service <input type="text"/>	
Security Items		In Vehicle	In Station	Other Transit Prop.	
Location SDTI					
Part I Offenses (Reports)					
Violent Crime	Inc Inv	Arrests			
Homicide	0	0	Patrons 0	0	0
			Employees 0	0	0
			Others 0	0	0
Forcible rape	0	0	Patrons 0	0	0
			Employees 0	0	0
			Others 0	0	0
Robbery	14	4	Patrons 7	6	0
			Employees 0	0	0
			Others 0	1	2
Aggravated assault	4	4	Patrons 0	1	0
			Employees 0	0	0
			Others 0	2	2
Property Crime	Inc Inv	Arrests			
Burglary	1	0	0	1	0
Larceny/theft	65	6	Patrons 11	10	19
			Employees 0	0	1
			Others 0	13	12
Motor vehicle theft	12	0	Patrons 0	0	12
			Employees 0	0	0
			Others 0	0	0
Arson	0	0	0	0	0
Part II Offenses (Arrests)					
Inc Inv	Arrests				
Other assaults	45	28	6	19	3
Vandalism	110	49	9	23	17
Sex offenses	4	2	1	1	0
Drug abuse violations	138	135	15	113	7
Driving under the influence	3	3	0	1	2
Drunkenness	105	37	9	22	6
Disorderly conduct	478	457	153	275	29
Trespassing	217	169	0	0	169
Fare evasion	9,779	9,256	5,182	4,074	0
Curfew & loitering laws	54	43	0	36	7
Total Transit Property Damage			\$ 79,025.84		
<h2 style="margin: 0;">Internal Use Only</h2>					
Report Run Date		Report Run Time		Reporting Period	
10/03/2014		08:28:58AM		01/01/2013 To 06/30/2013	

<input type="checkbox"/> Form not applicable NTD ID <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Form 005 Included		BOARD 405 REPORT		Required from transit agencies serving UZAs of 200,000 or more population.	
				Mode <input type="checkbox"/> Type of Service <input type="checkbox"/>	
Based on the Uniform Crime Reporting Handbook					
Security Items		In Vehicle		In Station	
Other Transit Prop.					
Location SDTC					
Part I Offenses (Reports)					
Violent Crime	Inc Inv	Arrests			
Homicide	0	0			
			Patrons	0	0
			Employees	0	0
			Others	0	0
Forcible rape	0	0			
			Patrons	0	0
			Employees	0	0
			Others	0	0
Robbery	1	0			
			Patrons	0	1
			Employees	0	0
			Others	0	0
Aggravated assault	4	4			
			Patrons	3	0
			Employees	0	0
			Others	0	0
Property Crime	Inc Inv	Arrests			
Burglary	0	0			
Larceny/theft	6	0			
			Patrons	1	1
			Employees	1	0
			Others	0	0
Motor vehicle theft	0	0			
			Patrons	0	0
			Employees	0	0
			Others	0	0
Arson	0	0			
			Patrons	0	0
			Employees	0	0
			Others	0	0
Part II Offenses (Arrests)					
Inc Inv	Arrests				
Other assaults	9	5			
Vandalism	13	2			
Sex offenses	2	0			
Drug abuse violations	9	9			
Driving under the influence	1	1			
Drunkness	15	3			
Disorderly conduct	50	14			
Trespassing	3	3			
Fare evasion	3	1			
Curfew & loitering laws	86	77			
			0	3	74
Total Transit Property Damage			\$ 3,703.40		
Internal Use Only					
Report Run Date		Report Run Time		Reporting Period	
10/03/2014		08:28:58AM		01/01/2013 To 06/30/2013	

<input type="checkbox"/> Form not applicable NTD ID <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="checkbox"/> Form 005 Included		BOARD 405 REPORT <i>Based on the Uniform Crime Reporting Handbook</i>		Required from transit agencies serving UZAs of 200,000 or more population. Mode <input type="text"/> Type of Service <input type="text"/>	
Security Items		In Vehicle	In Station	Other Transit Prop.	
Location MTS CONTRACT					
Part I Offenses (Reports)					
Violent Crime	Inc Inv	Arrests			
Homicide	0	0	Patrons 0	0	0
			Employees 0	0	0
			Others 0	0	0
Forcible rape	0	0	Patrons 0	0	0
			Employees 0	0	0
			Others 0	0	0
Robbery	2	0	Patrons 1	1	0
			Employees 0	0	0
			Others 0	0	0
Aggravated assault	0	0	Patrons 0	0	0
			Employees 0	0	0
			Others 0	0	0
Property Crime	Inc Inv	Arrests			
Burglary	0	0	0	0	0
Larceny/theft	5	0	Patrons 2	0	0
			Employees 0	0	0
			Others 0	3	0
Motor vehicle theft	0	0	Patrons 0	0	0
			Employees 0	0	0
			Others 0	0	0
Arson	0	0	0	0	0
Part II Offenses (Arrests)					
Inc Inv	Arrests				
Other assaults	5	3	0	3	0
Vandalism	16	13	1	12	0
Sex offenses	0	0	0	0	0
Drug abuse violations	4	4	0	4	0
Driving under the influence	4	4	0	0	4
Drunkenness	4	3	0	3	0
Disorderly conduct	15	11	2	9	0
Trespassing	0	0	0	0	0
Fare evasion	2	2	2	0	0
Curfew & loitering laws	2	1	0	1	0
Total Transit Property Damage			\$ 19,057.67		
<h2 style="margin: 0;">Internal Use Only</h2>					
Report Run Date		Report Run Time		Reporting Period	
10/03/2014		08:28:58AM		01/01/2013 To 06/30/2013	

