

# AGENDA

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

April 12, 2016

9:00 a.m.

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



**SAN DIEGO & ARIZONA  
EASTERN RAILWAY  
COMPANY**

A NEVADA NONPROFIT  
CORPORATION

1255 IMPERIAL AVENUE,  
SUITE 1000  
SAN DIEGO, CA  
92101-7490  
(619) 231-1466

BOARD OF DIRECTORS  
PAUL JABLONSKI, CHAIRPERSON  
MATT DOMEN  
BLAKE JONES

OFFICERS  
PAUL JABLONSKI, PRESIDENT  
MATT DOMEN, SECRETARY  
ERIN DUNN, TREASURER

LEGAL COUNSEL  
KAREN LANDERS

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	<u>ACTION RECOMMENDED</u>
1. <u>Approval of the Minutes of January 19, 2016</u> Action would approve the SD&AE Railway Company Minutes of January 19, 2016.	Approve
2. <u>Statement of Railway Finances (Erin Dunn)</u> Action would receive a report for information.	Receive
3. <u>Report on San Diego and Imperial Valley (SD&amp;IV) Railroad Operations (Matt Domen)</u> Action would receive a report for information.	Receive
4. <u>Report on Pacific Southwest Railway Museum (Diana Hyatt)</u> Action would receive a report for information.	Receive
5. <u>Report on the Desert Line (Don Stoecklein/Alberto Alemany)</u> Action would receive a report for information.	Receive
6. <u>Real Property Matters (Tim Allison)</u>	
a. <u>Summary of SD&amp;AE Documents Issued January 19, 2016</u> Action would receive a report for information.	Receive
• <u>S200-15-627</u> : Right of Entry Permit to Emmerson Construction to construct the a residential building near Euclid Avenue in the City of San Diego.	
• <u>S200-16-633</u> : Right of Entry Permit to Caster Properties for construction of a storage facility near Elm Street, in the City of San Diego.	
b. <u>Use Agreement With the Unified Port of San Diego</u> Action would approve the use of a portion of the Coronado Branch south of H Street in the City of Chula Vista.	Approve
7. Board Member Communications	

8. Public Comments
9. Next Meeting Date: July 19, 2016
10. Adjournment

# San Diego and Arizona Eastern Railway Company

4/12/2016

## Sign-in Sheet (VOLUNTARY)

Name	Company
1. Diana Hyatt	PSRM
2. R. Mitchell Beachum	Ferrocarril Peninsular de Noroeste
3. Lorraine M. Leighton	DISABLED PUBLIC (MITS)
4. Matt Power	SDIV
5. Jared Good	SDIV
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# MINUTES

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

January 19, 2016

A meeting of the Board of Directors of the San Diego & Arizona Eastern (SD&AE) Railway Company, a Nevada corporation, was held at 1255 Imperial Avenue, Suite 1000, San Diego, California 92101, on January 19, 2016, at 9:00 a.m.

The following persons, constituting the Board of Directors, were present: Blake C. Jones, Matt Domen, and Wayne Terry. Also in attendance were members from:

San Diego Metropolitan Transit System:	Tim Allison, Karen Landers, Erin Dunn, Traci Wutke
Pacific Southwest Railway Museum:	Diana Hyatt, Michael Edwards
San Diego Imperial Valley Railroad:	Jared Gooch, Clint Ashmead, Jeff Owen
Trains Magazine:	Don Jones

1. Approval of Minutes

Mr. Domen moved to approve the Minutes of the October 13, 2015, SD&AE Railway Board of Directors meeting. Mr. Terry seconded the motion, and it was unanimously approved.

2. Statement of Railway Finances

Erin Dunn reviewed the financial statement for the fourth quarter of 2015 (attached to the agenda item).

Action Taken

The Board received the report.

3. Report on San Diego & Imperial Valley Railroad (SD&IV) Operations

Matt Domen reviewed the report of activities for the fourth quarter of 2016 (attached to the agenda item).

Action Taken

The Board received the report.

4. Report on Pacific Southwest Railway Museum Operations

Diana Hyatt reviewed the fourth quarter of 2016 report (attached to the agenda item).

Action Taken

The Board received the report.

5. Report on the Desert Line

Karen Landers provided a report for the Desert Line. In addition to PIR's written report, Ms. Landers informed the Board that MTS has received the amended Desert Line reconstruction report and MTS anticipates having comments submitted to PIR in the following weeks. Paul Jablonski and Ms. Landers are scheduled to visit the Mexican portion on the Desert Line and the facilities in late January with the U.S. Consul General for Tijuana.

Action Taken

The Board received the report.

6. Real Property Matters

## A. Summary of SD&amp;AE Documents Issued since October 13, 2015.

- S200-15-629: Right of Entry Permit to Aguirre and Associates, for performing various field surveys in the City of La Mesa.
- S200-16-631: Right of Entry Permit to Cal Poly State University for public surveys at the Lemon Grove Trolley Station.
- S200-16-632: Right of Entry Permit to Henkels & McCoy, Inc., for removing SDG&E transmission towers along the South Line between Sampson St. and Schley St.

Action Taken

The Board received the report.

7. Amendment to Articles of Incorporation (Karen Landers)

The Board desires to amend the Articles of Incorporation in order to conform to the requirements for an exemption from the federal taxation under Internal Revenue Code Section 501(c)(3).

Action Taken

Mr. Domen moved to approve amendment to the Articles of Incorporation. Mr. Terry seconded the motion, and it was unanimously approved.

8. Board Member Communications

None.

9. Public Comments

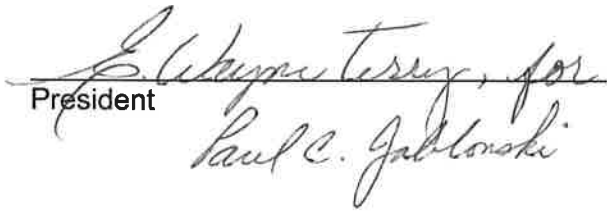
None.

10. Next Meeting Date

The next meeting of the SD&AE Railway Company Board of Directors is on July 19, 2016.

11. Adjournment

The meeting was adjourned at 9:15 AM.

  
\_\_\_\_\_  
President

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

Attachments: None

# Agenda

Item No. 2

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

April 12, 2016

SUBJECT: STATEMENT OF RAILWAY FINANCES

## RECOMMENDATION:

That the SD&AE Railway Company Board of Directors receive a financial report for the period ending February 29, 2016.

