



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

Agenda

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

November 1, 2018

Immediately following the Audit Oversight Committee Meeting

James R. Mills Building
Executive Conference Room, 10th Floor
1255 Imperial Avenue, San Diego

To request an agenda in an alternative format or to request accommodations to facilitate meeting participation, please call the Clerk of the Board at least two working days prior to the meeting. 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

- | | | |
|----|---|--------------------|
| A. | ROLL CALL | |
| B. | APPROVAL OF MINUTES – September 6, 2018 | Approve |
| C. | COMMITTEE DISCUSSION ITEMS | |
| 1. | CLOSED SESSION – CONFERENCE WITH REAL PROPERTY
NEGOTIATORS Pursuant to California Government Code Section 54956.8
<u>Property:</u> Assessor's Parcel Number (APN) 384-041-07; 8733 Cuyamaca
Street, Santee, California
<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> Blake Megdal Management
<u>Under Negotiation:</u> Price and Terms of Payment | Possible
Action |
| D. | REVIEW OF DRAFT November 8, 2018 MTS BOARD AGENDA | |
| E. | <u>REVIEW OF SANDAG TRANSPORTATION COMMITTEE AGENDA</u>
Review of SANDAG Transportation Committee Agenda and discussion
regarding any items pertaining to MTS, San Diego Transit Corporation, or
San Diego Trolley, Inc. Relevant excerpts will be provided during the meeting. | Possible
Action |

Please SILENCE electronics
during the meeting



- F. COMMITTEE MEMBER COMMUNICATIONS AND OTHER BUSINESS
- G PUBLIC COMMENTS
- H. NEXT MEETING DATE: December 6, 2018
- I. ADJOURNMENT

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

September 6, 2018

MINUTES

A. ROLL CALL

Chair Gomez called the Executive Committee meeting to order at 9:05 a.m. A roll call sheet listing Executive Committee member attendance is attached.

B. APPROVAL OF MINUTES

Ms. Rios moved for approval of the minutes of the July 12, 2018, MTS Executive Committee meeting. Ms. Cole seconded the motion, and the vote was 5 to 0 in favor with Mr. Arambula absent.

C. COMMITTEE DISCUSSION ITEMS

1. Quarterly Mid-Coast Corridor Transit Project Update (Sharon Humphreys of SANDAG)

Sharon Humphreys, with SANDAG, provided an update on the Mid-Coast Corridor Transit Project. She reviewed the Mid-Coast organization chart and project alignment. She discussed the details of the construction progress; DBE utilization; project health; and project controls. Ms. Humphreys reviewed the Mid-Coast construction elements; construction schedule; and utility relocation. She presented pictures of the various construction sites including the LOSSAN San Diego River; LRT flyover columns; Gilman/La Jolla Colony underpass; La Jolla Square Shopping Center; La Jolla Village Drive to UC San Diego; Pepper Canyon Station; UC San Diego viaduct; Voigt Drive Station; Executive Station; and UTC Station. Ms. Humphreys reviewed the total Mid-Coast project acquisitions; safety and security status; CPUC grade separations; light rail vehicle status; and public involvement status.

Mr. Jablonski inquired about the status of the Nobel Drive property access to construct station amenities such as a new parking structure. Ms. Humphreys stated that they have approximately four to six months to negotiate acquisition of that property. Frank Owsiany, with SANDAG, stated that the construction company, McCarthy, is currently working on the design of the parking structure. He stated that McCarthy will begin building the parking structure in January 2020 and it will take approximately nine to ten months to build. Mr. Jablonski asked if there is a chance the Mid-Coast Project would be completed early. Ms. Humphreys replied that there is a possibility that the project could be completed early, but there are factors that could prevent that too.

Ms. Rios asked if a tour of the Mid-Coast project could be scheduled for interested Board Members. Ms. Humphreys stated that she will work on scheduling a tour.

Action Taken

No action taken. Informational item only.

2. Downtown Layover (Sharon Cooney)

Mr. Jablonski provided a brief introduction of this item and noted that SANDAG has been working for the last nine years on developing a downtown bus layover facility for MTS operations. Sharon Cooney, Chief of Staff, continued the presentation and provided a status update on the project. She noted that every transit system requires layover locations or facilities in order to maintain timing of operations. Currently, the downtown layover locations for the buses are located in various locations at street curbs and do not have a central location to layover the buses. Ms. Cooney stated that more than 400 buses travel to the western side of downtown San Diego every day. She discussed the other reasons why there is a need for a layover facility in the western area of downtown San Diego. Ms. Cooney reviewed the downtown layover project history and timeline. She noted that the future layover location will be between State Street and Union Street in downtown San Diego. She presented renderings of pictures of the different building and construction options for the layover facility. Ms. Cooney discussed details of the site acquisition and ownership status. Lastly, she reviewed the details of a possible interim layover facility at this downtown location.

Ms. Cole asked when the final design of the entire facility would be completed. Laura Cote, with SANDAG, replied that there are over twenty possible designs of the facility depending on the property acquisition outcome. Mr. Jablonski recommended that SANDAG bring back the current possible facility site designs to review with the Executive Committee at a later date.

Mr. Roberts commented that since the amount being paid for acquisition of the properties is so high, the facility should be developed into more than just a bus layover facility. He stated that building solely a bus layover facility would not be economical based on the cost of acquiring the property.

Chair Gomez commented that she believes this project is a regional project, because the various buses that will utilize the facility are coming from all areas of the county and not just within the City of San Diego. She stated that this is a benefit for the entire transit system and the community. Chair Gomez noted that this project is important and the Board may need to consider a future action to not only continue supporting the project, but to also possibly take control of the project in its entirety from SANDAG in order to complete the project and begin operations sooner.

Ms. Rios inquired about the current downtown layover stops and what will happen to those layover stops once the new facility is opened. Mr. Jablonski stated that the current stops are located on the curbs of public streets. He noted that moving the buses off the streets will help to reduce traffic and congestion.

Chair Gomez requested for this item to be presented to the Board for further discussion.

Action Taken

No action taken. Informational item only.

3. Update on Innovative Clean Transit Proposal (Paul Jablonski)

Mr. Jablonski provided a presentation on the California Air Resources Board (CARB) Innovative Clean Transit (ICT) proposal. He reviewed the details of the ICT and discussed CARB's stated key goals in their overall strategy of the ICT. Mr. Jablonski stated that the CARB Board will review this regulation at the Board level at the end of September with a potential implementation action at the CARB December Board meeting. He discussed the major components of the proposed ICT rule and reviewed some of the significant issues with the proposed rule. Mr. Jablonski noted that he will be attending the CARB September Board meeting to address some of the issues related to the proposed ICT, primarily related to cost.

Mr. Roberts inquired if the California Transit Association (CTA) submitted an official position on the ICT proposal. Mr. Jablonski replied that CTA will be speaking at the September CARB Board meeting and also submitting a letter detailing their position. Mr. Roberts asked about the position of the CTA related to the proposal. Mr. Jablonski stated that the number one issue is money and the ability to have flexibility during implementation. He stated that CTA will be advocating that transit agencies are currently working on implementing zero emission buses (ZEBs) and should not be regulated to do so with limited flexibility. He also stated that benchmarking, utility costs and performance standards will be addressed by the CTA too.

Chair Gomez asked if there needs to be any official action related to this item. Mr. Jablonski stated that no official action is required, but he wanted to ensure that the Executive Committee approves him going to the CARB Board meeting to voice the issues related to cost and funding of the ICT proposal. The Executive Committee agreed that is acceptable and that the cost and funding issues are serious, but they still want to stress the support and importance on the idea of ZEBs. The Executive Committee does not want to see a cease in implementing ZEBs, but they agree that the cost and funding issues need to be addressed.

Mr. Roberts commented that there should be more work done towards finding an alternate, larger and permanent transit facility site for expansion. The implementation of ZEBs will require a larger facility and it would be cost prohibitive to pay for infrastructure at the current Imperial Avenue Division site since that site is not large enough for a full transition to ZEBs.

Chair Gomez asked what the penalties would be for not abiding by the ICT rule. Mr. Jablonski stated that there is nothing specifically stated related to penalties, but it would likely result in withholding of state funding.

Ms. Rios asked if local school districts would be mandated to convert their school buses to all ZEBs. Mr. Jablonski replied that at this time CARB is not mandating school districts to convert their fleets to ZEBs.

Action Taken

No action taken.

4. Revisions to Board Policy 18 (Sharon Cooney)

Ms. Cooney provided a presentation on the proposed revisions to Board Policy 18. She stated that MTS has approximately sixteen developable properties within the County of San Diego. She stated that Policy 18 was last amended in 2007 and it provides direction to staff on how to gain best use of MTS owned property. Policy 18 includes both policy and procedures for development and states that MTS's purpose is to foster competition and maximize its return to the fullest extent possible. Ms. Cooney reviewed the details of the current policy. She briefly discussed the approaches other agencies use including the Bay Area Rapid Transit (BART), Los Angeles Metro (LA Metro), Dallas Area Rapid Transit (DART), Washington Metro (WMATA), Metropolitan Atlanta Rapid Transit (MARTA), and Denver Regional Transportation (RTD). Ms. Cooney reviewed a list of proposed policy discussion questions and topics for the Executive Committee to consider. She noted that a copy of the updated draft Policy 18 had been provided in the agenda materials for review.

PUBLIC COMMENTS

Maya Rosas – Ms. Rosas commented on behalf of Circulate San Diego. She provided the Executive Committee a letter which details Circulate San Diego's proposals to revise MTS Board Policy 18. She stated that the main items they would like to see is prioritizing the properties to develop; work on developing a Request for Proposals (RFP) process; require affordable homes with all joint developments; and only require replacement of parking spaces that are currently being utilized. A copy of the full letter from Ms. Rosas is included in the final Executive Committee meeting packet.

EXECUTIVE COMMITTEE COMMENTS

Mr. McWhirter asked if transit oriented developments (TODs), such as the one located next to the La Mesa trolley station, had a direct correlation to increased ridership. Mr. Jablonski stated that we do not have a specific study that looked at those results. He noted that the La Mesa station usage did increase, but we do not have a study that looks at the direct results of the correlation between the TOD and increased ridership. Mr. McWhirter commented that he does not like the idea of giving up too many parking spaces due to the possibility that parking may be needed in the future. He stated that he liked the approach Denver has taken with their program. Mr. McWhirter stated that he likes the idea of public restrooms so long as there is adequate funding to maintain the restrooms. He also stated that he likes having involvement and input from the local jurisdiction in which the development will be located.

Mr. Roberts commented that he does not agree with the Circulate San Diego comments in relation to comparing trolley and bus parking to the airport. He stated that these types of properties are different and therefore not comparable. The properties and determination of parking should be dealt with on a case by case basis. Mr. Roberts stated that the property leases should be long term so we can ensure there will be a positive and ongoing return back to MTS. He stated that we should have a public process for the development of these potential properties in order to obtain the most benefit to MTS and foster the most competition. Mr. Roberts stated that we need to stay focused on having a good return to MTS from the lease of these properties, because we are a transit agency and not a housing commission. Mr. Roberts recommended that a

complete analysis should take place of any potential property for lease before an RFP is released so MTS can know what the goals and targets are for that particular property.

Ms. Cole asked if there was a possibility to include a set aside amount of units in the projects to ensure housing for specific groups such as homeless veterans. Mr. Jablonski stated that we can include any requirement within the policy based on the Board's approval. Chair Gomez commented that she would like to have those types of requirements included in specific RFPs and during the negotiation process, rather than included in Board Policy 18.

Ms. Rios commented that she would like to consider the replacement parking issues that Circulate San Diego raised. She stated that we also need to look at first and last mile to help enhance our ridership. Ms. Rios stated that it is important to reduce parking and incentivize riding transit. She stated that she also supports the idea of public restrooms at stations and free transit passes to be provided by the developers who are soliciting interest in the available properties. Ms. Rios commented that she would like to see a hybrid process of unsolicited and solicited proposals for the available properties.

Chair Gomez stated that she would also like to see the hybrid process of unsolicited and solicited proposals. She stated that she believes TODs are very critical. She would like to encourage developers to provide free transit passes which could potentially increase ridership at TODs. Chair Gomez stated that public restrooms should be considered for mixed-use developments, but maybe not for residential-only developments. She stated that there is a potential of misuse of public restrooms, but we need to challenge the idea and try to make it work when possible. Chair Gomez stated that she would like to maximize the affordability aspects of these developments. She also asked for MTS to continue working with each respective city when developing the properties in the future.