Semi-annual Security Report

(Chief William Burke)

January – June 2014

October 30, 2014



1

Part I Incidents – Rail

January through June

	2013	2014
Ridership	14,358,530	19,574,553
<u>Against Persons</u>		
Homicide	0	0
Rape	0	0
Robbery	14	17
Agg. Assault	4*	13**
Subtotal	18	30
* 1 Patron, 3 TSS		
** 12 Patrons, 1 TSS		
<u>Against Property</u>		
Burglary	1	0
Theft	65	50
MV Theft	12	7
Arson	0	0
Subtotal	78	57
Total Part I Incidents	96	87
Per 100,000	.66	.44



2

Part I Incidents – Rail

January through June

Non-Patron Related Part I Theft Incidents

2013

37% of SDTI Thefts were non-patron related

12 Copper wire/Metal
10 Coke machines
2 Fare machines
24 (of 65 Thefts)

Adjusted Part I Incidents (related to property of patrons) if removing these 24 thefts = .29 Part I Crime Incidents per 100,000 patrons

2014

42% of SDTI Thefts were non-patron related

14 Copper wire/Metal
4 Coke machines
2 Yard thefts
1 Construction site theft
21 (of 50 Thefts)

Adjusted Part I Incidents (related to property of patrons) if removing these 21 thefts = .15 Part I Crime Incidents per 100,000 patrons



3

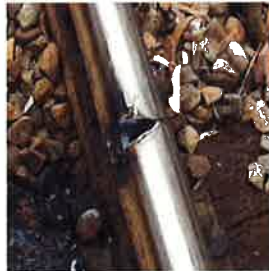


Part I Incidents

Copper Wire Thefts

The crime suppression unit continues to make regular patrols of track areas during nighttime hours in order to combat wire theft. In addition to the measures below, MTS maintenance crews are covering replaced copper wire with concrete. This will prevent those sections of wire from being stolen again.

In some instances, the theft of copper wire causes damage to the tracks, as shown below.



4



Part I Incidents

Copper Wire Thefts - Nationwide



5



Part II Arrests – Rail

January through June

	2013	2014
Other Assaults	28	51
Vandalism*	49	39
Sex Offenses	2	2
Drug Abuse	135	113
DUI	3	5
Subtotal	217	210
Drunkenness	37	35
Disorderly Conduct	457	422
Trespassing	169	302
Curfew/Loitering	43	101
Subtotal	706	860
Total**	923	1,070

*Graffiti Tracker incidents not included. **Does not include citations for fare evasion.



6



Part I Incidents – SDTC Bus

January through June

	2013	2014
Ridership	14,334,565	14,248,456
Homicide	0	0
Rape	0	0
Robbery	1	1
Agg. Assault	4	0
Burglary	0	0
Theft	6	2
MV Theft	0	0
Arson	0	0
Total	11	3
Per 100,000	.0767	.02



7



Part II Arrests – SDTC Bus

January through June

	2013	2014
Ridership	14,334,565	14,248,456
Other Assaults	5	3
Vandalism	1	7
Sex Offenses	0	0
Drug Abuse	9	3
DUI	1	1
Drunkenness	3	1
Disorderly Conduct	14	14
Trespassing	3	0
Curfew/Loitering	77	27
Total*	113	56

*Does not include citations for fare evasion



8



If You See Something Say Something



9



If You See Something Say Something

Texts received:

- Dispatchers received a text message regarding two people about to fight on a train. Officers responded to the location and handled the incident. Two people were issued tickets for violating MTS ordinances as well as disturbing others with boisterous/unruly conduct.
- A text message was received regarding teenagers drinking and smoking onboard a Blue Line train. Officers met the train at the Palomar Station and deboarded two persons with an open container of alcohol. They were subsequently removed from the station.
- A passenger texted and reported feeling unsafe on the Green Line due to another passenger carrying a sword. Officers responded and interviewed the person that was reported to have been carrying a sword. The sword was actually an umbrella.



10



Rock and Roll Marathon

Homeland Security Training Drill
Heightened Security/ Post-Boston Marathon Bombing

Participating Regional Agencies

- North County Transit District
- San Diego Police Department
- Homeland Security
- US Marshals Service
- FBI
- Los Angeles County Sheriff's Department K9 Teams
- Transit Security Administration Visible Intermodal Prevention and Response (VIPR) and K9 teams
- Bureau of Alcohol Tobacco Firearms & Explosives (AFT)



11



Special Enforcement Unit (SEU)

Zero Tolerance Fare Inspection - Rail
January – June 2014



- 18 SEUs conducted at random stations
- 60,928 Patrons Inspected
- 1,992 Citations Issued
- 37 Written Warnings Issued
- 3.3% Evasion Rate



12



Felony Vandalism Arrest

- In July of 2012, Christopher Jensen spray-painted the side of a train. The crime was documented and photographs taken.



- On June 5, 2014, Jensen spray-painted another train as he had done before. Passengers alerted officers on the train to this crime in progress. Despite attempting to flee, Jensen was arrested by officers.
- Damages were estimated to be in the amount of \$5,000 dollars.
- Jensen was booked in the county jail for the crime of felony vandalism. He later plead guilty and is awaiting sentencing.