### Budget Impact

None.

## DISCUSSION:

Attached are SD&AE's financial results for the period ending February 29, 2016, as well as the financial results for the fiscal year-to-date actuals as of February 29, 2016.

The current fiscal year-to-date revenues are \$646,000 favorable to budget primarily due to the Desert Line Lease revenue not included in the budget. This revenue is partially reduced by Right of Entry Permits under budget by \$13,000.

Expenses are \$49,000 favorable to budget primarily due to favorable variances in Personnel Costs and Outside Services.

The Net Income for the period ending February 26, 2016 was \$677,000.

Attachments: SD&AE Operating Statement for the Period Ending February 29, 2016

**SD&AE Operating Statement FY2016-15**

	FY 2016						FY 2015	
	Q1 Actual	Q2 Actual	Q3 Actual (Jan. - Feb.)	YTD - Actual (Jul - Feb.)	YTD Budget (Jul - Feb.)	Variance	Q3 Actual (Jul - Feb.)	Variance
<b>Revenues</b>								
Right of Entry Permits	\$ 750	\$ 4,150	\$ 1,750	\$ 6,650	\$ 20,000	\$ (13,350)	\$ 11,906	\$ (5,256)
Lease Income	16,529	19,904	6,130	42,563	46,664	(4,101)	45,478	(2,915)
Desert Line Lease Revenue	250,000	250,000	166,667	666,667	-	666,667	666,667	(0)
Operator Income - SD&IV 1% Freight Fee	8,500	8,500	3,403	20,403	23,336	(2,933)	11,725	8,678
Other Income - Easement	-	-	-	-	-	-	25,500	(25,500)
<b>Total Revenue</b>	<b>275,779</b>	<b>282,554</b>	<b>177,950</b>	<b>736,283</b>	<b>90,000</b>	<b>646,283</b>	<b>761,276</b>	<b>(24,993)</b>
<b>Expenses</b>								
Personnel Costs	16,642	9,975	1,429	28,046	63,989	35,943	78,993	50,947
Outside Services	422	17,010	3,642	21,074	33,333	12,259	34,984	13,910
Risk Management	3,347	3,762	2,646	9,755	10,672	917	10,109	354
Misc. Operating Expenses	250	156	287	693	336	(357)	284	(409)
<b>Total Expense</b>	<b>20,661</b>	<b>30,903</b>	<b>8,004</b>	<b>59,568</b>	<b>108,330</b>	<b>48,762</b>	<b>124,370</b>	<b>64,802</b>
<b>Net Income/(Loss)</b>	<b>\$ 255,118</b>	<b>\$ 251,651</b>	<b>\$ 169,945</b>	<b>\$ 676,714</b>	<b>\$ (18,330)</b>	<b>\$ 695,044</b>	<b>\$ 636,906</b>	<b>\$ 39,808</b>

Reserve Balance 2015                      \$ 1,553,150

Allocated Interest Earnings - Estimated                      3,333  
 Operating Profit/(Loss) - YTD                      676,714

Reserve Balance 2016 as of Feb. 29, 2016                      \$ 2,233,198



## Agenda Item No. 3

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

April 12, 2016

**SUBJECT:**

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

**RECOMMENDATION:**

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

Budget Impact

None.

**DISCUSSION:**

An oral report will be given during the meeting.

Attachment: Periodic Report for the 1st Quarter of 2016



*a Genesee & Wyoming Company*

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

April 1, 2016

## Periodic Report

In accordance with Section 20 of the Agreement for Operational Freight Service and Control through Management of the San Diego and Arizona Eastern Railway Company activities of interest for the 1st Quarter of 2016 are listed as follows:

### **1. Labor**

At the end of March 31, 2016 the San Diego & Imperial Railroad had 9 employees:

- 1 General Manager
- 1 Trainmaster
- 1 Manager - Marketing & Sales
- 1 Office Manager
- 1 Mechanical Manager
- 1 Maintenance of Way Employee
- 3 Train Service Employees

## 2. Marketing

Volume in the 1st Quarter increased 64% as compared to 2015. Bridge traffic into Mexico had a 94% increase, primarily driven by increases in LPG. Traffic terminating or originating on the SDIY was essentially flat.

## 3. Reportable Injuries/Environmental

Days through year to date, March 31, 2016, there were no FRA Reportable injuries or Environmental incidents on the SDIV Railroad.

Days FRA Reportable Injury Free: 6936

## 4. Summary of Freight

	2016	2015	2014
Total rail carloads that moved by SDIY Rail Service in the quarter.	1483	906	1185
Total railroad carloads Terminating/Ori­ginating Mexico in the quarter.	1202	621	1033
Total railroad carloads Terminating/Ori­ginating El Cajon, San Diego, National City, San Ysidro, California in the quarter.	281	285	152
Total customers directly served by SDIY in the quarter	11	12	10
Regional Truck trips that SDIY Railroad Service replaced in the quarter	4449	2718	3555

Respectfully,

Matt Domen

General Manager

## Agenda Item No. 4

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

April 12, 2016

**SUBJECT:**

REPORT ON PACIFIC SOUTHWEST RAILWAY MUSEUM

**RECOMMENDATION:**

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

Budget Impact

None.

**DISCUSSION:**

A report will be presented during the meeting.

Attachment: Quarterly Report



# Pacific Southwest Railway Museum

La Mesa Depot 4695 Nebo Drive La Mesa, CA 91941 619-465-7776

April 5, 2016

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

Re: First Quarter 2016

Dear SD&AE Board:

During the first quarter of 2016, utilizing all volunteer crews, the Pacific Southwest Railway Museum ran 49 passenger trains carrying 2,380 passengers with no FRA reportable accidents or injuries. Total income from SD&AE property for first quarter, 2016 was \$40,316.40. Our check for \$806.33 will follow under separate cover.

Passenger ridership by comparison to the same quarter in previous years:

2,333 passengers during the first quarter of 2015; \$36,462  
2,223 passengers during the first quarter of 2014; \$36,566  
3,081 passengers during the first quarter of 2013; \$20,932  
3,001 passengers during the first quarter of 2012; \$27,281  
924 passengers during the first quarter of 2011; \$19,192

Passenger ridership has remained fairly steady during this quarter with a peak in the first quarter of 2012 and 2013 primarily due to an affiliation with Groupon. Our Bunny Trains were the only special event trains during this quarter. Since the Bunny Train event began in 2008, ridership has nearly tripled.