Mr. Jablonski stated that we will continue to work directly with the cities when developing the properties. He commented that he wants to increase transit ridership, but does not know if free transit passes would directly increase transit ridership. He said that we need to ensure that the people who receive the free transit passes would actually use the passes, not just take the passes, and continue using personal vehicles. He commented that requiring developers to provide free transit passes is a large cost factor and would need to be managed in such a way that the residents use the passes. Chair Gomez stated that it is hard to imagine what the future will look like in terms of mobility, but we need to discuss possibilities and plan accordingly when it comes to determining the number of parking spaces at the developments. Ms. Gomez also recommended looking into the idea of discounting the transit passes for bulk purchases as an incentive to possible developers.

The Executive Committee recommended MTS staff to review and include their comments into the draft Policy 18 document. They requested for staff to bring this item to the next Board meeting as an informational item to gather more input and then bring it back at a future date to take action on.

Action Taken

No action taken.

D. REVIEW OF DRAFT September 20, 2018 BOARD AGENDA

Recommended Consent Items

6. Adoption of Amended 2018 Conflict of Interest Code
Action would: (1) adopt Resolution No. 18-11 amending the MTS Conflict of Interest Code pursuant to the Political Reform Act of 1974; (2) adopt the amended 2018 MTS Conflict of Interest Code; and (3) forward the amended 2018 MTS Conflict of Interest Code to the County of San Diego (the designated code-reviewing body).
7. Amendment of Fiscal Year (FY) 2017-2018 State Transit Assistance (STA) Claim and Approval of FY 2018-2019 STA Claim and Submission of Proposed Project List for California State of Good Repair (SGR) Program
Action would adopt Resolution No. 18-10 amending the FY 2017-2018 STA claim, approving the FY 2018-2019 STA claim and approving the submission of a proposed project list to Caltrans for the FY 2018-2019 SGR program.
8. Title VI Monitoring Report for Service Policies
Action would review and approve the 2018 Title VI Monitoring Report for Service Policies.
9. Contract with the City of Chula Vista for Taxicab Administration
Action would: (1) authorize the Chief Executive Officer (CEO) to enter into an agreement for Taxicab Administration with the City of Chula Vista; (2) adopt the proposed amendments to MTS Ordinance No. 11, an Ordinance Providing for the Licensing and the Regulating of Transportation Services within the City by the adoption of a Uniform Paratransit Ordinance; and (3) direct publication of a summary of the amendments to MTS Ordinance No. 11; and (4) upon adoption of the proposed amendments, authorize the CEO the discretion to enforce MTS Ordinance No. 11 in its amended form.
10. Investment Report - June 2018
11. Investment Report - July 2018
12. San Diego Metropolitan Transit System (MTS) Task Order Contract Approval for Design Services for James R. Mills Building HVAC/Central Plant Engineering Study
Action would authorize the Chief Executive Officer (CEO) to execute Work Order WOA1949-AE-19 for MTS Doc. No. G1949.1-17 with Jacobs Engineering, Inc. in the amount of \$119,609.31 for design services for a James R. Mills Building Heating, Ventilation and Air Conditioning (HVAC)/Central Plant Engineering Study.
13. Special Trackwork Materials - Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L1463.0-19, with Progress Rail Services Corporation, for special trackwork materials.
14. Trash Disposal, Green Waste and Recycling Services - Contract Award
Action would authorize the Chief Executive Officer (CEO) to: (1) Execute MTS Doc. No. G2151.0-18, with EDCO Disposal for the provision of trash and green waste disposal, and recycling services for a five (5) year base period with five (5) year option terms (for a total of ten years); and (2) Exercise the option years at the CEO's discretion.

15. Industrial General Permit & Storm Water Management Services - Sole Source Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute a contract for a two-year (2) and nine (9) month period in response to MTS Doc. No. PWG263.0-19, to Whitson Contracting & Management, Inc., for Industrial General Permit (IGP) and Storm Water Management Services in an amount not to exceed \$273,412.20.
16. San Diego Trolley On-Call Tree Trimming and Removal Services - Amendment No. 4
Action would: (1) Ratify contract amendments one (1) and two (2) as MTS Doc. No. PWL199.1-16 and PWL199.2-16 for a total of \$42,180.00, which were previously issued to Singh Group, Inc. under the Chief Executive Officer's (CEO) authority, for On-Call Tree Trimming Services; (2) Ratify MTS Doc. No. PWL199.3-16 (Amendment three (3)) with Singh Group, Inc. for \$40,000.00, which was previously issued under the CEO authority, for services for On-Call Tree Trimming Services at Chollas Creek; and (3) Authorize the CEO to execute MTS Document No. PWL199.4-16 with Singh Group, Inc., for \$103,856.00.
17. San Diego Metropolitan Transit System (MTS) Job Order Contract (JOC) Work Order for 8th Street Bridge Repair
Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. MTSJOC7501-25 with Herzog Contracting Corporation to perform work under MTS Doc. No. PWL182.0-16 for the repair of the bridge at 8th Street on the Blue Line.
18. MTS Job Order Contract (JOC) Work Order for Turnout S37 Replacement
Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. MTSJOC7501-27 with Herzog Contracting Corporation to perform work under MTS Doc. No. PWL182.0-16 for the replacement of Turnout S37 on the Blue Line.
19. AC Switchgear Replacement for Orange Line Substations - Engineering Design Services - Work Order
Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. WOA1951-AE-20 to MTS Doc. No. G1951.0-17 with Mott MacDonald, LLC for the AC Switchgear Replacement on Orange Line TPSS - Engineering Design Services.
20. Light Rail Vehicle Pantograph Parts - Purchase Order
Action would authorize the Chief Executive Officer (CEO) to execute an outline agreement in a form of a Purchase Order with Siemens Mobility Inc. for the purchase of Light Rail Vehicle (LRV) Pantograph parts.
21. Douglas Fir Railroad Ties - Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L1467.0-19, with B&B Diversified Materials (B&B), for Douglas Fir Railroad Ties.

E. REVIEW OF SANDAG TRANSPORTATION COMMITTEE AGENDA

Ms. Cooney noted that SANDAG is proposing a contract amendment with Facilitating Access to Coordinated Transportation (FACT). She stated that they will be amending the contract to include performance metrics and to expand the services they offer.

F. COMMITTEE MEMBER COMMUNICATIONS AND OTHER BUSINESS

There was no Committee Member Communications and Other Business discussion.

Executive Committee Meeting – MINUTES

September 6, 2018

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G. PUBLIC COMMENTS

There were no Public Comments.

H. NEXT MEETING DATE

The next Executive Committee meeting is scheduled for October 4, 2018, at 9:00 a.m. in the Executive Committee Conference Room.

I. ADJOURNMENT

Chair Gomez adjourned the meeting at 11:10 a.m.

/s/ Georgette Gómez _____
Chairperson

Attachment: Roll Call Sheet

EXECUTIVE COMMITTEE
SAN DIEGO METROPOLITAN TRANSIT SYSTEM

ROLL CALL

MEETING OF (DATE) September 6, 2018

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

RECESS _____

RECONVENE _____

CLOSED SESSION _____

RECONVENE _____

ADJOURN 11:10 a.m.

BOARD MEMBER	(Alternate)	PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
ARAMBULA	<input type="checkbox"/>		
Transportation Committee Rep.			
COLE	<input checked="" type="checkbox"/> (Gomez) <input type="checkbox"/>	9:00 a.m.	11:10 a.m.
GOMEZ (Chair)	<input checked="" type="checkbox"/>	9:00 a.m.	11:10 a.m.
MCWHIRTER	<input checked="" type="checkbox"/> (Arambula) <input type="checkbox"/>	9:00 a.m.	11:10 a.m.
RIOS	<input checked="" type="checkbox"/> (Salas) <input type="checkbox"/>	9:00 a.m.	11:10 a.m.
ROBERTS	<input checked="" type="checkbox"/> (Cox) <input type="checkbox"/>	9:00 a.m.	11:10 a.m.

SIGNED BY THE CLERK OF THE BOARD: *Julia Tuer*

CONFIRMED BY THE GENERAL COUNSEL: N/A



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DRAFT

Agenda

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

9:00 a.m.

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

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ACTION RECOMMENDED

1. Roll Call
2. Approval of Minutes – October 11, 2018 Approve
3. Public Comments - Limited to five speakers with three minutes per speaker. Others will be heard after Board Discussion items. If you have a report to present, please give your copies to the Clerk of the Board.
4. Appointment of Ad Hoc Nominating Committee for Recommending Appointments to MTS Committees for 2019 (Sharon Cooney) Appoint
Action would appoint an Ad Hoc Nominating Committee to make recommendations to the Board with respect to the appointment of the Board to serve as Vice-Chair, Chair Pro-Tem and on MTS and non-MTS committees for 2019.

Please SILENCE electronics
during the meeting

1255 Imperial Avenue, Suite 1000, San Diego, CA 92101-7490 • (619) 231-1466 • www.sdmtns.com

Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc. and San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations). 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. [Adoption of the 2019 San Diego Metropolitan Transit System \(MTS\) Executive Committee and Board of Directors Meeting Schedule](#) Adopt
Action would adopt the 2019 Executive Committee and Board of Directors meeting schedule.
7. [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 Meetings on October 9, 2018](#) Receive/
Ratify
Action would receive the San Diego and Imperial Valley Railroad (SD&IV), Pacific Southwest Railway Museum Association (Museum), and Desert Line quarterly reports, and ratify all actions taken.
8. [Federal Transit Administration \(FTA\) Section 5310 Grant Application, and TransNet Senior Mini-Grant Application, Apportioned Through the San Diego Association of Governments \(SANDAG\)](#) Adopt/
Approve
Action would: (1) Adopt Resolution No. 18-14 agreeing to comply with all terms and conditions of the FTA Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities program as set forth by the FTA and SANDAG; and agreeing to comply with all terms and conditions of the *TransNet* Senior Mini-grant program as set forth by *TransNet* and SANDAG; (2) Authorize the Chief Executive Officer (CEO) to submit the following applications and execute any grant agreements awarded by SANDAG: (a) \$452,685 in federal fiscal year 2020 FTA Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities funding for paratransit vehicle replacements; (b) \$499,900 in federal fiscal year 2021 FTA Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities funding for paratransit vehicle replacements; (c) \$61,200 in fiscal year 2020 *TransNet* Senior Mini-grant funding for the MTS Access Travel Training Program; and (d) \$61,200 in fiscal year 2021 *TransNet* Senior Mini-grant funding for the MTS Access Travel Training Program; (3) Authorize the commitment of up to \$292,307 in local matching funds to fully fund the purchase of 11 paratransit vehicles if awarded; and (4) Authorize the commitment of up to \$30,600 in local matching funds to fully fund the MTS access Travel Training Program.
9. [Revisions to San Diego Metropolitan Transit System \(MTS\) Ordinance No. 11](#) Adopt/
Approve
Action would: (1) Adopt the proposed amendments to MTS Ordinance No. 11, an Ordinance Providing for the Licensing and the Regulating of Transportation Services within the City by the adoption of a Uniform Paratransit Ordinance (Attachment A); (2) Direct publication of a summary of the amendments to MTS Ordinance No. 11; and (3) Upon adoption of the proposed amendments, authorize the Chief Executive Officer (CEO) the discretion to enforce MTS Ordinance No. 11 in its amended form.
10. [Investment Report – Quarter Ending September 30, 2018](#) Informational
11. [Light Rail Vehicle Lifting Jacks Replacement – Sole Source Contract Award](#) Approve
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWL266.0-19 with Macton Corporation for the purchase and installation of In-Floor Lifting Hoists for the service of the MTS Light Rail Vehicle (LRV) fleet and modernization of control systems within the LRV Maintenance Facility.