13



Law Enforcement Grant Funding

- MTS has applied for and received a \$1,000,000 grant from the FY 2014 Transportation Security Grant Program (TSGP) to fund overtime costs for local law enforcement agencies to conduct enforcement operations within and along the trolley system.
- The agencies would work in conjunction with MTS personnel. We are currently developing a strategic plan to best implement this multi-agency approach.



14



Officer Body Cameras

- Body cameras are now in use and have reduced the number of complaints received.
- Cameras allow for much quicker investigation of allegations of officer misconduct.
- A complaint was received that had been sent to the CEO of MTS. The complaint alleged verbal and physical abuse by officers. A review of the body camera video showed that these events did not occur. The investigation was closed.



15



End



16





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

Agenda Item No. 48

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

October 30, 2014

SUBJECT:

OPERATIONS BUDGET STATUS REPORT FOR AUGUST 2014 (LUKE KROMER)

INFORMATIONAL ONLY

Budget Impact

None at this time.

DISCUSSION:

This report summarizes MTS's operating results for August 2014 compared to the fiscal year 2015 budget. Attachment A-1 combines the operations', administration's, and other activities' results for August 2014. Attachment A-2 details the August 2014 combined operations' results and Attachments A-3 to A-8 present budget comparisons for each MTS operation. Attachment A-9 details budget comparisons for MTS Administration, and Attachment A-10 provides August 2014 results for MTS's other activities (Taxicab/San Diego and Arizona Eastern Railway Company).

MTS NET-OPERATING SUBSIDY RESULTS

As indicated within Attachment A-1, for the year-to-date period ending August 2014, MTS net-operating income favorable variance totaled \$139,000 (0.6%). Operations produced a \$191,000 (-0.8%) unfavorable variance and the administrative/other activities areas were favorable by \$330,000.

MTS COMBINED RESULTS

Revenues. Year-to-date combined revenues through August 2014 were \$19,252,000, compared to the year-to-date budget of \$19,194,000, representing a \$57,000 (0.3%) favorable variance.



Expenses. Year-to-date combined expenses through August 2014 were \$43,232,000, compared to the budget of \$43,314,000, resulting in an \$82,000 (0.2%) favorable variance.

Personnel Costs. Year-to-date personnel-related costs totaled \$20,426,000, compared to a budgetary figure of \$20,567,000, producing a favorable variance of \$141,000 (0.7%).

Outside Services and Purchased Transportation. Total outside services for the first two months of the fiscal year totaled \$14,421,000, compared to a budget of \$14,672,000, resulting in a favorable variance of \$251,000 (1.7%). This is primarily due to a favorable variance of repairs/maintenance costs within Operations and a favorable variance for other outside services within Administration.

Materials and Supplies. Total year-to-date materials and supplies expenses were \$1,545,000, compared to a budgetary figure of \$1,726,000, resulting in a favorable expense variance of \$181,000 (10.5%). This favorable variance is primarily due to revenue parts costs within Operations.

Energy. Total year-to-date energy costs were \$5,513,000, compared to the budget of \$4,953,000 resulting in an unfavorable variance of \$559,000 (-11.3%). The unfavorable variance is due to increased electricity rates that were higher than expected.

Risk Management. Total year-to-date expenses for risk management were \$711,000, compared to the budget of \$740,000, resulting in a favorable variance totaling \$29,000 (3.9%).

General and Administrative. The year-to-date general and administrative costs, including vehicle and facilities leases, were \$616,000 through August 2014, compared to a budget of \$655,000, resulting in a favorable variance of \$39,000 (6.0%).

YEAR-TO-DATE SUMMARY

The August 2014 year-to-date net-operating income totaled a favorable variance of \$139,000 (0.6%). These factors include favorable variances in operating revenue, personnel, outside services, materials, risk management and general and administrative costs; partially offset by unfavorable variances in energy costs.