Other events during this quarter included the Three Kings Train event in Tecate, B.C., Mexico on Sunday, January 10, 2016. Unfortunately, the daylighting of tunnel 3 and the restoration of the roadbed at Lindero was not complete in time for the museum to provide the train aspect for this charitable event. It has been seven years since a museum train or any train has operated from Campo, CA to Tecate, Mexico. Fortunately, significant progress is being made and we are optimistic that the Three Kings Train aka The Christmas Train will arrive in Tecate on Sunday, January 8, 2017 aboard a PSRM train originating in Campo and replete with volunteers, the Three Kings and Santa.

PSRM continues to maintain both signalized railroad crossings within our right of way limits performing the monthly and quarterly inspections. PSRM also maintains a twenty four hour contact number, posted at both crossings, in the event of crossing malfunctions or other emergencies. As required, PSRM performs twice-weekly track inspections between MP 59.9 and 66 and our track crew continues their on-going maintenance tasks, particularly tie replacement on the mainline. During this quarter PSRM ordered and received a truckload of new ties and will be diligently working on replacing ties this year in order to lift the remaining two slow orders between Campo and Division. Plans to treat the right of way with herbicides and pre-emergent have been in the works but due to high winds and threatening storms, this event has been rescheduled several times.

On Thursday, February 25, 2016 Mr. Alemany arranged the rental of a PSRM motorcar and operator to preview the railroad with Baja Railroad and RailPros personnel. The motorcar was trailered from Campo to Ocotillo where it was placed on the rails. The party traveled westbound to Dubbers and returned to Ocotillo. The motorcar was trailered to Jacumba, placed on the rails and the party traveled to Division and tunnel 4 returning to Campo for a return car ride to Jacumba. It was a very long but very productive day. PIR will have more to report.

Over the years PSRM leadership has ventured to Jacumba to check on the condition of the rolling stock and structures there including the Jacumba Depot, motorcar sheds and shop structure. Since the motorcar trip through the Gorge, several museum members and I have taken a renewed interest in securing the buildings and rolling stock. The locomotives in particular, continue to suffer severe vandalism especially removal of parts for sale as scrap. The caboose has most if not all of its windows broken and a paint bomb was recently set off inside of it. The Depot has had doors kicked in, locks compromised and windows broken. Further, the electricity remains on inside the depot presenting the potential for an unchecked fire. As of a week ago, one of our volunteers arrived in Jacumba with the intent of performing a security check to find lewd acts being performed including a film crew inside the depot and other areas on the property. The depot area is well known by locals for its regular raves; we have been working with local law enforcement but no one has been apprehended. I broached these issues at our most recent board meeting and PSRM is in agreement, we would like to request tenant rights to the Jacumba Depot and enter into a formal lease agreement with MTS and SD&AE for the purpose of securing and restoring the depot and providing a security presence to the surrounding railroad property. I look forward to pursuing this further with MTS personnel.

As always, PSRM welcomes and encourages all participants of this board to visit our living history museum in historic Campo any weekend. Please contact me in advance and I will make arrangements for a personal tour. Thank you.

Sincerely,



Diana Hyatt  
President

## Agenda Item No. 5

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

April 12, 2016

**SUBJECT:**

REPORT ON THE DESERT LINE

**RECOMMENDATION:**

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

Budget Impact

None.

**DISCUSSION:**

An oral report will be given during the meeting.

Attachment: Periodic Report for the 1st Quarter of 2016



# PERIODIC REPORT

April 1, 2016

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

**Pacific Imperial Railroad, Inc.**



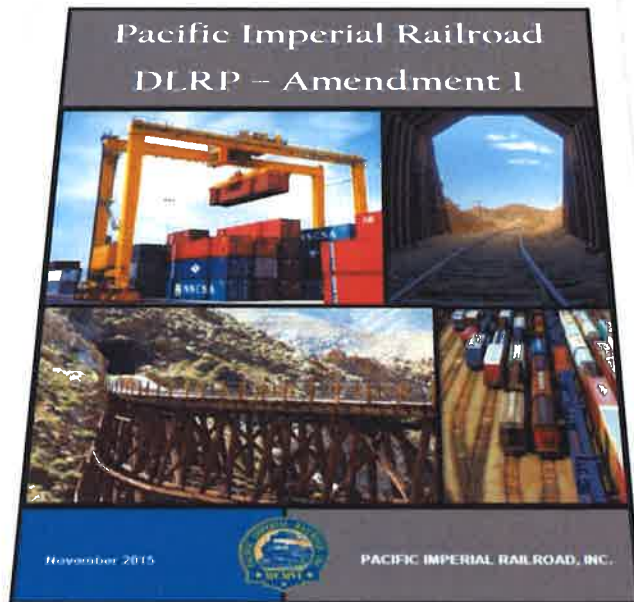
# **First Quarter 2015**

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- II. RL BANKS**
- III. MOU WITH INTERZONE, INC.**
- IV. WILSON & CO**
- V. PROGRESS WITH MEXICO**
- VI. REPORTABLE INJURIES / ACCIDENTS /  
ENVIRONMENTAL INCIDENTS**
- VII. FREIGHT ACTIVITY**
- VIII. MTS LEASE PAYMENT**

## I. DESERT LINE RECONSTRUCTION PLAN – AMENDMENT I

In accordance with the lease, PIR submitted the Desert Line Reconstruction Plan – Amendment 1 (DLRP – A/1) to MTS on December 1st, 2015. The purpose of this report was to provide an exposition of PIR’s new reconstruction strategy as it relates



to our revenue-generating business model as well as a description of the different phases, the financing plan and the role of our engineering consultant and contractor.