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|-----|---|---------|
| 12. | <u>Ticket Vending Machine (TVM) Enhanced Credit and Debit Cardholder Data Security – Contract Award</u>
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc No. G2191.0-19, with AT&T Corp., for the enhanced credit and debit cardholder data project. | Approve |
| 13. | <u>Drug and Alcohol Collection, Testing, and Administration Services – Contract Award</u>
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G2150.0-18, with Drug Testing Network, Inc., for the provision of drug and alcohol collection, testing, and administration services for a two (2) year base period with three (3) one-year optional terms, exercisable at MTS's sole determination, for a total of five years; and exercise each option year at the CEO's discretion. | Approve |
| 14. | <u>Design Services for Beech Street Double Crossover – Trackwork and Signaling – Work Order</u>
Action would authorize the Chief Executive Officer (CEO) to execute Work Order WOA1953-AE-30 for MTS Doc. No. G1953.0-17 (in substantially the same format as Attachment A), with Pacific Railway Enterprises, Inc. (PRE), for design services for Beech Street Double Crossover – Trackwork and Signaling. | Approve |
| 15. | <u>MTS Job Order Contract Work Order for Turnout S34 Replacement – Change Order</u>
Action would authorize the Chief Executive Officer (CEO) to execute Change Order 1 to MTS Doc. No. PWL182.0-16, Work Order No. MTSJOC7501-27.01, with Herzog Contracting Corporation (Herzog), for the replacement of Turnout S34 on the Blue Line. | Approve |
| 16. | <u>CNG Fueling Facility Stations Operation and Maintenance Services for Imperial Avenue Division (IAD), Kearny Mesa Division (KMD), South Bay Maintenance Facility (SBMF), and East County Bus Maintenance Facility (ECBMF) – Sole Source Contract Extension/Exercise Option Years</u>
Action would authorize the Chief Executive Officer (CEO) to: (1) Extend the current contract for nineteen (19) months effective from 8/1/20 through 3/1/22 with Trillium USA Company, LLC (Trillium), MTS Doc. No. B0522.4-09 for CNG fueling facility stations operation and maintenance services for IAD, KMD, and SBMF; and (2) Exercise all Option Years 1-3 for MTS Doc. No. B0594.5-13 for CNG fueling facility station operation and maintenance services for ECBMF. | Approve |
| 17. | <u>Regional Transit Management System (RTMS) Radio Tower at Mt. Soledad Signal Station, Naval Base Point Loma – Site Lease Amendment</u>
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. B0513.4-09, with the Department of the Navy, to continue the lease of MTS's Mt. Soledad Signal Station site for five years. | Approve |
| 18. | <u>Third Party Compass Card and Transit Pass Sales – Amended Agreement with Bricehouse Station, LLC</u>
Action would authorize the Chief Executive Officer (CEO) to execute Amendment No. 2 to MTS Doc. No. G1767.0-15, with BriceHouse Station, LLC, for the sale of MTS and North County Transit District (NCTD) Compass Card passes at three locations operated by BriceHouse Station, LLC for three (3) additional years. | Approve |

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|-----|--|---------|
| 19. | <u>As Needed Towing Services for Buses and Non-Revenue Vehicles (SDTC and SDTI) – Contract Award</u>
Action would authorize the Chief Executive Officer (CEO) to: (1) Execute MTS Doc. No. B0691.0-18 with A to Z Enterprises, Inc.; dba: RoadOne (“RoadOne”) for the provision of towing services for buses and non-revenue vehicles for a three (3) year base period with three (3) 1-year options, exercisable at MTS’s sole discretion (total of six years); and (2) Exercise each option year at the CEO’s discretion. | Approve |
|-----|--|---------|

CLOSED SESSION

- | | | |
|-----|---|-----------------|
| 24. | a. CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to California Government Code Section 54956.8
<u>Property:</u> 5915 and 5927 Mission Gorge Road
<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> Affirmed Housing and Greystar
<u>Under Negotiation:</u> Price and Terms of Payment | Possible Action |
| | b. CLOSED SESSION – CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to California Government Code Section 54956.8
<u>Property:</u> Assessor’s Parcel Number (APN) 384-041-07; 8733 Cuyamaca Street, Santee, California
<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> Blake Megdal Management
<u>Under Negotiation:</u> Price and Terms of Payment | Possible Action |

NOTICED PUBLIC HEARINGS

- | | |
|-----|-------|
| 25. | None. |
|-----|-------|

DISCUSSION ITEMS

- | | | |
|-----|--|---------------|
| 30. | <u>Fiscal Year 2018 Comprehensive Annual Financial Report (Erin Dunn and Larry Marinesi; Ken Pun of The Pun Group)</u> | Informational |
| 31. | <u>Fiscal Year 2018 Final Budget Comparison (Mike Thompson)</u>
Action would receive the MTS operations budget status report for Fiscal Year 2018 and approve staff recommendations to program the excess revenues less expenses. | Approve |

REPORT ITEMS

- | | | |
|------|---|---------------|
| 45.. | <u>Operations Budget Status Report for September 2018 (Mike Thompson)</u> | Informational |
| 46. | <u>Year End Operations Report (Denis Desmond, Bill Spraul and Wayne Terry)</u> | Informational |
| 47. | <u>Semi-Annual Public Security Report (January 1, 2018 through June 30, 2018) (Manuel Guaderrama)</u> | Informational |

- | | | |
|-----|---|---------------|
| 59. | <u>Ad Hoc Ballot Measure Committee Report (Board Member David Alvarez)</u> | Informational |
| 60. | <u>Chair Report</u> | Informational |
| 61. | <u>Chief Executive Officer's Report</u> | Informational |
| 62. | <u>Board Member Communications</u> | Informational |
| 63. | <u>Additional Public Comments Not on the Agenda</u>
If the limit of 5 speakers is exceeded under No. 3 (Public Comments) on this agenda, additional speakers will be taken at this time. If you have a report to present, please furnish a copy to the Clerk of the Board. Subjects of previous hearings or agenda items may not again be addressed under Public Comments. | |
| 64. | <u>Next Meeting Date:</u> December 13, 2018 | |
| 65. | <u>Adjournment</u> | |



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

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

ADOPTION OF THE 2019 SAN DIEGO METROPOLITAN TRANSIT SYSTEM (MTS)
EXECUTIVE COMMITTEE AND BOARD OF DIRECTORS MEETING SCHEDULE

RECOMMENDATION:

That the Board of Directors adopt the 2019 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. The meeting schedule reflects Executive Committee and Board of Directors meetings throughout the 2019 calendar year (Attachment A). Meetings are scheduled to primarily occur on the first and second Thursdays of every month, with some exceptions due to conferences, holidays and other conflicts.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. 2019 MTS Executive Committee and Board of Directors Meeting Schedule





2019
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 10	January 17
February 7	February 14
March 14	March 21 (Finance Workshop)
April 4	April 11 (Finance Workshop)
May 2	May 9 (Public Hearing)
June 6	June 13
July 11	July 25
August 15	August 22
September 5	September 12
October 3	October 10
November 7	November 14
December 5	December 12

* The League of California Cities is holding the 2019 Annual Conference & Expo October 16-18.

* The APTA 2019 Annual meeting will be October 13-16.

2019 MTS EC & BOARD MEETING SCHEDULE - 1

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. and San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations). 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.





1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
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Agenda Item No. 7

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

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 OCTOBER 9, 2018

RECOMMENDATION:

That the Board of Directors receive the San Diego and Imperial Valley Railroad (SD&IV), Pacific Southwest Railway Museum Association (Museum), and Desert Line quarterly reports (Attachment A), and ratify all actions taken.

Budget Impact

None.

DISCUSSION:

Pursuant to the Agreement for Operation of Freight Rail Services, SD&IV and Museum, have provided operations reports during the third quarter of 2018 (Attachment A).

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Copy of Final Meeting Materials from 10/9/2018 SD&AE Meeting



AGENDA

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

October 9, 2018

9:00 a.m.

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

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

ACTION RECOMMENDED

1. [Approval of the Minutes of July 10, 2018](#) Approve
Action would approve the SD&AE Railway Company Minutes of July 10, 2018.
2. [Statement of Railway Finances \(Erin Dunn\)](#) Informational
3. [Report on San Diego and Imperial Valley \(SD&IV\) Railroad Operations \(Matt Domen\)](#) Informational
4. [Report on Pacific Southwest Railway Museum \(Diana Hyatt\)](#) Informational
5. [Report on the Desert Line \(Jorge Izquierdo\)](#) Informational
6. [Real Property Matters \(Tim Allison\)](#)
 - a. [Summary of SD&AE Documents Issued Since July 10, 2018](#) Informational
 - b. [License for E Street At-Grade Crossing and Sweetwater Bicycle Path and Pedestrian Promenade](#) Approve
Action would approve issuing a license to the San Diego Unified Port District for an at-grade crossing and class 1 bike path and pedestrian promenade at the existing E Street crossing on the Coronado Branch in the City of Chula Vista.
 - c. [License for Camera Tower Placement Near Mile Post 86.5 on the Desert Line](#) Approve
Action would approve issuing a license to the United States Customs and Border Protection (CBP) for a camera tower installation on the Desert Line near mile post 86.5.
7. [Removal of Abandoned Track – Proposed Capital Project](#) Approve
Action would approve the removal of unused track in Commercial Street in San Diego, Cleveland Street in National City, and F Street and J Street in Chula Vista.

8. [Approval of the 2019 SD&AE Board of Directors Meeting Schedule \(Karen Landers\)](#) Approve
Action would approve the 2019 SD&AE Board of Directors meeting schedule.
9. Board Member Communications
10. Public Comments
11. Next Meeting Date: January 15, 2019 (contingent upon approval of No. 7)
12. Adjournment



SAN DIEGO & ARIZONA
EASTERN RAILWAY
COMPANY

A NEVADA NONPROFIT
CORPORATION

1255 IMPERIAL AVE., STE. 1000
SAN DIEGO, CA
92101-7490
(619) 231-1466

BOARD OF DIRECTORS
PAUL JABLONSKI, CHAIRPERSON
MATT DOMEN
JARED GOOCH

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

LEGAL COUNSEL
KAREN LANDERS

AGENDA

Att. A, AI 7, 11/8/18

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

October 9, 2018

9:00 a.m.

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

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

ACTION RECOMMENDED

1. Approval of the Minutes of July 10, 2018 Approve
Action would approve the SD&AE Railway Company Minutes of July 10, 2018.
2. Statement of Railway Finances (Erin Dunn) Informational
3. Report on San Diego and Imperial Valley (SD&IV) Railroad Operations (Matt Domen) Informational
4. Report on Pacific Southwest Railway Museum (Diana Hyatt) Informational
5. Report on the Desert Line (Jorge Izquierdo) Informational
6. Real Property Matters (Tim Allison)
 - a. Summary of SD&AE Documents Issued Since July 10, 2018 Informational
 - b. License for E Street At-Grade Crossing and Sweetwater Bicycle Path and Pedestrian Promenade Approve
Action would approve issuing a license to the San Diego Unified Port District for an at-grade crossing and class 1 bike path and pedestrian promenade at the existing E Street crossing on the Coronado Branch in the City of Chula Vista.
 - c. License for Camera Tower Placement Near Mile Post 86.5 on the Desert Line Approve
Action would approve issuing a license to the United States Customs and Border Protection (CBP) for a camera tower installation on the Desert Line near mile post 86.5.
7. Removal of Abandoned Track – Proposed Capital Project Approve
Action would approve the removal of unused track in Commercial Street in San Diego, Cleveland Street in National City, and F Street and J Street in Chula Vista.

8. Approval of the 2019 SD&AE Board of Directors Meeting Schedule
(Karen Landers) Approve
Action would approve the 2019 SD&AE Board of Directors meeting schedule.
9. Board Member Communications
10. Public Comments
11. Next Meeting Date: January 15, 2019 (contingent upon approval of No. 7)
12. Adjournment

San Diego and Arizona Eastern Railway Company

October 9, 2018

Sign-in Sheet (VOLUNTARY)

Name	Company
1. <i>Matt Deane</i>	<i>SDR</i>
2. <i>Paul Gault</i>	<i>SDIV</i>
3. <i>Josef Fournier</i>	<i>BJRL</i>
4. <i>Diana Hyatt</i>	<i>PSRM</i>
5. <i>R. Mitchell Beaudin</i>	<i>San Diego Electric Railway Assn.</i>
6.	
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23.	

MINUTES

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

July 10, 2018

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 July 10, 2018, at 9:00 a.m.

The following persons, constituting the Board of Directors, were present: Paul Jablonski, Matt Domen, and Jared Gooch. Also in attendance were members from:

San Diego Metropolitan Transit System:	Tim Allison, Erin Dunn, Karen Landers, Wayne Terry
Pacific Southwest Railway Museum:	Diana Hyatt, James Caestecker

1. Approval of Minutes

Mr. Domen moved to approve the Minutes of the April 10, 2018, SD&AE Railway Board of Directors meeting. Mr. Gooch seconded the motion, and it was unanimously approved.

2. Statement of Railway Finances

Erin Dunn reviewed Statement of Railway Finances for the second quarter of 2018 (attached to the agenda item). Ms. Landers stated that there have been more expenses this year and asked if there are sufficient funds in the SD&AE account to pay some of the Desert Line expenses; i.e., travel, outside consultants, etc. Ms. Dunn clarified that the amended budget for MTS has those expenses coming out of SD&AE reserves. Ms. Landers added that there may also be expenses in FY 19 related to a legal case.

Action Taken

Informational item only. No action taken.

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

Matt Domen reviewed the SD&IV Periodic Report for activities for the second quarter of 2018 (attached to the agenda item).