 Sharon Cooney for

Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Comparison to Budget

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
MTS
CONSOLIDATED
COMPARISON TO BUDGET - FISCAL YEAR 2015
AUGUST 31, 2014
(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	VAR. %
Passenger Revenue	\$ 17,255	\$ 17,284	\$ (29)	-0.2%
Other Revenue	1,997	1,910	87	4.5%
Total Operating Revenue	\$ 19,252	\$ 19,194	\$ 57	0.3%
Personnel costs	\$ 20,426	\$ 20,567	\$ 141	0.7%
Outside services	14,421	14,672	251	1.7%
Transit operations funding	-	-	-	-
Materials and supplies	1,545	1,726	181	10.5%
Energy	5,513	4,953	(559)	-11.3%
Risk management	711	740	29	3.9%
General & administrative	404	435	31	7.2%
Vehicle/facility leases	212	220	8	3.6%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	-	-	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 43,232	\$ 43,314	\$ 82	0.2%
Operating income (loss)	\$ (23,981)	\$ (24,120)	\$ 139	0.6%
Total public support and nonoperating revenues	(280)	(280)	(0)	0.0%
Income (loss) before capital contributions	\$ (24,260)	\$ (24,400)	\$ 139	-0.6%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
OPERATIONS
CONSOLIDATED OPERATIONS
COMPARISON TO BUDGET - FISCAL YEAR 2015
AUGUST 31, 2014
(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	VAR. %
Passenger Revenue	\$ 17,255	\$ 17,284	\$ (29)	-0.2%
Other Revenue	72	118	(46)	-39.2%
Total Operating Revenue	\$ 17,327	\$ 17,402	\$ (76)	-0.4%
Personnel costs	\$ 17,310	\$ 17,312	\$ 1	0.0%
Outside services	12,130	12,237	107	0.9%
Transit operations funding	-	-	-	-
Materials and supplies	1,532	1,721	189	11.0%
Energy	5,381	4,816	(566)	-11.7%
Risk management	586	675	89	13.2%
General & administrative	(5)	55	61	109.7%
Vehicle/facility leases	168	172	4	2.2%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	4,860	4,860	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 41,963	\$ 41,848	\$ (115)	-0.3%
Operating income (loss)	\$ (24,636)	\$ (24,445)	\$ (191)	-0.8%
Total public support and nonoperating revenues	471	471	-	0.0%
Income (loss) before capital contributions	\$ (24,165)	\$ (23,975)	\$ (191)	0.8%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
OPERATIONS
TRANSIT SERVICES (SAN DIEGO TRANSIT CORPORATION)
COMPARISON TO BUDGET - FISCAL YEAR 2015
AUGUST 31, 2014
(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	VAR. %
Passenger Revenue	\$ 4,527	\$ 4,702	\$ (175)	-3.7%
Other Revenue	0	1	(0)	-46.0%
Total Operating Revenue	\$ 4,527	\$ 4,703	\$ (175)	-3.7%
Personnel costs	\$ 11,768	\$ 11,506	\$ (263)	-2.3%
Outside services	273	301	28	9.3%
Transit operations funding	-	-	-	-
Materials and supplies	772	832	59	7.1%
Energy	1,144	1,207	64	5.3%
Risk management	274	321	48	14.9%
General & administrative	(26)	30	56	183.9%
Vehicle/facility leases	57	61	4	6.9%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	1,842	1,842	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 16,105	\$ 16,101	\$ (4)	0.0%
Operating income (loss)	\$ (11,577)	\$ (11,398)	\$ (179)	-1.6%
Total public support and nonoperating revenues	(192)	(192)	-	0.0%
Income (loss) before capital contributions	\$ (11,769)	\$ (11,589)	\$ (179)	1.5%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
OPERATIONS
RAIL OPERATIONS (SAN DIEGO TROLLEY, INCORPORATED)
COMPARISON TO BUDGET - FISCAL YEAR 2015
AUGUST 31, 2014
(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	VAR. %
Passenger Revenue	\$ 7,605	\$ 7,325	\$ 280	3.8%
Other Revenue	71	117	(46)	-39.2%
Total Operating Revenue	\$ 7,676	\$ 7,442	\$ 234	3.1%
Personnel costs	\$ 5,241	\$ 5,507	\$ 265	4.8%
Outside services	532	672	140	20.8%
Transit operations funding	-	-	-	-
Materials and supplies	755	876	121	13.8%
Energy	2,473	2,001	(472)	-23.6%
Risk management	310	351	41	11.8%
General & administrative	19	23	3	15.1%
Vehicle/facility leases	62	61	(1)	-1.6%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	2,688	2,688	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 12,082	\$ 12,179	\$ 98	0.8%
Operating income (loss)	\$ (4,406)	\$ (4,738)	\$ 332	7.0%
Total public support and nonoperating revenues	-	-	-	-
Income (loss) before capital contributions	\$ (4,406)	\$ (4,738)	\$ 332	-7.0%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
OPERATIONS
MULTIMODAL OPERATIONS (FIXED ROUTE)
COMPARISON TO BUDGET - FISCAL YEAR 2015
AUGUST 31, 2014
(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	VAR. %
Passenger Revenue	\$ 4,330	\$ 4,413	\$ (83)	-1.9%
Other Revenue	-	-	-	-
Total Operating Revenue	\$ 4,330	\$ 4,413	\$ (83)	-1.9%
Personnel costs	\$ 76	\$ 57	\$ (19)	-33.0%
Outside services	7,866	7,937	71	0.9%
Transit operations funding	-	-	-	-
Materials and supplies	5	14	9	66.0%
Energy	1,222	1,137	(85)	-7.5%
Risk management	-	-	-	-
General & administrative	1	1	(0)	-2.4%
Vehicle/facility leases	3	3	1	18.6%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	241	241	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 9,413	\$ 9,390	\$ (23)	-0.2%
Operating income (loss)	\$ (5,083)	\$ (4,977)	\$ (106)	-2.1%
Total public support and nonoperating revenues	-	-	-	-
Income (loss) before capital contributions	\$ (5,083)	\$ (4,977)	\$ (106)	2.1%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
OPERATIONS
MULTIMODAL OPERATIONS (PARATRANSIT)
COMPARISON TO BUDGET - FISCAL YEAR 2015
AUGUST 31, 2014
(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	VAR. %
Passenger Revenue	\$ 403	\$ 364	\$ 39	10.7%
Other Revenue	-	-	-	-
Total Operating Revenue	\$ 403	\$ 364	\$ 39	10.7%
Personnel costs	\$ 6	\$ 22	\$ 15	70.2%
Outside services	2,322	2,160	(162)	-7.5%
Transit operations funding	-	-	-	-
Materials and supplies	-	-	-	-
Energy	454	388	(67)	-17.1%
Risk management	3	3	-	0.0%
General & administrative	-	1	1	-
Vehicle/facility leases	47	47	0	0.0%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	74	74	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 2,905	\$ 2,693	\$ (212)	-7.9%
Operating income (loss)	\$ (2,503)	\$ (2,329)	\$ (173)	-7.4%
Total public support and nonoperating revenues	-	-	-	-
Income (loss) before capital contributions	\$ (2,503)	\$ (2,329)	\$ (173)	7.4%