This DLRP/A-1 amends the DLRP Supplement dated June of 2014. A review of the DLRP-S/A-1 was commenced on December 7, 2015, and completed by MTS consultant, Dan Davis of RailPro on January 17, 2016, and after MTS internal review, was presented to PIR on or about February 19, 2016. On February 25, 2016, Dan Davis, PIR, and BJRR completed a Joint Party Field Inspection of

substantially the entire line from Coyote Wells at MP 119 to MP 59.60 at Division. The purpose of the Field Inspection was to provide BJRR with direct access to the Desert Line and direct dialogue with Dan Davis as to the requirements to bring the Desert Line in compliance with the Amended Lease. Moving forward, Dan Davis will be approving and overseeing all reconstruction efforts and, pursuant to Section 1.2.2., MTS recognizes that “PIR may not commence with pursuing a specific Performance Milestone unless and until the DLRP for that stage has been approved by SD&AE.”

## II. R.L. BANKS & ASSOCIATES

During October, 2015, MTS hired RL

R.L. Banks & Associates, Inc.

ECONOMICS | ENGINEERING | SERVICE PLANNING



Banks & Associates (“RLB”) to facilitate further negotiations between PIR and BJRR as a result of the MOU signing. “R.L. Banks & Associates, Inc. embodies deep and diverse expertise in railroad economics, engineering and service planning. RLBA brings over 50 years of experience integrating these disciplines in a unique way across intercity passenger rail, commuter rail and freight rail projects in North America. RLBA’s team of rail consultants combines its strong technical understanding of railroad operations,

economics and engineering to perform complex analyses and effectively communicate findings that strengthen the work of rail customers, railroads, government agencies, rail authorities, investors, attorneys, planners and economic developers.”

RLBA’s role was to act as a neutral third-party mediator to provide diverse railroad expertise to both parties specific to the formation of a definitive agreement. During their consultation, RLB and PIR conducted a visual inspection of the entire Desert Line via truck and rail. The final recommendation evaluates the strengths and weaknesses of several different alternative types of agreements including an interchange agreement, a sub-lease agreement and trackage rights agreement.

After the MTS recommendation was completed, PIR entered into a separate consulting agreement with RL Banks on November 6, 2015, in order to obtain further professional support with both the intermodal design and the reconstruction process. The contract with RLBA is to provide on-call professional consulting services to assist PIR in the reactivation of the Desert Line and to assist PIR and InterZone in the construction and operation of the intermodal facility. Under the agreement, RLB acts as an extension of PIR’s and

InterZone's staffs on an as-needed basis to assist in managing the desert line restoration efforts. Since signing the agreement, RLBA has performed a review of the Railworks contract discussed below as well as a review of the initial Coyote Well's site plans.

PIR has also approached RLBA for assistance with the pro forma economic analysis which is necessary to obtain high-level project financing. On December 29, 2015, RLBA submitted a five step proposal to perform this analysis of the prospective intermodal terminal at Coyote Wells, CA and associated railroad operations developed to a level which can be presented to prospective investors to demonstrate profitability and return on investment. The proposed work would include market research, intermodal and rail operations' costs and revenues and the corresponding infrastructure requirements as well as the final pro forma economic analysis.

However, in light of the ongoing good-faith negotiations between BJRR and PIR to reach an agreement to effectively and definitively unify the two railways, PIR decided not to engage RLBA for the work outlined in the December 29, 2015 proposal, but instead requested that RLBA assist PIR in addressing BJRR's

growing concerns pertaining to PIR's obligations under the Amended and Restated Desert Line Operating and Lease Agreement ("Desert Line Lease"), that ultimately result in payments of 15% of gross revenues to MTS. As such, on March 23, 2016, RLBA provided PIR with a seven-page investigative report of payment arrangements in cases where freight railroad operations traverse publicly owned rail rights of way. The investigation included the analysis of ten different railroads for which lease agreements were examined, including the SDIY arrangement in which SDIY pays an annual rate of 1% of freight revenues to MTS and an annual track maintenance reimbursement fee of \$3,100 per mile for the total mileage used over "joint-use track" with MTS trolley system. Among the conclusions of the investigation was that the base payment of \$1,000,000 annually is significantly higher than applicable available examples and the variable payment of 15% of gross freight revenue is higher than any of the examined agreements, especially when combines with the minimum \$1.0 million annual base payment. PIR and BJRR are confident that an agreeable arrangement can be negotiated with MTS that will allow

for the commercially feasible rehabilitation and operation of a future binational railway.

### III. MOU WITH INTERZONE, INC.

Inter-Zone, Inc. (“InterZone”) is a Nevada corporation incorporated on July 1st, 2015, for the purpose of constructing and operating the intermodal facility as an agent on behalf of PIR. On September 28, 2015, PIR and InterZone entered into a Memorandum of Understanding in pursuit of this mutually beneficial relationship.



### IV. WILSON & COMPANY

Although the Intermodal construction will have its own timing and phasing, PIR and InterZone believe it is important to concurrently develop the site plans for the Coyote Wells facility. As such, InterZone retained Wilson & Company (W&C) on November 9th to develop a conceptual site layout for the Coyote Wells intermodal facility. “For more than eight decades, clients have chosen Wilson & Company to help them



move from concept to completion, unused spaces to productive places, underutilized to efficient facilities, and rural to urban challenges to achievable solutions. Wilson & Company provides engineering, architecture, planning, environmental, survey & mapping, and construction management services. Their focus on their client's specific needs to deliver high-quality professional services with lasting Higher Relationships in mind; discipline, intensity, collaboration, shared ownership, and solutions.”

InterZone's management team was attracted to W&C specifically due to their involvement with the newly constructed Union Pacific Santa Teresa Terminal Fueling Facility, Block Swap Yard and Intermodal Ramp. W&C completed all survey; permitting; hydraulic & hydrologic design; utility design; roadway design; grading and track design; electrical design' mechanical design; architectural design; and construction management for the project. David Olsen, the Facility & Utility Design Program Manager for this project, was retained by InterZone for the Coyote Wells initial design work.

On November 13, 2015, InterZone received the initial conceptual design for the layout of the facility which includes the



facility entrance and checkpoint, the parking and maintenance facilities as well as the intermodal strip tracks, gantry crane configuration as well as the circulation roadway and blocking swap yard. The site design directly affects Phase 1 reconstruction because the blocking yard on the eastern side of the freeway extends 8,000 ft. towards Plaster City. As such, it was decided to remove that portion of track and bridge 123.89 from the Phase 1 scope of work because it will require specific planning and design characteristics in order to accommodate 6 blocking and storage tracks. This portion of track and bridge 123.89 will now be considered part of the first phase of the intermodal construction process. The proposed contract with Railworks reflects this decision.