Mr. Jablonski stated that Fernando Beltran with Baja Railroad (BJRR) told him about a possible diesel-shipping deal with suppliers, and he asked if that is on the horizon. Mr. Gooch replied that BJRR is optimistic but it will depend. He explained that one car crossed a couple of weeks ago; however to date, no companies have signed up to transport gas by rail. Discussion ensued about current and potential business and commodities via rail versus other modes of transportation.

Mr. Domen informed Mr. Jablonski that Palomar Siding is open and operational. Wayne Terry, MTS Chief Operating Officer (Rail), added that the FRA testing has not been finished, but the track work and signaling are functional. He stated that PRE has to do some additional work and

then the FRA will be scheduled to conduct witness testing. Mr. Terry will follow up on the current status (see additional comments made under Agenda Item No. 7 Board Member Communications).

Action Taken

Informational item only. No action taken.

4. Report on Pacific Southwest Railway Museum Operations

Diana Hyatt reviewed the Pacific Southwest Railway Museum (PSRM) report for the second quarter of 2018 (attached to the agenda item). Ms. Hyatt clarified that the recent fires did not affect the Campo Depot. She also stated that PSRM has been doing its weed abatement in house. Ms. Hyatt clarified that Cal Fire does its own aerial inspections—without notifying PSRM—and PSRM operates on the assumption that there are no issues if Cal Fire does not contact PSRM. She added that Cal Fire also gave PSRM a waiver for its locomotive that is used for train rides.

Action Taken

Informational item only. No action taken.

5. Report on the Desert Line

There were no representatives from BJRR present at the meeting. Ms. Landers gave a verbal report. She stated that MTS staff is working with Customs and Border Protection on siting a customs facility, and it's getting closer to the substantive phase. Ms. Landers and Ms. Hyatt are going to meet to discuss comments from PSRM. Ms. Landers went on a tour on June 28 beginning at the border in San Ysidro with Customs, Border Protection, and the Rail Director from Washington DC. They viewed the existing crossing and then went to Campo where they hi-railed out and walked the tunnel. The same was done with the SAT group on the Mexico side. Ms. Landers said that it was a good, productive meeting with a lot of cooperation and collaboration between the agencies.

Ms. Landers stated that there is a meeting scheduled in August with Union Pacific and BJRR to bring them up to speed on the project. Environmental review and analysis must still be done, and the emphasis will be to make sure that BJRR has the right people to do that work because, if not, it could delay the project. Dan Davis will also have to review and approve any of the work required. BJRR has had contractors surveying the line, but there is no new, updated formal construction plan for Mr. Davis to review. Ms. Landers clarified that BJRR is financially responsible for the construction, and there is no actual time line for completion at this point.

Action Taken

Informational item only. No action taken.

SD&AE Railway Company Board Meeting Minutes

6. Real Property Matters

a. Summary of SD&AE Documents Issued Since July 10, 2018

Tim Allison reported that since the April 10, 2018, SD&AE Railway Company Board of Directors meeting, the documents described below have been processed by staff.

- S200-18-680: Right of Entry Permit to Navy Region Southwest Morale, Welfare and Recreation Department for the Navy's Annual Bay Bridge Run / Walk event.
- S200-18-681: Right of Entry Permit to San Diego County Bicycle Coalition for the Bike to Bay event.
- S200-18-682: Right of Entry Permit to the City of La Mesa for the Annual Flag Day Parade.
- S200-18-683: Right of Entry Permit to S & B Engineering, Inc. to repair a drainage pipe near the I-8 bridge crossing in El Cajon west of Chase Avenue.

Ms. Landers stated that she will be drafting a formal agreement with SDG&E for MTS billboards that are on SDG&E property near the Blue Line.

Action Taken

Informational item only. No action taken.

7. Board Member Communications

There were no Board member communications.

• Follow-up comments regarding Agenda Item No. 3

Mr. Terry stated that the absolute block was an overlay to the new Siemens signaling system on the Blue Line. He said that MTS has the signal prints and is reviewing them with the contractor. The FRA witness testing will most likely be conducted by the end of month. This will require operating a freight train through the absolute block from San Ysidro to the Palomar Siding. Once that's complete, submission can be made for final approval by the FRA—possibly by the end of August. Mr. Terry added that it should be a fairly simple approval.

Mr. Domen asked about the status of the track on Hill Street on the Orange Line. Ms. Landers responded that construction easements on the neighboring properties are being finalized so as to move forward with construction. She anticipates that construction will begin in the next several months. Mr. Terry will contact Mr. Domen with an update.

8. Public Comments

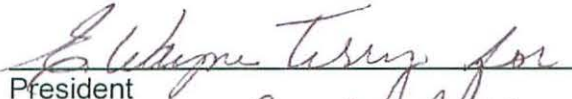
There were no public comments.

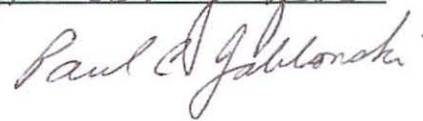
9. Next Meeting Date

The next meeting of the SD&AE Railway Company Board of Directors is on Tuesday, October 9, 2018.

10. Adjournment

The meeting was adjourned at 9:25 a.m.



President




General Counsel

Agenda Item No. 2

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

October 9, 2018

SUBJECT:

STATEMENT OF RAILWAY FINANCES

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors receive a financial report for the year ending June 30, 2018, and period ending August 31, 2018.

Budget Impact

None.

DISCUSSION:

Attached are SD&AE's financial results for the year ending June 30, 2018, as well as the period ending August 31, 2018.

Fiscal year 2018 ended with revenues totaling \$1.147 million and expenses totaling \$328,000. Combining the resulting \$818,000 operating profit with an estimated \$30,000 in interest income, offset by \$1.0 million in Desert Line revenue contributed to MTS capital projects, reserves decreased by an estimated \$152,000 for the year. Although the financial statements have not been published, we do not expect any further changes.

As of August 31, 2018, fiscal year-to-date revenues are \$174,000 favorable to budget primarily due to the Desert Line Lease revenue not included in the budget.

Expenses are \$57,000 favorable to budget primarily due to a favorable variance in Outside Services and Personnel Costs.

The Net Income for the period ending August 31, 2018, was \$204,000.

Attachments: SD&AE Operating Statement Fiscal Year 2018
SD&AE Operating Statement for period ending August 31, 2018

SD&AE Operating Statement FY2018-17

Revenues

Right of Entry Permits
 Lease Income
 Desert Line Lease Revenue
 Operator Income - SD&IV 1% Freight Fee
 Misc. Revenue (Cure of Default - DL lease assignment)

Total Revenues**Expenses**

Personnel Costs
 Outside Services
 Risk Management
 Misc. Operating Expenses

Total Expenses**Net Income/(Loss)**

FY 2018			FY 2017		
	<u>FY 2018 Actual</u>	<u>FY 2018 Budget</u>	<u>Variance</u>	<u>FY 2017 Actual</u>	<u>Variance</u>
\$	16,950	\$ 30,000	\$ (13,050)	\$ 23,574	\$ (6,624)
	90,572	80,000	10,572	87,134	3,438
	1,000,000	-	1,000,000	1,000,000	-
	39,270	35,000	4,270	51,787	(12,517)
	-	-	-	45,000	(45,000)
	<u>1,146,792</u>	<u>145,000</u>	<u>1,001,792</u>	<u>1,207,495</u>	<u>(60,703)</u>
	55,554	37,200	(18,354)	40,914	(14,640)
	181,520	220,000	38,480	154,751	(26,769)
	66,773	67,300	527	15,766	(51,007)
	<u>24,627</u>	<u>20,000</u>	<u>(4,627)</u>	<u>72,347</u>	<u>47,720</u>
	<u>328,474</u>	<u>344,500</u>	<u>16,026</u>	<u>283,778</u>	<u>(44,696)</u>
\$	<u>818,318</u>	<u>\$ (199,500)</u>	<u>\$ 1,017,818</u>	<u>\$ 923,717</u>	<u>\$ (105,399)</u>

Reserve Balance July 1, 2017 \$ 1,527,382

Allocated Interest Earnings - Estimated 30,000
 Operating Profit/(Loss) - FY 2018 818,318
 Less: Desert Line Lease Revenue - Contributed Operating C (1,000,000)

Estimated Reserve Balance as of June 30, 2018 \$ 1,375,700

SD&AE Operating Statement FY2019 and FY2018

	FY 2019			FY 2018		
	<u>Jul - Aug Actual</u>	<u>Jul - Aug Budget</u>	<u>Variance</u>	<u>Jul - Aug Actual</u>	<u>Variance</u>	
Revenues						
Right of Entry Permits	\$ 750	\$ 5,000	\$ (4,250)	\$ 750	\$ -	
Lease Income	40,435	25,834	14,601	39,240	1,195	
Desert Line Lease Revenue	166,669	-	166,669	166,669	-	
Operator Income - SD&IV 1% Freight Fee	6,667	10,000	(3,333)	6,200	467	
Total Revenues	214,520	40,834	173,686	212,859	1,662	
Expenses						
Personnel Costs	5,194	24,820	19,626	6,804	1,610	
Outside Services	1,990	35,670	33,680	7,822	5,832	
Risk Management	2,356	3,384	1,028	52,195	49,839	
Misc. Operating Expenses	1,257	4,012	2,755	299	(958)	
Total Expenses	10,796	67,886	57,090	67,120	56,324	
Net Income/(Loss)	<u>\$ 203,725</u>	<u>\$ (27,052)</u>	<u>\$ 230,777</u>	<u>\$ 145,739</u>	<u>\$ 57,986</u>	

Estimated Reserve Balance July 1, 2018	\$ 1,375,700
---	---------------------

Interest Earnings - Estimated	4,000
Operating Profit/(Loss) - YTD	203,725
Less: Desert Line Revenue	(166,669)

Estimated Reserve Balance Aug 31, 2018	\$ 1,416,756
---	---------------------

Agenda Item No. 3

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

October 9, 2018

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 3rd Quarter of 2018



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

October 1, 2018

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 3rd Quarter of 2018 are listed as follows:

1. Labor

At the end of September 30, 2018 the San Diego & Imperial Railroad had 8 employees:

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

2. Marketing

Volume in the 3rd Quarter had a 3% decrease as compared to the same quarter in 2017. Bridge traffic into Mexico was up about 8% while traffic terminating or originating on the SDIY was down about 17% versus last year. The primary driver for this is a paper customer that moved from a US to a Mexican receiver.

3. Reportable Injuries/Environmental

Days through year to date, September 30, 2018, there were no FRA Reportable injuries or Environmental incidents on the SDIV Railroad.

Days FRA Reportable Injury Free: **7848**

4. Summary of Freight

	2018	2017	2016
Total rail carloads that moved by SDIY Rail Service in the quarter.	951	979	1385
Total railroad carloads Terminating/Originating Mexico in the quarter.	594	547	1058
Total railroad carloads Terminating/Originating El Cajon, San Diego, National City, San Ysidro, California in the quarter.	357	432	327
Total customers directly served by SDIY in the quarter	13	12	10
Regional Truck trips that SDIY Railroad Service replaced in the quarter	2853	2937	4155

Respectfully,

Matt Domen

General Manager

Agenda Item No. 4

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

October 9, 2018

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

October 3, 2018

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

Re: Third Quarter 2018

Dear SD&AE Board:

During the third quarter of 2018 and utilizing all volunteer crews, the Pacific Southwest Railway Museum operated 67 Golden State passenger trains, 14 Valley Flyer trains and one midweek train for NMRA convention attendees, carrying a total of 1,021 passengers during 27 operating days. There were no FRA reportable accidents or injuries during the third quarter, 2018. Earned revenue from SD&AE property for the third quarter, 2018 was \$ 18,030.20 our check for \$360.60 is enclosed.

1,021 passengers during the third quarter of 2018
822 passengers during the third quarter of 2017
773 passengers during the third quarter of 2016
658 passengers during the third quarter of 2015
1,031 passengers during the third quarter of 2014
1,254 passengers during the third quarter of 2013
1,012 passengers during the third quarter of 2012

There were no special event trains operated during the third quarter but pre-sales are now open for October's Pumpkin Express trains which will operate each weekend day in October and December's North Pole trains which will operate every Friday and Saturday evening from November 30 to December 22. I would like to extend an invitation to all members of the SD&AE and MTS meetings to visit the museum at Campo for either event or on any weekend, please e-mail dhyatt@psrm.org for arrangements.