**SAN DIEGO METROPOLITAN TRANSIT SYSTEM
OPERATIONS
CONSOLIDATED CHULA VISTA TRANSIT OPERATIONS
COMPARISON TO BUDGET - FISCAL YEAR 2015
AUGUST 31, 2014
(in \$000's)**

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	VAR. %
Passenger Revenue	\$ 390	\$ 481	\$ (91)	-18.9%
Other Revenue	-	-	-	-
Total Operating Revenue	\$ 390	\$ 481	\$ (91)	-18.9%
Personnel costs	\$ 29	\$ 32	\$ 3	8.3%
Outside services	950	980	30	3.0%
Transit operations funding	-	-	-	-
Materials and supplies	-	-	-	-
Energy	88	82	(6)	-6.9%
Risk management	-	-	-	-
General & administrative	-	-	-	-
Vehicle/facility leases	-	-	-	-
Amortization of net pension asset	-	-	-	-
Administrative Allocation	15	15	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 1,082	\$ 1,109	\$ 27	2.4%
Operating income (loss)	\$ (692)	\$ (628)	\$ (64)	-10.2%
Total public support and nonoperating revenues	617	617	-	0.0%
Income (loss) before capital contributions	\$ (75)	\$ (11)	\$ (64)	611.4%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
OPERATIONS
CORONADO FERRY
COMPARISON TO BUDGET - FISCAL YEAR 2015
AUGUST 31, 2014
(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	VAR. %
Passenger Revenue	\$ -	\$ -	\$ -	-
Other Revenue	-	-	-	-
Total Operating Revenue	\$ -	\$ -	\$ -	-
Personnel costs	\$ -	\$ -	\$ -	-
Outside services	32	32	-	0.0%
Transit operations funding	-	-	-	-
Materials and supplies	-	-	-	-
Energy	-	-	-	-
Risk management	-	-	-	-
General & administrative	-	-	-	-
Vehicle/facility leases	-	-	-	-
Amortization of net pension asset	-	-	-	-
Administrative Allocation	-	-	-	-
Depreciation	-	-	-	-
Total Operating Expenses	\$ 32	\$ 32	\$ -	0.0%
Operating income (loss)	\$ (32)	\$ (32)	\$ -	0.0%
Total public support and nonoperating revenues	45	45	-	0.0%
Income (loss) before capital contributions	\$ 13	\$ 13	\$ -	0.0%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
ADMINISTRATION
CONSOLIDATED
COMPARISON TO BUDGET - FISCAL YEAR 2015
AUGUST 31, 2014
(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	VAR. %
Passenger Revenue	\$ -	\$ -	\$ -	-
Other Revenue	1,861	1,728	133	7.7%
Total Operating Revenue	\$ 1,861	\$ 1,728	\$ 133	7.7%
Personnel costs	\$ 2,991	\$ 3,131	\$ 140	4.5%
Outside services	2,298	2,417	120	4.9%
Transit operations funding	-	-	-	-
Materials and supplies	13	4	(9)	-229.6%
Energy	130	136	6	4.4%
Risk management	122	61	(61)	-98.9%
General & administrative	393	362	(31)	-8.5%
Vehicle/facility leases	44	48	4	8.7%
Amortization of net pension asset	-	-	-	-
Administrative Allocation	(4,879)	(4,879)	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 1,113	\$ 1,282	\$ 169	13.2%
Operating income (loss)	\$ 749	\$ 446	\$ 302	-67.7%
Total public support and nonoperating revenues	(751)	(751)	(0)	0.0%
Income (loss) before capital contributions	\$ (2)	\$ (304)	\$ 302	-99.4%

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
OTHER ACTIVITIES
CONSOLIDATED
COMPARISON TO BUDGET - FISCAL YEAR 2015
AUGUST 31, 2014
(in \$000's)

	YEAR TO DATE			
	ACTUAL	BUDGET	VARIANCE	VAR. %
Passenger Revenue	\$ -	\$ -	\$ -	-
Other Revenue	63	63	0	0.2%
Total Operating Revenue	\$ 63	\$ 63	\$ 0	0.2%
Personnel costs	\$ 125	\$ 124	\$ (1)	-0.6%
Outside services	(6)	18	24	135.4%
Transit operations funding	-	-	-	-
Materials and supplies	-	1	1	-
Energy	1	2	1	40.5%
Risk management	2	3	1	18.1%
General & administrative	17	18	1	7.0%
Vehicle/facility leases	-	-	-	-
Amortization of net pension asset	-	-	-	-
Administrative Allocation	19	19	-	0.0%
Depreciation	-	-	-	-
Total Operating Expenses	\$ 157	\$ 184	\$ 27	14.8%
Operating income (loss)	\$ (93)	\$ (121)	\$ 27	22.7%
Total public support and nonoperating revenues	-	-	-	-
Income (loss) before capital contributions	\$ (93)	\$ (121)	\$ 27	-22.7%

Metropolitan Transit System FY 2015 - August 2014 Financial Review

MTS Board of Directors Meeting
October 30, 2014



1



COMBINED MTS TRANSIT OPERATORS COMPARISON TO BUDGET - AUGUST 31, 2014 - FY 2015 (in \$000's)