## **V. PROGRESS WITH MEXICO**

In January of 2016, PIR provided to BJRR the J.L. Patterson Field Reports and Executive Summary, which included detailed inspections of the rail line, track structures, and the 57 bridges on the Desert Line. After BJRR engineers had reviewed the reports, dialogue commenced between the two railroads pertaining to the state and quality of various physical and structural features of the

Desert Line. On February 26, 2016, this dialogue resulted in a joint-party field inspection of the entirety of the Desert Line attended by PIR, BJRR, and Dan Davis, of RailPros, who had approved PIR's DLRP-A-1, and had also conducted field inspection reports for JL Patterson. The purpose of the inspection was to provide BJRR a better understanding of the physical characteristics of the Desert Line and the scope of the work that would be required for rehabilitation.

Another important discussion in the on-going dialogue, is regarding PIR's lease payment schedule in the Desert Line Lease, ultimately resulting in payments of 15% of gross revenue after five years of operations. In recent months, PIR has undergone extensive research to ascertain expense ratios common to North American short line railroads as part of the effort to develop and refine an accurate pro forma modeling a unified binational railroad. This work included comparing the operating ratios (operating expenses/operating revenue) of Class I carriers to short lines, retaining R.L. Banks and Associates, meetings with short line operators and consultants, and meetings with BJRR.

These efforts resulted in the February 2016, Memorandum Regarding the Desert Line: A Review of Physical Characteristics, Operating Expense Assumptions, & Rationale for Renegotiating Obligations to MTS, which has been provided to MTS. The major concern addressed in the memorandum regard the findings that a unified binational rail line operating efficiently will likely have an operating ratio between 75-85%. As such, the lease payments to MTS are problematic for PIR for several reasons, namely the threat of running a deficit if operating expenses for a given year exceed 85% of operating revenues. Therefore, it was agreed that renegotiation of the lease payments will be required for reaching a definitive agreement between BJRR and PIR with both parties endeavoring to negotiate a structure minimizing payments to MTS.

Additionally, on March 23, 2016, RLBA provided PIR with a seven-page investigative report of payment arrangements in cases where freight railroad operations traverse publicly owned rail rights of way. The investigation included the analysis of ten different railroads for which lease agreements were examined, including the SDIY arrangement in which SDIY pays an annual rate of 1% of freight revenues to MTS and an annual track maintenance

reimbursement fee of \$3,100 per mile for the total mileage used over “joint-use track” with MTS trolley system. Among the conclusions of the investigation was that the base payment of \$1,000,000 annually is significantly higher than applicable available examples and the variable payment of 15% of gross freight revenue is higher than any of the examined agreements, especially when combines with the minimum \$1.0 million annual base payment. PIR and BJRR are confident that an agreeable arrangement can be negotiated with MTS that will allow for the commercially feasible rehabilitation and operation of a future binational railway.

## **VI. REPORTABLE INJURIES / ACCIDENTS / ENVIRONMENTAL INCIDENTS**

- i. There have not been any reportable injuries.
- ii. On or around March 6, 2016, there was a minor collision involving PIR’s locomotives on the Desert Line near Plaster City and a center beam railcar used in United States Gypsum Coportation’s (“USG”) operations at their plant in Plaster City. During the weekend of March 19-20, PIR’s three locomotives and the damaged center beam were

moved to the Coyote Wells siding. The locomotives were skated, as required by GCOR, and all handbrakes were set. USG has been notified and PIR did not impact their operation based on locomotives on their tracks. USG may have had some issues getting a new center beam railcar to ship outbound loads. PIR is working diligently on a collision investigation report, which is expected to be completed before the end of April.

## **VII. FREIGHT ACTIVITY**

- a. Currently, PIR has not commenced revenue generation due to pending completion of the construction required to move freight on both Baja Rail and the Desert Line as well as the intermodal facility.

## **VIII. LEASE PAYMENT**

- a. On January 1, 2016, the semi-annual lease payment was due to MTS, which PIR paid. To date, PIR has made 6 lease payments totaling \$3,000,000.

# Agenda

Item No. 6a

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

April 12, 2016

## SUBJECT:

SUMMARY OF SD&AE DOCUMENTS ISSUED SINCE JANUARY 19, 2016

## RECOMMENDATION:

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

### Budget Impact

None.

## DISCUSSION:

Since the January 19, 2016, SD&AE Railway Company Board of Directors meeting, the documents described below have been processed by staff.

- <sup>16</sup>~~S200-16-627~~: Right of Entry Permit to Emmerson Construction to construct the a residential building near Euclid Avenue in the City of San Diego.
- ~~S200-16-633~~: Right of Entry Permit to Caster Properties for construction of a storage facility near Elm Street, in the City of San Diego.

# Agenda

Item No. 6b

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

April 12, 2016

SUBJECT: USE AGREEMENT WITH THE UNIFIED PORT OF SAN DIEGO

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors approves a Use Agreement with the Unified Port of San Diego (Port) for a portion of the Coronado Branch south of H Street in the City of Chula Vista.

Budget Impact

Fees would be credited to the SDAE Reserve which includes the value of the rights granted, costs for processing, and for costs incurred during construction.

DISCUSSION:

The Port requests the issuance of a Use Agreement for a portion of the Coronado Branch south of H Street in the City of San Diego as shown on Attachment A. The port intends to develop property on both the west and east side of the SD&AE right-of-way and wishes to use the forty foot wide corridor for various purposes including parking, landscaping, pedestrian and biking uses.

Attachment B shows an aerial of the property requested to be included in the agreement. The Port and MTS have discussed limitations that would be included in a grant of use including termination rights, improvements as required by the railroad to the railroad infrastructure if in the future the trackage would be used for railroad purposes.