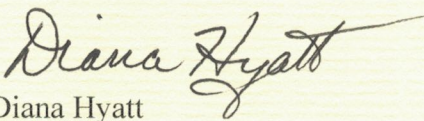
PSRM continues to maintain both signalized railroad crossings within our right of way limits; PSRM signal maintainers perform the monthly, quarterly and annual inspections. During this quarter twenty three switch ties were purchased and installed under both the west and east ends

A Federal Tax Exempt 501 (C) 3 California Non-Profit Corporation www.psrm.org

of the House and Siding tracks within Campo Yard limits and another twenty ties were replaced along the mainline. Additionally, 1.5 miles of right-of-way was hand-weeded of summer Russian thistle growth, then sprayed with a combination of weed killer and pre-emergent. New growth vegetation was also removed from the drainage areas in this region.

Please mark your calendars and plan on joining us mid-morning on Thursday, November 15, 2018 for a media event marking the 99 year anniversary of the completion of the San Diego & Arizona Railway. This event will be held at the Santa Fe Depot at 1050 Kettner Blvd., San Diego. The media would like to interview one or more MTS/SDAE representatives as well as current freight operators of the SD&AE at this kickoff to the railroad's 100th year anniversary celebration next year. There are many activities planned during 2019 at Campo and locations around San Diego prior to the culminating event on Saturday, November 16, 2019 in Campo with a re-enactment of John D. Spreckels' driving of the gold spike. We will be joined by the San Diego City Guard Band who will perform the same musical piece for us that was written and performed at the 1919 celebration. All are encouraged to appear in period-appropriate attire for the 99th and 100th anniversary occasions.

Sincerely,

A handwritten signature in black ink that reads "Diana Hyatt". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Diana Hyatt
President

Agenda Item No. 5

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

October 9, 2018

SUBJECT:

REPORT ON THE DESERT LINE

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: Not submitted in time for the mail-out.

Agenda Item No. 6a

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

October 9, 2018

SUBJECT:

SUMMARY OF SD&AE DOCUMENTS ISSUED SINCE JULY 10, 2018

RECOMMENDATION:

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

Budget Impact

None.

DISCUSSION:

Since the July 10, 2018, SD&AE Railway Company Board of Directors meeting, the documents described below have been processed by staff.

- S200-18-684: Right of Entry Permit to Wilson and Company for surveying at the San Ysidro border crossing.
- S200-18-685: Right of Entry Permit to Jerusalem Construction to construct street improvements on north Spring Street in the City of La Mesa.

Agenda Item No. 6b

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

October 9, 2018

SUBJECT:

LICENSE FOR E STREET AT-GRADE CROSSING AND SWEETWATER BICYCLE
PATH AND PEDESTRIAN PROMENADE

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors approve issuing a license to the San Diego Unified Port District for an at-grade crossing and class 1 bike path and pedestrian promenade at the existing E Street crossing on the Coronado Branch in the City of Chula Vista.

Budget Impact

MTS expenses shall be reimbursed for review, approval, processing, and construction oversight.

DISCUSSION:

The San Diego Unified Port District (Port) is developing improvements to the E Street corridor in the City of Chula Vista west of Interstate 5 as part of the Bay Front Master Plan. The Port has asked for approval of a Class 1 Bikeway and a pedestrian promenade and eventual at-grade crossing at the current private crossing of the Coronado Branch at E Street. The Port has received an Urban Greening Program Grant for this project and wants to move forward.

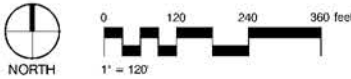
Attached is a schematic of the Urban Greening Strategy Site Plan that shows the relationship of the bikeway and promenade to the existing railroad corridor (6b-2). Eventually E Street will be extended as a public street similar to H Street further south of this location. Staff and the Port have agreed to the attached draft license agreement covering this request (6b-3).

It is anticipated that in the future, the California Public Utilities Commission approval for the at-grade crossing will be obtained and, at that time, staff will revisit upgrading the agreement to an easement. The license contains language to allow for the removal of the rail at this location with consideration to upgrade the crossing at such time the railway is put back in service. The license is terminable.

Attachments: 6b-2. Urban Greening Strategy Site Plan
6b-3. Draft License Agreement



OVERALL SITE PLAN
CHULA VISTA BAYFRONT PARK - URBAN GREENING STRATEGY



CONSTRUCTION AND MAINTENANCE AGREEMENT

THIS CONSTRUCTION AND MAINTENANCE AGREEMENT (“CMA”) is made and entered into this _____ day of _____, 2018, (the “Commencement Date”) by and between the SAN DIEGO AND ARIZONA EASTERN RAILWAY COMPANY (“SDAE”), a California public agency, and SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (“LICENSEE”) (collectively the “Parties”).

RECITALS

WHEREAS, SDAE is the owner of certain railroad right-of-way assets (the “ROW”) located in the County of San Diego, California. The ROW is in inactive use by heavy rail operators; and

WHEREAS, LICENSEE proposes to construct the E Street At-Grade Crossing and Sweetwater Bicycle Path and Pedestrian Promenade, which includes the construction of a Class 1 bike path and pedestrian promenade (the “Project”). The LICENSEE desires to construct a new private at-grade crossing, to serve the Project across the SDAE tracks in substantial compliance with schematic plans attached hereto as Exhibit “A” (collectively, the “Improvements”); and

WHEREAS, the Parties agree that LICENSEE intends to construct and maintain the Project and LICENSEE will reimburse SDAE for all SDAE staff expenses, consultant expenses, and other direct expenses accrued in reviewing, approving, and constructing the Project and in preparing this CMA and any other agreements relating to the Project, including but not limited to a Right of Entry Permit that allows LICENSEE’s contractor to enter into the ROW to construct the Improvements;

NOW, THEREFORE, IT IS AGREED:

1. **License.** SDAE agrees to grant to LICENSEE and hereby grants to LICENSEE a license upon certain portions of the ROW in the County of San Diego, described in Exhibit “B” solely for the purpose of constructing, maintaining and operating the Improvements, in strict accordance with the provisions of this CMA. This license is granted subject to the prior, continuing, and future rights and obligations of SDAE (including its licensees, successors and assigns) to use the ROW for railroad purposes and other consistent uses, including, but not limited to, existing and future transportation activities, utilities, communication systems, pipeline facilities and appurtenances in, upon, over, across and along the ROW, and there is expressly reserved unto SDAE, and its respective successors and assigns, the right (consistent with the rights herein granted) to construct, reconstruct, maintain, operate, and use any and all existing and future facilities and appurtenances related to the above-referenced uses.

2. **Use.** If LICENSEE shall use the ROW for any purpose other than as stated in Section 1 above, or fail to act in accordance with the provisions of this CMA, or act in a manner which unreasonably interferes with the use of the ROW by SDAE (including its licensees, successors and assigns), then SDAE (or its successors and assigns) shall provide LICENSEE with a timely

written notice of any claim of default, meet and confer with LICENSEE regarding the claim of default, and allow LICENSEE a reasonable opportunity to cure the default so long as LICENSEE proceeds expeditiously to cure the default. So long as LICENSEE has delivered notice of the existence, identity and notice address of a lender to the LICENSEE or the Project (a “Lender”), SDAE agrees to deliver a like notice of default to such Lender contemporaneously with the notice given to LICENSEE and allow the said Lender to cure such default as if Lender were LICENSEE. If LICENSEE fails to cure the default in a timely manner, SDAE may exercise its remedies at law or equity against LICENSEE. It is expressly understood and agreed by SDAE that LICENSEE shall use the ROW without interference or damage to the catenary wires, pipelines, electric transmission lines, telephone lines, telegraph lines, communications systems and other facilities of like character, existing or constructed during the term of this CMA over, under, along and across the ROW. LICENSEE hereby agrees that it will indemnify and save harmless SDAE from and against any and all liability for any such interference or damage by LICENSEE or its contractors or agents as more expressly set forth below in paragraph 8.

3. **Conditions and Limitations.**

(a) **Conditions and Limitations on Use.**

- (i) LICENSEE shall comply with all applicable terms, conditions, directives and requirements of SDAE’s policies regarding rights-of-way and other SDAE ordinances, rules and regulations. LICENSEE shall comply with all applicable laws and regulations of the federal, state, county, local governments and all administrative agencies thereof which may have jurisdiction over LICENSEE’s construction, maintenance and operation of the Project.
- (ii) No use, construction, or maintenance by LICENSEE or on LICENSEE’s behalf on the Project will unreasonably interfere with any type of railroad operations on the ROW.
- (iii) LICENSEE shall not leave any personal property or equipment on the ROW unattended at any time unless approved by SDAE.

(b) **Limitations on License.** The license and permission to be granted by SDAE to LICENSEE are without warranty of title of any kind, expressed or implied, and are subject to and subordinate to all prior licenses, leases, easements, restrictions, reservations, conditions, covenants, encumbrances, right-of-ways, liens and claims of title which may in any manner encumber the ROW.

4. **Maintenance and Upgrade of Improvements.** LICENSEE shall maintain at its expense the Improvements constructed pursuant to the terms of this CMA and which are over, under, along and across the ROW except for the area of Improvements described in this paragraph. SDAE shall be responsible for the maintenance of the Improvements consisting of at grade roadway crossings between the rails and for two feet outside the rails. LICENSEE shall be responsible for the maintenance of the Improvements consisting of the entire below grade utility crossings between the rails and for two feet outside the rails and the roadway excepting that which is maintained by SDAE described above. SDAE shall also be responsible for maintaining

the trackage, crossing signaling, signage, communications, and crossing equipment as required. SDAE costs for maintaining the portion of the Improvements as described herein shall be at the sole expense of the LICENSEE.

LICENSEE expressly acknowledges that SDAE shall have the sole and exclusive discretion to order LICENSEE to upgrade the at-grade crossing elements of the Improvements, at LICENSEE's complete expense, to SDAE and industry/regulatory current standards in place at that time, such that any form of railroad or transportation operations could be conducted by SDAE. Subject to LICENSEE'S timely receipt of any necessary ROE Permits, LICENSEE shall commence work on rebuilding the crossings within one hundred and twenty (120) days of receiving a written notice from SDAE and shall complete the rebuilding within ninety (90) days from the date it commences work. The upgrades necessary to rebuild the crossings shall include, but are not limited to rails, ties, track way, crossing panels, railway signaling equipment, and ancillary improvements. Failure to rebuild the crossings within ninety (90) days will result in the imposition of liquidated damages at the rate of one hundred dollars (\$100) for each day the crossings are not rebuilt within the aforementioned time schedule.

5. **Construction Right of Entry Permit.** The exercise of any and all rights provided by this CMA is subject to the requirement that LICENSEE and/or its contractors and agents first obtain a Right of Entry Permit ("ROE Permit") from SDAE prior to entry onto the ROW for the construction, upgrade, reconstruction, or maintenance of the Improvements. The ROE Permit requires that LICENSEE and/or its contractors and agents procure and maintain in force at all times during the construction contract, the insurance described in this CMA. SDAE shall timely process any applications required to obtain the ROE Permit, and shall not unreasonably deny or delay the issuance of such ROE Permit. LICENSEE and/or its contractors and agents will comply in all material respects with all SDAE policies, rules and regulations as stated in the ROE Permit, and the instructions of SDAE's representatives in relation to the proper manner of protecting the railroad tracks and traffic moving thereon, catenary lines, pull lines, signals and other property of SDAE or their respective tenants or licensees, during the period of construction of the Improvements and shall perform the work at such times and in such a manner so as not to endanger or interfere with the safe and timely operation of the railroad track and other facilities. LICENSEE shall be responsible for all costs related to plan review, processing, and inspecting the construction of Improvements incurred by SDAE including staff, consultant, and other direct costs.

6. **Maintenance ROE Permit.** Notwithstanding the foregoing, SDAE hereby grants to LICENSEE a Durable Maintenance ROE Permit to allow LICENSEE to enter onto the ROW for routine maintenance of the Improvements, including, but not limited to, activities such as trash removal, landscape maintenance if any, minor repairs, and similar maintenance activities. The Durable Maintenance ROE Permit shall remain effective throughout the life of this CMA and be subject to all of the terms of this CMA, including but not limited to the indemnity and insurance provisions. Entry onto the ROW by individuals or entities other than LICENSEE (such as contractors, agents, and non-LICENSEE employees) shall require a separate ROE Permit as specified in paragraph 5, notwithstanding the traverse of the at-grade crossings as a private right-of-way.

7. **Notice.** The exercise of any and all rights provided to LICENSEE by this CMA is also subject to the notice requirements set forth in the ROE Permits for the construction and

maintenance of the Improvements, prior to entry onto the ROW for any purpose.