	ACTUAL	BUDGET	VARIANCE	VAR %
Fare Revenue	\$ 17,255	\$ 17,284	(\$29)	-0.2%
Other Revenue	72	118	(46)	-39.2%
Total Operating Revenue	\$17,327	\$17,402	(\$76)	-0.4%

Fare Revenue increase over the prior year of \$478K



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COMBINED MTS TRANSIT OPERATORS
COMPARISON TO BUDGET - AUGUST 31, 2014 - FY 2015
(in \$000's)

	ACTUAL	BUDGET	VARIANCE	VAR %
Personnel Costs	\$ 17,310	\$ 17,312	\$1	0.0%
Purchased Transportation	10,907	10,795	(112)	-1.0%
Other Outside Services	1,223	1,441	218	15.2%
Energy	5,381	4,816	(566)	-11.7%
Other Expenses	7,141	7,484	342	4.6%
Total Expenses	\$41,963	\$41,848	(\$115)	-0.3%
Operating Income/(Loss)	(\$24,636)	(\$24,445)	(\$191)	-0.8%

Purchased Transportation

- Higher than expected Paratransit services

Energy

- Higher than expected SDG&E electricity delivery rates

Other Expenses:

- Favorable variances within Materials, Risk, and General & Administrative



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METROPOLITAN TRANSIT SYSTEM
COMPARISON TO BUDGET - AUGUST 31, 2014 - FY 2015
TOTAL OPERATING REVENUE LESS EXPENSES (\$000's)

Combined Net Operating Variance

MTS Operating Revenue	\$ (76)	
MTS Operating Expenses	(115)	
Combined MTS Operators		\$ (191)
MTS Administration / Other Activities		330
Total Combined Net Operating Variance	\$	139
Variance Percentage		0.6%



4



METROPOLITAN TRANSIT SYSTEM
COMPARISON TO BUDGET - AUGUST 31, 2014 - FY 2015
ON-GOING CONCERNS

	FY15		
	Budget	YTD Actual	Projection
Sales Tax Subsidy Revenue	\$270.0 M	\$67.1 M	\$271.7 M
Energy Prices			
CNG	\$ 0.93	\$ 0.93	\$ 0.89
Diesel	\$ 3.18	\$ 3.28	\$ 3.11
Gas	\$ 3.15	\$ 3.22	\$ 3.01
Electricity	\$ 0.182	\$ 0.206	\$ 0.196
Passenger Levels	98.0 M	16.3 M	98.1 M
State of California Budget	\$18.0M	\$0M	\$18.0M





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Agenda Item No. 62

Chief Executive Officer's Report

ADM 121.7

October 30, 2014

In accordance with Board Policy No. 52, Procurement of Goods and Services, attached are listings of contracts, purchase orders, and work orders that have been approved within the CEO's authority (up to and including \$100,000) for the period September 12, 2014 through October 23, 2014.



EXPENSE CONTRACTS

Doc #	Organization	Subject	Amount	Day
B0617.0-15	EF ENTERPRISES	IN-PLANT INSPECTIONS	\$12,250.00	9/22/2014
G1732.0-15	THE PELOTON ALLIANCE	ERP/TAM CONSULTING SERVICES	\$80,000.00	9/22/2014
G1415.3-12	NMS MANAGEMENT	OPTION YEARS 1 AND 2	\$25,763.04	9/23/2014
L0955.4-10	UTC FIRE & SECURITY	PERFORMANCE BOND	\$36,000.00	9/25/2014
G1690.1-14	FINEST CITY OIL	COMPASS CARD OUTLET	\$3,000.00	10/10/2014
G1691.1-14	SUPER MERCADO MURPHY'S	COMPASS CARD OUTLET	\$3,000.00	10/10/2014
G1692.1-14	SLEEWA	COMPASS CARD OUTLET	\$3,000.00	10/10/2014
B0609.1-14	HECTOR LOPEZ	OPTION YEAR 1	\$1,800.00	10/13/2014
G1399.1-12	PRIZM JANITORIAL SERVICES, INC	EXERCISE 2 OPTION YEARS	\$18,180.40	10/13/2014
G1752.0-15	UCSD	ECO PASS - 3 MONTH PILOT	\$54,240.00	10/17/2014
G1709.1-14	GOODWILL	COMPASS CARD - TIME EXTENSION	\$3,000.00	10/21/2014
PWL150.5-14	GLOBAL POWER GROUP, INC.	EXPAND SCOPE AND TIME	\$18,729.43	10/23/2014