Attachments: A. Plat of requested use area  
B. Vicinity Aerial

J-17330


MTS Parcel HP-13A

Those portions of Fractional Quarter Sections 163, 164, 170 and 171 of the Rancho de la Nacion in the City of Chula Vista, County of San Diego, State of California, according to Map thereof No. 166 filed in the Office of the County Recorder of said County said portions being a strip of land 40.00 feet in width, the centerline of which is described as follows:

**Beginning** at a 3" diameter brass disk marked "PORT OF SAN DIEGO SDUPD-052 LS 6000 GPS CONTROL" as shown on Record of Survey No. 17055 filed in the Office of the County Recorder June 28, 2001, from which a 3" diameter brass disk marked "PORT OF SAN DIEGO SDUPD-053 LS 6000 GPS CONTROL" as shown on said Record of Survey bears South 18° 20'54" East 2172.37 feet; thence North 61° 39' 57" East 2858.37 feet to the Northeast corner of the South half of said Quarter Section 171; thence along the easterly line of said Quarter Section South 17° 46' 55" East 40.00 feet to the southerly line of H Street per Resubdivision of Bay Villa Tract according to Map thereof No. 1198 filed in the Office of the County Recorder of said County August 6, 1909 and the **True Point of Beginning**; thence continuing along said easterly line South 17° 46' 55" East 1282.19 feet to the Southeast corner of said Quarter Section 171; thence along the easterly line of said Quarter Section 170 South 17° 50'01" West 200.02 feet to a point of intersection with the westerly prolongation of the northerly line of Parcel 1 of Parcel Map No. 13581 said point being the point of terminus.

Containing 59,288 square feet, or 1.361 acres, more or less.

The side lines shall terminate at the North at the southerly line of said "H" Street, and at the South, at said westerly prolongation of the northerly line of said Parcel 1.

 11-9-2015  
Patrick A. McMichael, LS 6187



PAM:sr:L:\Files\17330\Text\Legals\MTS Parcel HP-13A



**LEGEND**



MTS RAILROAD  
RIGHT-OF-WAY, 1.361± AC  
T.P.O.B. TRUE POINT OF BEGINNING  
P.O.B. POINT OF BEGINNING

NE COR.  
S 1/2  
1/4 SEC. 170

POR. N 1/2  
1/4 SEC. 171

"H" STREET

POR. 1/4  
SEC. 163

2858.37'

S17°46'55"E 40.00'

P.O.B.

N61°39'57"E

PT 52  
FOUND 3" DISK MKD.  
"PORT OF SAN DIEGO  
SDUPD-052 "LS 6000"  
GPS CONTROL PER  
ROS 17055"

POR. S 1/2  
1/4 SEC. 171

2172.37'

(PROPOSED)  
STREET "A"

T.P.O.B. OF RIGHT-OF-WAY

1282.19'

S17°46'55"E

MAP 166

BAY BLVD.



SCALE 1" = 200'

S18°20'54"E

(PROPOSED)  
STREET "C"

MTS (HP-13A)

40'

POR. 1/4  
SEC. 163

SE COR. OF  
1/4 SEC. 171

20' POR. 1/4  
20' SEC. 164

POR. 1/4  
SEC. 170

S17°50'01"E  
200.02'

PARCEL LINE

PARCEL 1  
PM 13581

POINT OF  
TERMINUS

PT 53  
FOUND 3" DISK MKD.  
"PORT OF SAN DIEGO  
SDUPD-053 "LS 6000"  
GPS CONTROL" PER ROS 17055



DRAWN \_\_\_\_\_  
CHECKED \_\_\_\_\_  
REVIEWED \_\_\_\_\_

**SAN DIEGO UNIFIED PORT DISTRICT**  
MTS TRANSFER OF RIGHT-OF-WAY  
WITHIN CORPORATE LIMITS OF CHULA VISTA  
METROPOLITAN TRANSIT SYSTEM -  
CHULA VISTA, LLC

DATE NOVEMBER 2, 2015  
SCALE 1" = 200'  
REF. J. 17330

APPROVED  
*Patrick A. McMichael* 11-2-2015  
PATRICK A. McMICAL, L.S. 6187

SHEET 1 OF 1  
DRAWING NO.  
**S31-028**







see  
corrected  
version



## REQUEST TO SPEAK

Agenda Item No. 6b

Order Request Received 1

**PLEASE SUBMIT THIS COMPLETED FORM (AND ANY WRITTEN STATEMENTS) TO THE CLERK OF THE COMMITTEE PRIOR TO DISCUSSION OF YOUR ITEM<sup>1</sup>.**

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

*Please Print*

NAME	R. Mitchel Beachums
Address	1434 East 24 <sup>th</sup> St N.C.
Telephone	619 454 5672
Organization represented (if any)	Self
Subject of your remarks	Coronado Best In Line
Regarding Agenda Item No.	6 b
Your comments are presenting a position of:	<input type="checkbox"/> SUPPORT <input checked="" type="checkbox"/> OPPOSITION

2. TESTIMONY AT NOTICED PUBLIC HEARINGS

At public hearings of the Committee, persons wishing to speak shall be permitted to address the Committee 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 Committee on any issue relevant to a particular agenda item.

4. GENERAL PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA

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

<sup>1</sup> REMEMBER: Subjects of previous hearings or agenda items may not again be addressed under General Public Comments.

## Karen Landers

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**From:** Lenora Porcella <lenora@computvl.com>  
**Sent:** Monday, April 11, 2016 5:41 PM  
**To:** Paul Jablonski; Matt Domen; blake.jones@gwrr.com; Erin Dunn; Karen Landers  
**Subject:** Fwd: Item 6b for Tuesday's agenda

Dear SDA&E Board:

It seems that Ms. Wutke won't get my message to you in time for tomorrow's meeting, so I'm passing my comments directly to you.

Sincerely,

Lenora Porcella

----- Forwarded Message -----

**Subject:**Item 6b for Tuesday's agenda  
**Date:**Mon, 11 Apr 2016 17:30:43 -0700  
**From:**Lenora Porcella <lenora@computvl.com>  
**Organization:**COMPUTERIZED TRAVEL  
**To:**Traci.Wutke@sdmts.com

Dear Ms. Wutke,

Will you please advise the board that as a member of the Imperial Beach community I feel that Item 6b should be deferred until the City of Imperial Beach has had time to evaluate impacts to our community. I believe there is a general feeling that the community has not been involved in prior discussions as much as we'd like, and there is concern that long lasting decisions may not be in our best interest.

Please accept my formal request of this item, 6b, to be deferred.

Sincerely,

Lenora Porcella  
619 429 1757



## San Diego & Midwestern Railway Partners LLC

Ed Kravitz, Manager, Member  
Bea Klein, Manager, Member  
Telephone: 619.850.8894  
e-mail: [ekravitz@valdun.com](mailto:ekravitz@valdun.com)  
[www.sdm-rail.com](http://www.sdm-rail.com)

SDA&E Railway Board Of Directors / M.T.S.