8. **Indemnification.**

(a) **LICENSEE**

LICENSEE shall indemnify, defend and hold harmless the San Diego Metropolitan Transit System (“MTS”), its Board, officers, directors, agents, and employees, Rail America, the San Diego and Imperial Valley Railroad (“SD&IV”), SD&AE, San Diego Trolley, Inc. (“SDTI”), San Diego Transit Corporation (“SDTC”), any other entity performing maintenance work on the ROW, any other entity providing passenger rail operation services for SDAE or SD&AE on the ROW, and any other entity providing dispatch services to SDAE for the ROW, their officers, directors, agents and employees (“SDAE Indemnitees”), from any and all liability, loss, expense (including reasonable attorneys’ fees and other defense costs), demands, suits, liens, damages, costs, claims, including, but not limited to, third party claims, claims for bodily injury, death, personal injury, or property damage, that are incurred by or asserted against the SDAE Indemnitees arising out of or connected with this CMA, the maintenance of any device or appurtenance implemented under this CMA, and any negligent acts or omissions on the part of LICENSEE, its Council, officers, agents, contractors, employees, or invitees, which shall include members of the public using the Project; provided, however, that LICENSEE shall not be required to indemnify, defend, or hold any of the SDAE Indemnitees harmless to the extent of the negligence or willful misconduct of any SDAE Indemnitee or the default of any SDAE Indemnitee of this CMA. The requirements as to the types and limits of the insurance coverage to be maintained by LICENSEE as required by paragraph 9, and any approval of the insurance by SDAE, are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by LICENSEE pursuant to this CMA, including but limited to, the provisions concerning indemnification.

(b) **SDAE**

SDAE agrees to indemnify, defend and hold harmless LICENSEE and its officers, agents, volunteers, contractors, and employees (“LICENSEE Indemnitees”), from any and all liability, loss, expense (including reasonable attorneys’ fees and other defense costs), demands, suits, liens, damages, costs, claims, including but not limited to, claims for bodily injury, death, personal injury, or property damage, that are incurred by or asserted against the LICENSEE Indemnitees arising out of or connected with any negligent acts or omissions on the part of SDAE, its Board, officers, agents, contractors, or employees, under or in connection with any work, authority or jurisdiction delegated to SDAE under this CMA or any breach of this CMA by SDAE; provided, however, that SDAE shall not be required to indemnify, defend, or hold any of the LICENSEE Indemnitees harmless to the extent of the negligence or willful misconduct of any LICENSEE Indemnitee or the default of any LICENSEE Indemnitee of this CMA. SDAE shall have no obligation to indemnify any invitee of LICENSEE.

(c) **CONCURRENT NEGLIGENCE**

In the event of an act or acts of concurrent negligence which results in the filing of a demand, claim, or complaint against the Parties, each party shall defend and represent itself such that each party shall bear its own costs and attorney’s fees.

9. **Insurance.** LICENSEE, at its sole cost and expense, shall procure and maintain the following insurance:

(a) General Liability

- (i) LICENSEE shall maintain \$15 million of general liability coverage (which can be in a combination of primary and umbrella coverage). Upon request by SDAE, LICENSEE shall provide satisfactory evidence that it meets the insurance requirements of this CMA.
- (ii) The coverage described above shall cover bodily injury (including death) and property damage liability, owned and non-owned equipment, and blanket contractual liability.
- (iii) The policies shall not have endorsement limitations relating to operations on or near railroad property.
- (iv) All such policies shall name in the endorsement San Diego Metropolitan Transit System (“MTS”), San Diego Trolley, Inc. (“SDTI”), San Diego and Arizona Eastern Railway Company, San Diego and Imperial Valley Railroad (“SDIV”), San Diego Transit Corporation (“SDTC”), and their directors, officers, agents, and employees as additional insureds as their interests may appear.

(b) Automobile Liability

- (i) LICENSEE shall maintain \$2 million of automobile liability coverage (which can be in a combination of primary and umbrella coverage). Upon request by SDAE, LICENSEE shall provide satisfactory evidence that it meets the insurance requirements of this CMA.
- (ii) The insurance shall indemnify against loss from liability imposed by law for damages on account of bodily injury, property damage, and personal injury. The automobile coverage shall cover all owned, non-owned and hired automobiles.

(c) **Workers Compensation.** LICENSEE shall cover or insure under the applicable laws relating to workers’ compensation insurance, all of their employees working on or about the Right-of-Way, all in accordance with the “Workers’ Compensation and Insurance Act,” Division IV of the Labor Code of the State of California and any Acts amendatory thereof. LICENSEE shall provide employers’ liability insurance in the amount of not less than two million dollars per accident for bodily injury and disease. By its signature hereunder, LICENSEE certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake

self-insurance in accordance with the provisions of that code, and it will comply with such provisions in connection with any work performed on the Site. Any persons providing services with or on behalf of LICENSEE shall be covered by workers' compensation (or qualified self-insurance.) LICENSEE waives any rights of subrogation against MTS, SD&AE, or any of their subsidiaries, and the policy form must permit and accept such waiver.

(d) **Railroad Protective Insurance.** LICENSEE shall remove any exclusions relating to performance of operations within the vicinity of any railroad, Project, trestle, track, roadbed, tunnel, underpass, or crossing from its General Liability Coverage or purchase a separate Railroad Protective Liability policy.

(e) For any claims arising out of or connected with this CMA regarding the maintenance of any device or appurtenance implemented under this CMA, and any negligent acts or omissions on the part of LICENSEE, its officers, agents, contractors, or employees, or LICENSEE's operations or activities, LICENSEE's insurance shall be primary insurance to MTS, SDTI, SDTC, SD&AE, SD&IV, and their directors, officers, employees, contractors, agents or authorized volunteers. Any insurance, self-insurance or other coverage maintained by MTS, SDTI, SDTC, SD&AE, SD&IV, and their directors, officers, employees, agents or authorized volunteers shall not contribute to it. All policies and coverages shall contain a provision for 30 days written notice by the Insurer(s) to the MTS Contracts Specialist of any cancellation or material reduction of coverage. A ten-day notice is required for non-payment of premium.

(f) LICENSEE (A) shall require that every general contractor (which, for the avoidance of doubt, shall mean any party which has a direct contractual relationship with LICENSEE) and (B) shall use commercially reasonable efforts to require every subcontractor retained by any such general contractor to perform the construction or maintenance of the Improvements, who enters upon, uses, or performs any work upon the ROW by or on behalf of LICENSEE shall provide to SDAE evidence of insurance as follows:

- (i) Commercial General Liability. At all times during construction of the Improvements, Commercial General Liability Insurance for bodily injury and property damage in an occurrence form and with insurance companies acceptable to SDAE with minimum policy limits of \$5 million (per occurrence) for any general contractor and \$2 million (per occurrence), \$4 million (aggregate) for any sub-contractors. Such coverages may be affected by a combination of primary and umbrella coverage. Commercial General Liability Insurance must include coverage for the following:
- Premises/Operations Liability
 - Aggregate Limits per Project
 - Products/Completed Operations Liability
 - No Explosion, Collapse, and Underground (XCU) exclusion
 - Contractual Liability, with respect to this agreement
 - Personal Injury Liability

- Broad Form Property Damage
- Independent Contractors

All such policies shall name in the endorsement San Diego Metropolitan Transit System, San Diego Trolley, Inc., San Diego and Arizona Eastern Railway Company, San Diego and Imperial Valley Railroad, San Diego Transit Corporation, and their directors, officers, agents, and employees as additional insureds as their interests may appear. All general liability coverages required under this Section 9(f) are PRIMARY and that any insurance of MTS, SDTI, SD&AE, SD&IV, and SDTC shall be excess and noncontributory (endorsement required). After construction of the Improvements is completed, such limits can be decreased to \$2 million (per occurrence) / \$4 million (aggregate) for any general contractor and \$1 million (per occurrence) / \$2 million (aggregate) for any subcontractor. Such coverages may be affected by a combination of primary and umbrella coverage.

- (ii) Automobile Liability. At all times during this contract, Automobile Liability Insurance for bodily injury and property damage including coverage for all owned, nonowned, and hired vehicles at a minimum policy limit of \$2 million dollars (per occurrence) for any general contractor and \$1 million (per occurrence) for any subcontractor. Such coverages may be affected by a combination of primary and umbrella coverage. All such policies shall name in the endorsement San Diego Metropolitan Transit System, San Diego Trolley, Inc., San Diego and Arizona Eastern Railway Company, San Diego and Imperial Valley Railroad, San Diego Transit Corporation and their directors, officers, agents, and employees as additional insureds as their interests may appear.
- (iii) Workers' Compensation/Employer Liability. At all times during this contract, Contractor agrees to maintain Workers' Compensation and Employers' Liability Insurance in compliance with the applicable statutory requirements at a minimum policy limit of \$1 million dollars. Contractor waives any rights of subrogation against MTS, SDTI, SD&AE, SD&IV, SDTC, , and LICENSEE and the policy form must permit and accept such waiver.
- (iv) Railroad Protective Insurance. Remove any exclusions relating to performance of operations within the vicinity of any railroad, Project, trestle, track, roadbed, tunnel, underpass, or crossing from its General Liability Coverage, or purchase a separate Railroad Protective policy in the amount of \$3,000,000 in the name of SDAE, and all other named parties in section f (i) above.

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

10. **Co-operation in Defense of Claims.** The Parties agree to co-operate in good faith to seek a prompt disposition, by way of dismissal or summary judgment, of any claim or litigation alleging liability of any party to this CMA, based on the construction, maintenance or operation of the Project.

11. **Default; Termination.**

(a) In the event that LICENSEE fails to perform any obligation under this CMA, LICENSEE shall pay all costs and expenses incurred by SDAE in obtaining performance of such obligations, including costs of suit and reasonable attorney's fees. If LICENSEE uses the ROW for any purpose not expressly authorized by this CMA or fails to act strictly in accordance with the terms and conditions of this CMA, and if such default is not corrected within 30 days' notice from SDAE to LICENSEE, SDAE may prevent LICENSEE from entering the ROW until the default is corrected; provided, however, SDAE will not prevent LICENSEE from entering the ROW so long as LICENSEE has commenced curative action within such 30 day period and thereafter continues diligently to work to cure such default. Notwithstanding the foregoing, if SDAE determines that any default by LICENSEE does or has the potential to cause a danger to the ROW, light rail vehicle operations, or railroad operations, and LICENSEE fails or refuses to timely correct the default, SDAE may perform such work as is reasonable and necessary to remedy the danger, and LICENSEE shall reimburse SDAE for all costs and damages so incurred for correcting the default. If LICENSEE fails or refuses to correct any default after such notice, subject to the provisions above, or refuses to timely reimburse SDAE for the work required to remedy the danger, SDAE may, upon thirty (30) days additional notice and in addition to any other remedy provided by law, terminate this CMA and prevent LICENSEE from entering the ROW thereafter.

(b) In the event SDAE fails to perform any of its obligations under this CMA, LICENSEE shall give SDAE written notice of the nature of the default and the steps required to remedy the default. If the default is not cured within thirty (30) days of the delivery of LICENSEE's notice, LICENSEE may proceed to enforce its rights and protect its interests under this CMA. SDAE shall pay all costs and expenses incurred by LICENSEE in obtaining performance of the obligations, and protecting LICENSEE's interests hereunder, including costs of suit and reasonable attorney's fees. In no case will any enforcement action modify the ownership or operation of the ROW.

(c) This CMA may be terminated at any time by either SDAE or LICENSEE upon one hundred twenty (120) days' notice in writing to be served upon the other party, stating therein the date that such termination shall take place, and that upon the termination of this CMA in this or any other manner herein provided, LICENSEE, upon demand of SDAE, shall abandon the ROW and the use of the Improvements, remove any Improvements constructed, installed or maintained on the ROW for the Project, and restore the ROW and any other improvements or facilities within said ROW, whether owned by SDAE or others, to their original condition in which they were prior to the installation of the Improvements. In case LICENSEE fails to

restore SDAE's ROW and improvements or facilities as aforementioned within ten (10) days after the effective date of termination (or other time period approved by SDAE), SDAE may proceed with such work at the expense of LICENSEE. No termination hereof shall release LICENSEE from any liability or obligation hereunder, whether of indemnity or otherwise, resulting from any acts, omissions, or events happening prior to the date the Improvements are removed and the ROW of SDAE restored as above provided.

(d) Termination of this CMA shall not release any party from any liability or obligation hereunder resulting from an event which occurred before termination.