REVENUE CONTRACTS

Doc #	Organization	Subject	Amount	Day
G1390.1-11	SANDAG	TIME EXTENTION	\$0.00	9/12/2014
G1598.1-13	ALBERTSONS	COMPASS CARD FARE MEDIA	\$0.00	9/22/2014
G1726.0-14	CALIFORNIA DOT	DETOUR ROUTE 712	(\$20,000.00)	9/22/2014
G1637.1-14	SAN DIEGO OFFICE OF EDUCATION	COMPASS CARD - TIME EXTENSION	\$0.00	9/23/2014
L5769.0-14	LB CIVIL CONSTRUCTION	JROE BRIDGE RAIL REPLACEMENT	(\$1,900.00)	9/23/2014
L6671.2-12	FLATIRON WEST, INC.	JROE TIME EXTENSION	\$0.00	9/23/2014
L6702.0-15	DAVID EVANS	JROE SANTA FE DEPOT	\$0.00	9/23/2014
G1747.0-15	SDUSD	COMPASS CARD	\$0.00	9/25/2014
L1219.0-15	ARCADIS US, INC.	DURABLE ROE - PIPELIN CITY OF SD	(\$1,500.00)	9/25/2014
L1225.0-15	THE FISHEL CO.	DURABLE ROE - GEN MAINTENANCE AND INSPEC	(\$1,500.00)	9/25/2014
L6703.0-15	SDG&E	JOINT ROE - SORRENTO VALLEY GAS VENT	(\$750.00)	9/25/2014
S200-15-601	SDG&E	ROE - SOUTH LINE FREIGHT IMPROVEMENT	\$0.00	9/25/2014
S200-15-604	SDG&E	ROE - SAN YSIDRO IMPROVEMENT	\$0.00	9/25/2014

REVENUE CONTRACTS				
Doc #	Organization	Subject	Amount	Day
G1743.0-15	ARROYO PASEO CHARTER SCHOOL	COMPASS CARD	\$0.00	10/8/2014
G1744.0-15	SAN DIEGO VIRTUAL SCHOOL	COMPASS CARD	\$0.00	10/9/2014
L1227.0-15	DESIGN SPACE MODULAR BUILDINGS	ROE - DELIVERY OF PORTABLE TRAILER	\$0.00	10/9/2014
L1228.0-15	BROOK FURNITURE RENTAL	ROE - FURITURE FOR PORTABLE TRAILER	\$0.00	10/9/2014
L5771.0-15	OUR LADY OF THE ROSARY	ROE - PROCESSION TO CROSS TRACKS	\$0.00	10/9/2014
S200-15-602	THE FISHEL COMPANY	ROE - SPRINT CORP COMM FIBER	\$0.00	10/9/2014
S200-15-603	THE FISHEL COMPANY	ROE - SAN YSIDRO YARD IMPROVEMENT	\$0.00	10/9/2014
S200-15-605	COPP CONTRACTING INC.	ROE - CITY OF CHULA VISTA STREET PAVING	(\$2,500.00)	10/9/2014
G1745.0-15	SOUTH BAY UNION SCHOOL DISTRIC	COMPASS CARD	\$0.00	10/10/2014
S200-15-606	ANZA-BORREGO DESERT NAT HIST	ROE - HIKE ON DESERT LINE	\$0.00	10/10/2014
G1654.2-14	DAILY DISPOSAL	INCREASE SERVICE FREQUENCY	\$0.00	10/13/2014
G1754.0-15	COUNTY OF SAN DIEGO	YOUTH TRANSIT PASS GRANT	(\$9,000.00)	10/13/2014
G1654.1-14	DAILY DISPOSAL SERVICES	REMOVE SANDAG FROM CONTRACT	\$0.00	10/14/2014
G1751.0-15	CITY OF SAN DIEGO	SITE DEVELOPMENT PERMIT	\$0.00	10/14/2014
B0612.0-14	GREEN BLDG CERT INSTITUTE	LEED SILVER CERT, SOUTH BAY	\$0.00	10/16/2014
L5772.0-15	MCCARTHY BLDG COMPANY	ROE	(\$3,500.00)	10/16/2014
S20009383.1	CBS OUTDOOR	EXTEND LEASE BY 5 YEARS	(\$28,200.00)	10/16/2014
S20009413.1	CBS OUTDOOR	EXTEND LEASE BY 5 YEARS	(\$13,200.00)	10/16/2014
S20009414.1	CBS OUTDOOR	EXTEND LEASE BY 5 YEARS	(\$21,700.00)	10/16/2014
S20009415.1	CBS OUTDOOR	EXTEND LEASE BY 5 YEARS	(\$16,100.00)	10/16/2014
S20009416.1	CBS OUTDOOR	EXTEND LEASE BY 5 YEARS	(\$80,700.00)	10/16/2014
G1752.0-15	UCSD	ECO PASS - 3 MONTH PILOT	\$54,240.00	10/17/2014
G1755.0-15	UCSD	STUDENT U-PASS	(\$3,000,000.00)	10/23/2014
L1212.0-14	DUWIGHT CONSTRUCTION	ROE - DOWNTOWN PUBLIC RESTROOM PROJECT	(\$2,500.00)	10/23/2014

PURCHASE ORDERS		
DATE	Organization	Subject
9/15/2014	KRONOS	SOFTWARE AND EQUIPMENT SUPPORT
9/16/2014	SYSTEMTOOLS SOFTWARE	2 YR MAINTENANCE
9/17/2014	CDWG	MS SURFACE PRO
		\$12,858.27
		\$500.00
		\$2,547.48