10<sup>th</sup> Floor , 1255 Imperial Avenue.

San Diego, CA 92101-4902

April 11, 2016

### **RE: Agenda Item 6 b**

It is with some dismay that I have to write to you about the proposed lease of portions of the Coronado Belt Line of the SDAE Railway for: *other than the promotion of freight or rapid transit purposes.*

When I last spoke by phone with Staff Council Karen Landers, she was going to speak with Mr. Jablonski and ;" Get back to me; but it won't be real soon." That was about 3 months ago when I requested to know; if and when MTS would agendize ratification of the bylaws The SDA&E Board voted on and approved last January.

According the Agenda and Minutes of your January Meeting, The Board Voted to Approve Bylaws Changes in order to be recognized as **Tax Exempt**. Those new bylaws changes state that: the purpose of the parent agency **is to promote the use of freight and rapid transit uses of the SDA&E and ease the burden on local government.** Public records going back at least as far as 1998 indicate ***efforts to do otherwise with the portion of the SDA&E known as the Coronado Belt Line.***

I have come before this Board going back to 1999 begging you to keep the linear resource in tact for future use. My vision was to save the economy of then ailing Imperial Beach by providing a similar quality of transit service that most other San Diego Cities have. With Beaches, Pier, Wildlife Refuges and new attractions, Imperial Beach has also become an magnet for folks who live in the newly build Eastlake and Otay Mesa areas. Expansion by the Navy at Ft. Emory and proposed Chula Vista Bay Front Developments will put un-due stress on existing transportation infrastructure. **Unfortunately , Imperial Beach is and will be painted in a corner with GRID LOCK.** The quality of life will suffer and so will the air quality. Our argument is this. If Santee can have a trolley: Why Can't Imperial Beach? Our proposals for

repurposing the CB-ROW and extending it from 7<sup>th</sup> Street in Imperial Beach to the Camp Surf vicinity makes more sense than ever now .

SANDAG has most of the information. So do we ! Use of the Coronado Belt Line for light rail link to the new Navy Base and the Beach would make sense if it were not for vested political interests that want to use that real estate for the benefit of favored real estate developers and not for Public Transit or Industrial Freight movements.

Instead; various powerful political figures have tried to plot and execute the demise of the contiguous rail corridor for real estate development purposes that would benefit favored developers and not the public transit issues facing the south bay cities.

As stated in the MTDB original charter and legislation passed by then Senator Mills when the SDA&E was acquired from Southern Pacific to facilitate the San Diego Trolley system, the purpose was for light rail mass transit development without interference with common carrier freight. When the light rail use precludes or interferes with Common Carrier Freight movements, the light rail variance with the Federal Railroad Administration is void!

Over 20 separate acts against the linear integrity of the CB-ROW have occurred since the late 1990's. Suspicious Trestle Fires, Signals and Gates Disabled. Rails buried and paved over, loading docks and construction roads built over rails ;removal of rails at key crossings and interconnects, land leases and surrendering critical infrastructure and adjacent SP land parcels to political figures and other pet projects !

In a cache of public records posted at <[Bayshore.sweet-haven.com](http://Bayshore.sweet-haven.com)> in the 1998 B.F. Goodrich Relocation Agreement documents and contract it states among other things that the City Of Chula Vista Community Development Department (Chris Salamone) and the Port Real Estate Division under Thomas Morgan and then Chula Vista Port Commissioner David Malcolm; **sold this same portion of the CB-ROW in today's agenda item 6b to Goodrich in 1998 and took the money!** They did not own the property but, they took the money! In the contract they promised to use the Port's best efforts to acquire the MTDB/ MTS parcel and surrender it to consummate the bay front land swap with Goodrich. (See attachments)

In 1999 appointed Imperial Beach City Councilman Dan Malcolm (now Port Chairman) voted as Imperial Beach's MTS representative to vote for an abandonment of the CB-ROW without considering Federal Railroad Abandonment Laws. When Abandonment failed, the now defunct MFRC or Metropolitan Freight Rail Committee was established to decide the fate of the line.

No less than 4 members of the committee with financial ties within 500 feet of the CB-ROW voted to lease the CB-ROW to the Unified Port District for \$1.00 per year for 66 years to conceal the prior sale for 66 years!

Then there was the effort to preserve the line by actively moving freight on it. I am the last shipper of record and moved a railcar with pure sand to Salt Works station as a freight movement with SDIV when it was RailAmerica's contract.

I cut all the weeds and brush on the line with a handful of volunteers to facilitate taking the State Historical Commission on a tour of the line on rail speeders and went to multiple meetings of many historical groups in an effort to save the resource from burial and insure that the CB-ROW would maintain its linear integrity and not befall the same fate as many other urban rail corridors as illustrated in DePaul University's Professor. Joe Schwieterman's two column series; "When the Railroad Leaves Town." It is clear that every action to sever the linear integrity of the CB-ROW will increase the difficulty and cost of recovering it when it is needed again. It's needed again now!

In the time frame from 2004 – 2006 our LLC San Diego & Midwestern Railway Partners negotiated a freight movement and railcar storage agreement with the contracted Common Carrier and the item was approved by the SDAE Board. The consummation of the contract was thwarted by the head consultant for the Agency Chip Willet. Our freight movement was thwarted by an agency who's bylaws state their purpose is otherwise.

It's clear that the SDAE and its parent agency MTS as well as SANDAG and the Unified Port District seem to be working together to insure that this rail corridor will be unavailable for transit use by severing the contiguity of the line in as many places as possible. This is just one more attempt to slice and dice its integrity. It's clear that this particular Agenda Item 6 b is for the purposes of consummating the illegal transaction of 1998 where money was taken for this same parcel when it was not owned by the Port or Chula Vista. This demonstrates that the recently adopted bylaws are meaningless, fraudulent and this action illustrates a continued conspiracy to abscond with taxpayer property for private developer's and political benefit.

Where is the benefit to Imperial Beach? Where is the benefit to mitigate over 4000 additional vehicles per day that will drive through Imperial Beach? The proposed traffic impacts of the proposed Chula Vista Bayfront Development will overload the existing interstate highway capacity and surface street capacity in the vicinity. Chula Vista and the Port may not realize it yet; but they are going to need it also someday.