12. **Notices.** All notices to be given under this CMA shall be in writing and either:

(a) Sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered upon actual receipt or one (1) business day after deposit with this courier, whichever occurs first; or

(b) Sent by telecopy or similar means, if a copy of the notice is also sent by United States Mail, in which case notice shall be deemed delivered on transmittal by facsimile provided that a transmission report is generated reflecting the accurate transmission of the notice, as follows:

Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101
Attn: Manager of Real Estate Assets
Tel: 619-595-4903

San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112
Attn: Real Estate Dept.
Tel: 619-686-6291

These addresses may be changed by written notice to the other Parties provided that no notice of a change of address shall be effective until actual receipt by the Parties of the notice. Copies of notices, if any are so indicated, are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

13. **Waiver.** Any party's failure to enforce or exercise its rights with respect to any provision hereof shall not be construed as a waiver of such rights or of such provision.

14. **Laws, Venue, and Attorneys' Fees.** This CMA shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this CMA, the action shall be brought in a state or federal court situated in the County of San Diego, State of California. In the event of any claim, legal action or proceeding between the parties arising under or concerning this CMA, the prevailing party(ies) shall be entitled to reasonable attorneys' fees and expenses as part of the judgment resulting there from.

15. Dispute Resolution.

(a) The Parties agree that they shall first meet, through their senior staff representatives, to attempt to informally resolve any dispute that arises under this CMA.

(b) If the informal efforts are unsuccessful, then the Parties agree to participate in mediation. 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 American Arbitration Association in downtown San Diego, California, to perform the mediation. The initiating party shall then schedule the mediation so that it is conducted within five (5) business days of the mediator's appointment. The costs of the mediation and fees of the mediator, if any, shall be shared equally by the Parties.

(c) Any dispute not resolved through the mediation required by paragraph (b) of this Section, may proceed to litigation unless the Parties agree in writing to submit the dispute to binding arbitration.

16. Memorandum of Agreement; Estoppel Certificates; Assignment. Upon written request of either Party, or any proposed successor or assign of either Party, the other Party shall (i) cooperate in executing and causing to be recorded a memorandum of or recordable short form of this CMA and (ii) execute and deliver an estoppel letter, within 15 days of such request therefor, such estoppel letter addressed to requesting Party and/or to any party requesting the same, certifying under penalty of perjury as of the date of delivery thereof, whether this CMA has been amended or modified in any manner (and if so, identifying such amendment or modification), whether this CMA is then in full force and effect, and whether there then exist any breaches or defaults by either Party under this CMA, or any facts or circumstance which with the giving of notice or lapse of an applicable cure period, or both, would constitute a breach or default under this CMA. Such estoppel letter shall also include certifications by the requested party as to such other factual matters as the requesting Party or the person requesting same shall reasonably request. LICENSEE shall have the right, without obtaining the consent of SDAE, to freely assign, convey, encumber and otherwise transfer any or all of LICENSEE'S right, title or interest in or to this CMA, any ROE Permits issued in connection herewith, and/or the Improvements from time to time, including, but not limited to: (a) in connection with a sale or transfer, of any interest in the Project, (b) in connection with any finance, refinance, sale lease-back transaction or other funding transaction involving the Project, or (c) to any party controlling, under common control with, or controlled by, LICENSEE or that otherwise has an economic interest in the Project.

IN WITNESS WHEREOF, the parties hereto have caused this CMA to be executed by and through their respective officers duly authorized on the date written below their signatures.