PURCHASE ORDERS			
DATE	Organization	Subject	AMOUNT
9/17/2014	CDWG	HP PRINTER	\$2,769.17
9/17/2014	ENVIRONMENTAL SYSTEMS RESEARCH	ARCGIS SOFTWARE AND HARDWARE	\$16,686.03
9/18/2014	MONSTER	ONLINE JOB POSTING	\$395.00
9/18/2014	MADDEN CONSTRUCTION	TRANCHING FOR BLDG A UNIT 1	\$779.69
9/18/2014	ESS	CAMERA RELOCATION BLUE LINE	\$6,400.00
9/18/2014	MADDEN CONSTRUCTION	CEMENT SLAB AT GROSSMONT STATION	\$29,633.63
9/19/2014	KELLY PAPER	250 CASES OF PAPER	\$9,720.00
9/19/2014	AT&T	METYRO SWITCH	\$9,571.36
9/22/2014	SOUTH BAY FENCE	BLDG B FENCING	\$10,995.00
9/23/2014	MILE-X	WISE AND BENCH GRINDER	\$8,462.88
9/24/2014	AT&T	PHONE SUPPORT AND SOFTWARE	\$2,692.66
9/25/2014	ALLIANT	WORKERS COMP AUDIT PREMIUM	\$8,528.00
9/25/2014	ALLIANT	PERFORMANCE AND PAYMENT BOND	\$13,545.00
9/26/2014	LUMENOR	IT ASSESSMENT	\$21,000.00
9/29/2014	RIDOUT PLASTICS	BROCHURE HOLDER	\$890.73
9/29/2014	COUNTY OF SAN DIEGO	RCS T1 LINES	\$46,800.00
9/29/2014	MADDEN CONSTRUCTION	ELECTRICAL AND CARPET FOR RADIO ROO	\$12,779.45
9/30/2014	DELL COMPUTER CORP	DELL LATITUDE	\$3,694.01
10/7/2014	CDWG	EQUIPMENT	\$7,805.48
10/7/2014	CDWG	EQUIPMENT	\$7,705.40
10/7/2014	NTH GENERATION	ARCSIGHT SERVER AND IMPEMENTATION	\$37,040.93
10/7/2014	CDWG	SAMSUNG 55" LED	\$2,336.87
10/7/2014	CDWG	QUANTUM LTO5 DATA	\$2,445.67
10/7/2014	AIRGAS	TIG WELDER	\$13,208.35
10/7/2014	T&M ELECTRIC	ELECTRICAL AND LANDSCAPE 12TH	\$13,250.00
10/8/2014	LLOYDS COLLISION CENTER	AUTO REPAIR SUV P-141	\$6,482.75
10/8/2014	GRAINGER	STORAGE CABNETS	\$2,130.23
10/9/2014	VULCAN - CALMAT	BASE SAND AND GRAVEL	\$410.62
10/9/2014	GRAINGER	GRINDER TOOL & WORKBENCH	\$1,548.72
10/10/2014	TWINING CONSULTING	COMPACTION TESTING	\$958.00

PURCHASE ORDERS

DATE	Organization	Subject	AMOUNT
10/10/2014	GRANGER	PALLET JACK	\$1,865.60
10/10/2014	CITY ELECTRIC	SECURITY TRAINING ROOM	\$995.00
10/13/2014	ZAMPA MANAGEMENT	TONER FOR 1 YEAR	\$12,263.99
10/16/2014	SID TOOL COMPANY	MOBILE COMPUTER CABINET	\$4,120.43
10/16/2014	HOTEL RESTAURANT SUPPLY	COFFEE BREW POT	\$3,191.60
10/20/2014	DELL	DELL LATITUDE LAPTOP	\$1,736.08
10/21/2014	TELERIK	3 YRS SUPPORT	\$1,517.60
10/22/2014	ESS	CCTV RELOCATION BLUE LINE	\$5,760.00
10/23/2014	AMERICA'S FINEST CARPET	CARPET TAXI ADMIN 2ND FLOOR	\$4,925.80

WORK ORDERS

Doc #	Organization	Subject	Amount	Day
G0930.17-04.17.1	SANDAG	DOCUMENT REVIEW AND COMMENT	\$35,000.00	9/25/2014
G1494.0-13.02	PACIFIC RAILWAY ENTERPRISES	REPLACEMENT OF BROADWAY WYE DIAMOND	\$60,500.00	10/7/2014
PWL134.0-12.28.1	HERZOG	MERLIN DRIVE REPLACEMENT	\$1,537.25	10/7/2014
G1493.0-13.07	KIMLEY-HORN	MONUMENT SIGN FOUNDATION DESIGN	\$3,982.79	10/8/2014
G1493.0-13.08	KIMLEY-HORN	SAIL AND GROUND WATER ANALYSIS	\$26,500.00	10/8/2014
G1493.0-13.09	KIMLEY-HORN	FIELD SURVEY	\$2,100.00	10/8/2014
G1494.0-13.01.2	PACIFIC RAILWAY ENTERPRISES	MVE PRINT VERIFICATION	\$39,960.00	10/8/2014
PWL134.0-12.30.1	HERZOG CONSTRUCTION	ADDITIONAL RAIL INSTALLATION	\$3,382.80	10/23/2014



AGENDA ITEM NO.

64

REQUEST TO SPEAK FORM

ORDER REQUEST RECEIVED

1

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

1. INSTRUCTIONS

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

(PLEASE PRINT)

DATE	10-30-14	Thank You,	
Name	Valerie Lightower	Can the Route #4 be ran	
Address	4759 Imperial #9	more often	
Telephone	619-264-0677	Imperial & 36 th needs benches	
Organization Represented		Senior & Disable passes by	
Subject of Your Remarks		good for the 10 th of the month	
Regarding Agenda Item No.		to the 10 th of the next month	
		to reduce stress on the drivers	
Your Comments Present a Position of:		<input type="checkbox"/> SUPPORT	<input type="checkbox"/> OPPOSITION

2. TESTIMONY AT NOTICED PUBLIC HEARINGS

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

3. DISCUSSION OF AGENDA ITEMS

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

4. GENERAL PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA

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

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