It's time for Imperial Beach to be treated as an asset in the region instead of the red-headed stepchild. Please do not vote to support 6b and please insist that staff from SDAE, MTS, SANDAG and the Port re-examine the potentials as we have proposed for light rail transit on a re-purposed CB-ROW to the beach.



**Ed Kravitz**

**San Diego & Midwestern Railway Partners, LLC**





## Port of San Diego

and Lindbergh Field Air Terminal

(619) 686-6200 • P.O. Box 120488, San Diego, California 92112-0488  
[www.portofsandiego.org](http://www.portofsandiego.org)

October 27, 2000

Mr. Leon Williams, Chairman of the Board  
Mr. Tom Larwin, General Manager  
METROPOLITAN TRANSIT DEVELOPMENT BOARD  
1255 Imperial Avenue, Suite 1000  
San Diego, California 92101-7490

Dear Messrs. Williams and Larwin:

At its August 12, 1999 MTDB Board meeting, there was discussion of the possibility of abandoning the MTDB/San Diego and Arizona Eastern Railway Company (SD&AE) rail line south from "F" Street in Chula Vista. At that meeting Mr. Rindone proposed an action item to "recommend to the SD&AE Railway Board the concept of abandonment of the Coronado branch line". The majority vote on this point was in favor of the recommendation (see attached Exhibit "A").

Please be advised that in its recently completed transaction involving the Community Development Commission of the city of Chula Vista, Rohr/BFGoodrich, and the District, the parties agreed to a number of actions, including the consolidation of real estate parcels north and south of the projected extension of "H" Street. The properties north of "H" Street were consolidated under Rohr/BFGoodrich ownership, and those south of "H" Street were consolidated under Port District ownership. The purpose of this transaction is to provide for more developable properties for both parties and for redevelopment of the area.

The existing railway south of "F" Street separates each of these holdings into parcels adjacent to the freeway and a separate parcel west of the railroad right of way. It would be extremely beneficial to abandon this barrier in order to effectively redevelop the properties. As part of the contract between the District and Rohr/BFGoodrich, the District agreed to "use its best efforts to either acquire title to the MTDB property or cause SD&AE to convey the MTDB property directly to Rohr/BFGoodrich" that MTDB property between "F" and "H" Streets in Chula Vista (see attached Exhibit "B"). The District also has strong interest in acquiring title of the balance of this right of way to fully consolidate its ownership and enhance the viability of redevelopment for the area.

→ 3.1.4 MTDB Property.

(a) **Property to be Transferred to BFG.** The Port shall use its best efforts to acquire and convey to BFG, or cause to be conveyed to BFG, the land currently owned by SD&AERC between H Street and Lagoon Drive, as shown on Exhibit C (the "MTDB Parcel"). City/Agency shall reasonably cooperate with Port's MTDB Parcel acquisition efforts.

\* [ (b) **Condition of MTDB Parcel.** The parties acknowledge that the MTDB Parcel currently contains an active rail line and related equipment (collectively, the "MTDB Railway"), and the MTDB Railway must be legally vacated and abandoned by MTDB and all users of the MTDB Railway prior to transfer to BFG. The Port shall use its best efforts to cause the vacation and abandonment of the MTDB Railway by MTDB and all users of the MTDB Railway. City/Agency shall reasonably cooperate with Port's MTDB Railway vacation and abandonment efforts.

(c) **Purchase of the MTDB Property.** Promptly after Port acquires or secures the right to acquire the MTDB Parcel, Port shall provide BFG written notice (the "Transfer Notice") evidencing BFG's opportunity to acquire the MTDB Parcel from, or through, Port. The parties acknowledge that the sum of \$212,573 (equal to \$2,00 per square foot for the 2.44 acre/106,286.4 square foot parcel), has been prepaid by BFG for the MTDB Parcel as a good faith estimate of its "fair market value." Within thirty (30) days after delivery of the Transfer Notice, BFG or Port may elect by written notice to the other to seek an adjustment (up or down) of the \$212,573 prepayment for the MTDB Parcel, based upon the "fair market value" of the MTDB Parcel in its then "as is" condition at the time of delivery of the Transfer Notice. Promptly thereafter, Port and BFG shall negotiate in good faith for a period of thirty (30) days to attempt to mutually agree upon the "fair market value" of the MTDB Parcel. If the parties are unable to agree upon a determination of "fair market value," then prior to the expiration of the 30-day negotiation period, Port and BFG shall mutually appoint one (1) MAI appraiser to determine the "fair market value" of the MTDB Parcel which shall be binding upon both parties. Upon determination of the "fair market value" of the MTDB Parcel (\$212,573, or otherwise), or promptly thereafter, BFG shall acquire the MTDB Parcel from or through Port, and an appropriate cash adjustment shall be made in the event the "fair

**Exhibit D**  
(referenced in Section 5.1)

**Transfer Payments**

	Acres <sup>1</sup>	Price/SF	Amount Payable by Port to BFG <sup>2</sup>
<b>Port Acquisition of of BFG's South Campus:</b>	n/a	n/a	<u>\$16,467,514<sup>3</sup></u>
<b>BFG Property Acquisitions:</b>			<b>Amounts Payable by BFG to Port, City</b>
<i><u>From City:</u></i>			
Agency Parcel	3.65	\$ 8.00	\$1,271,952
Rados Parcel	3.02	\$ 8.00	\$1,052,409
<i><u>From Port:</u></i>			
Port Parcel 1	9.99	\$ 8.00	\$3,481,315
Port Parcel 2 (5.0 gross acres)	3.30 <sup>4</sup>	\$ 8.00	\$1,149,984
SDQ&E Parcel	7.41	\$ 2.00	\$645,559
MTDB Parcel	2.44	\$ 2.00	<u>\$212,573</u>
<b>Total</b>			<u><b>\$7,813,792</b></u>
<b>Cash Balance to BFG at Closing</b>			<u><b>\$8,653,721</b></u>

<sup>1</sup> Acreage and resulting purchase prices subject to post Closing adjustment based upon verified parcel sizes, in accordance with Section 5.2.

<sup>2</sup> Port is also depositing into escrow \$675,639 to be applied toward Transfer Activities pursuant to Section 3.6.1 and/or disbursed pursuant to Section 3.6.3.

<sup>3</sup> This figure is based upon (i) a valuation of \$8.00 per square foot for the BFG Property based upon an estimated