SAN DIEGO AND ARIZONA EASTERN
RAILWAY COMPANY

SAN DIEGO UNIFIED PORT DISTRICT

By: _____
Paul C. Jablonski, President

By: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Of Counsel

By: _____
Deputy Port Attorney

List of Exhibits

- A. Project Schematic Plans

SD&AE Board of Directors

10/9/2018

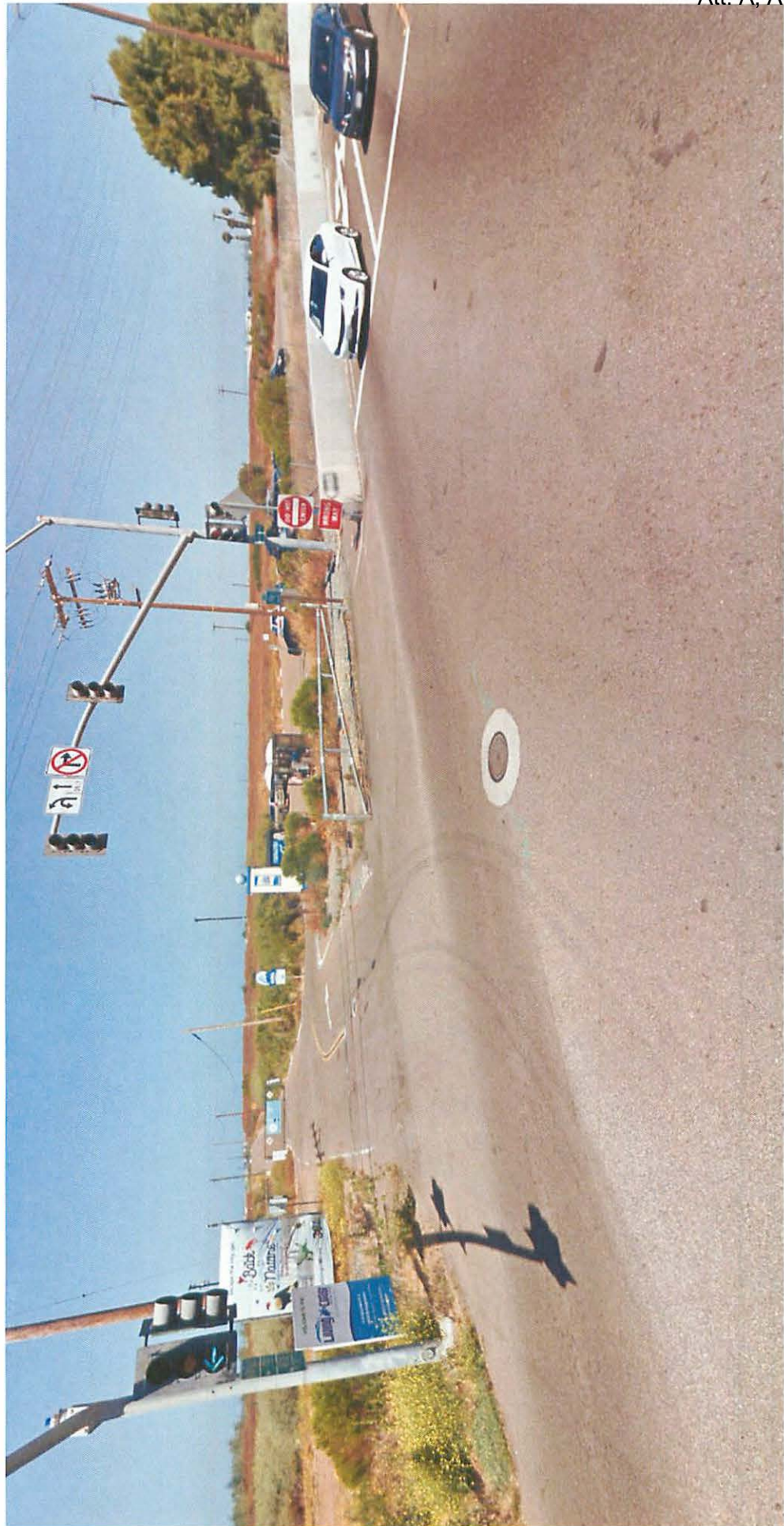
San Diego Unified Port District

E Street Crossing

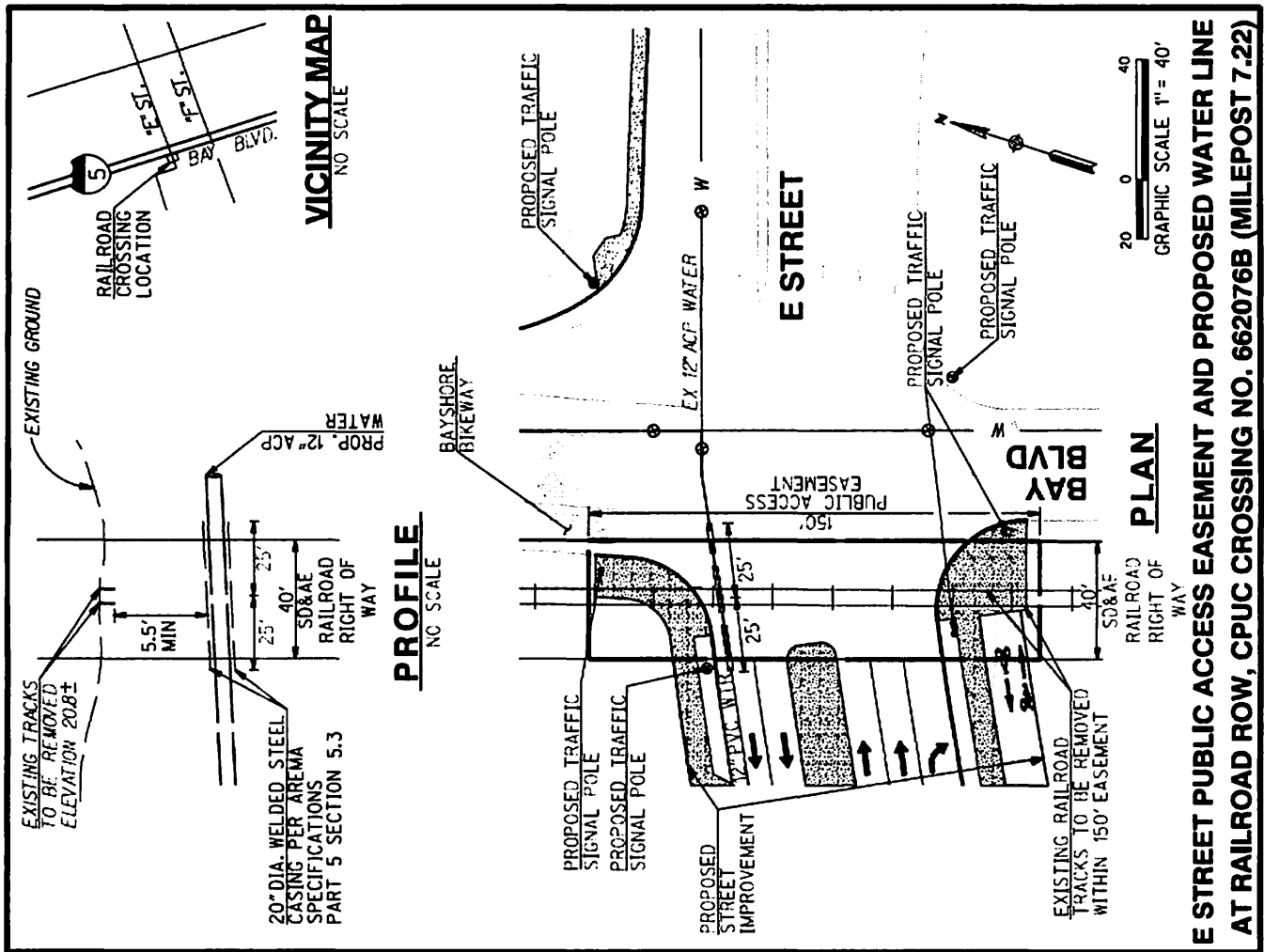
E Street Crossing



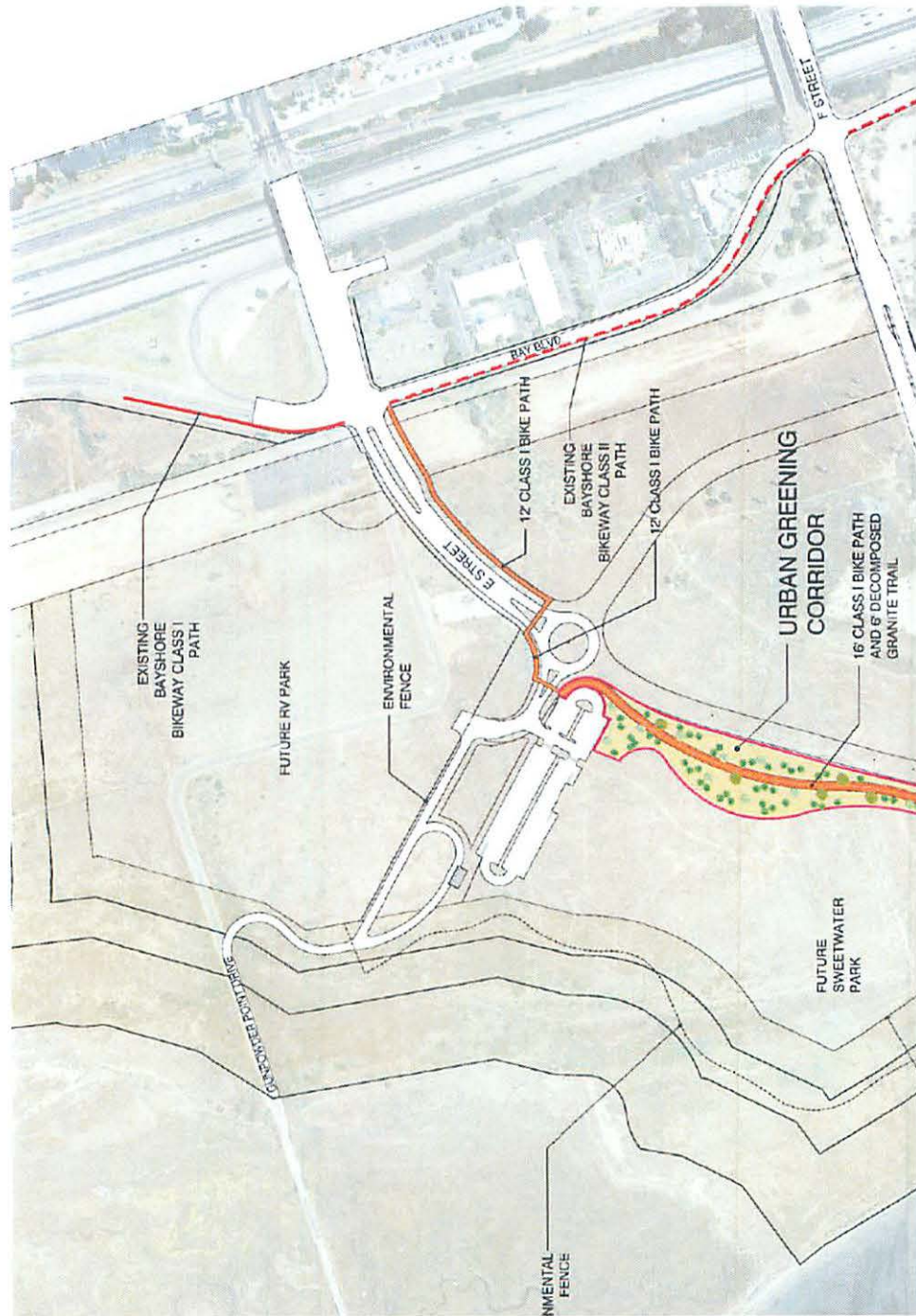
Street View



Proposed Crossing



Urban Greening Corridor



Agenda Item No. 6C

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

October 9, 2018

SUBJECT:

LICENSE FOR CAMERA TOWER PLACEMENT NEAR MILE POST 86.5 ON THE
DESERT LINE

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors approve issuing a license to the United States Customs and Border Protection (CBP) for a camera tower installation on the Desert Line near mile post 86.5.

Budget Impact

Reimbursement is not anticipated in cooperation with CBP.

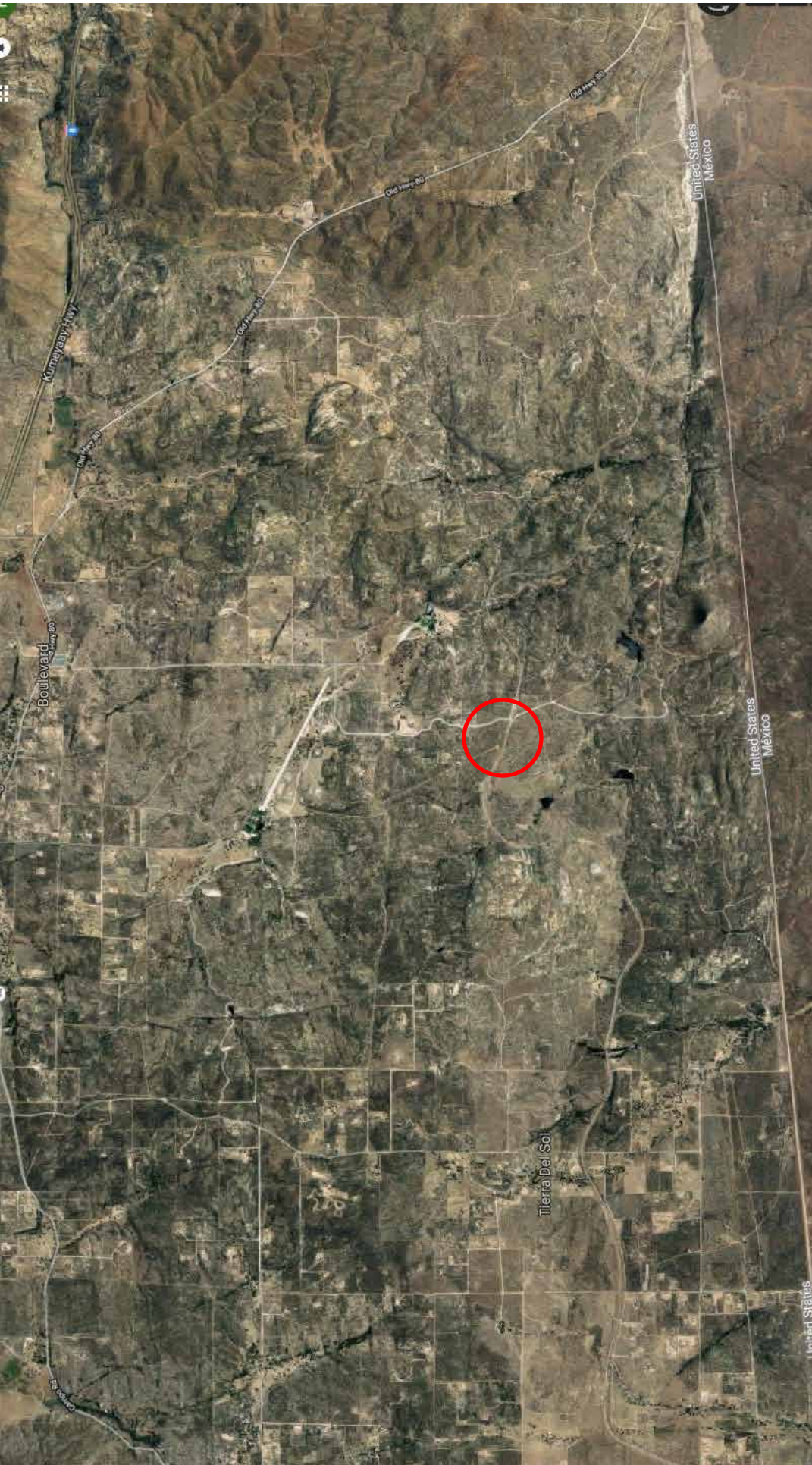
DISCUSSION:

CBP requests that a license be issued to cover the installation of a test camera tower as shown on the attached exhibit (6c-2). The tower's initial site location is east of High Pass near mile post 86.5. The tower may be moved depending on site coverage determined by CBP and approved by the MTS. The tower sites will be reviewed by appropriate specialists, such as historic preservationists and environmental experts.

It is anticipated that the installation will be for approximately 12 months. The tower placement will not be located in a manner that will be in conflict with future reopening of the Desert Line.

Attachment: Camera Tower Rendering





Desert Line milepost 86.5

SD&AE Board of Directors

10/9/2018

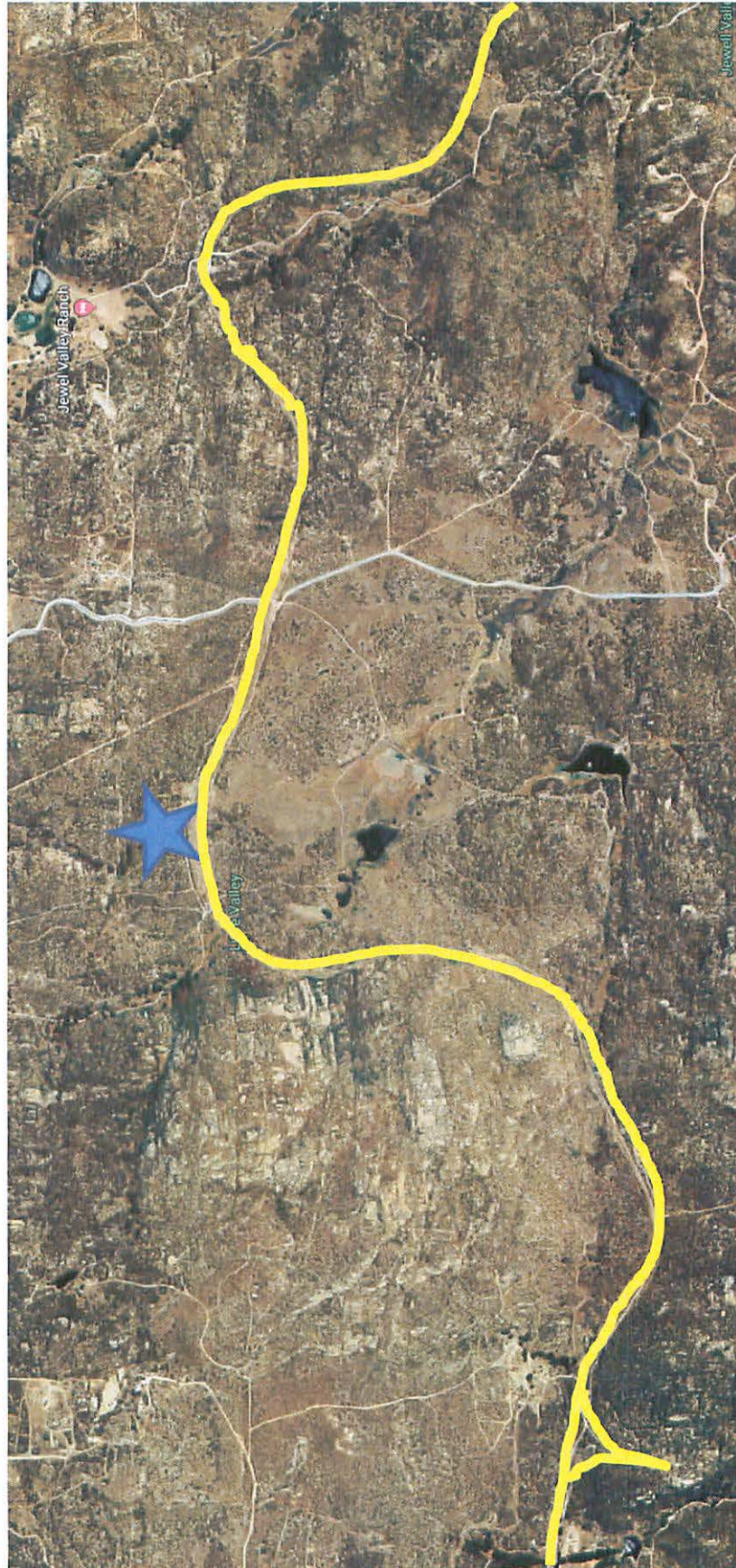
Customs and Border Protection

Camera Tower License

Camera Tower Typical



Initial Installation Site



Agenda Item No. 7

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

October 9, 2018

SUBJECT:

REMOVAL OF ABANDONED TRACK – PROPOSED CAPITAL PROJECT

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors approve the removal of unused track in Commercial Street in San Diego, Cleveland Street in National City, and F Street and J Street in Chula Vista.

Budget Impact

To be determined.

DISCUSSION:

MTS staff is currently preparing the FY 2020 Capital Improvement Project (CIP) list. One item that has been identified for potential action is removal of unused track in city streets. There are currently sections of abandoned SD&AE track in the cities of San Diego (Commercial Street), National City (Cleveland Street), and Chula Vista (F Street and J Street). MTS staff is preparing a project scope and independent cost estimate for this work and identifying potential funding sources. All or part of the funding may be identified from the SD&AE reserve account, which currently holds an estimated \$1,375,700 (as of June 30, 2018).

The proposed project is currently identified as follows: Remove track, timber panels, and warning system (where applicable).

<u>Commercial Street (City of San Diego)</u> Siding - 1600' x 10' 31 st Spur – 410' x 10' 22 nd Spur - 150' x 10' Remove 4 switch frogs and 2 split-point derails	<u>F Street (City of Chula Vista)</u> Track (center of street) 1600 x 10'
<u>Cleveland Street (City of National City)</u> Track (center of street) 3500' x 10'	<u>J Street (City of Chula Vista)</u> Remove grade crossing

The current project scope includes 7,260 lineal feet of track removal and 72,600 square feet of pavement install. In addition, staff will be evaluating the cost of removing all track and ties or only removing track and repaving. If the ties are not removed, it could require future maintenance obligations; however, tie removal could significantly increase the project cost.

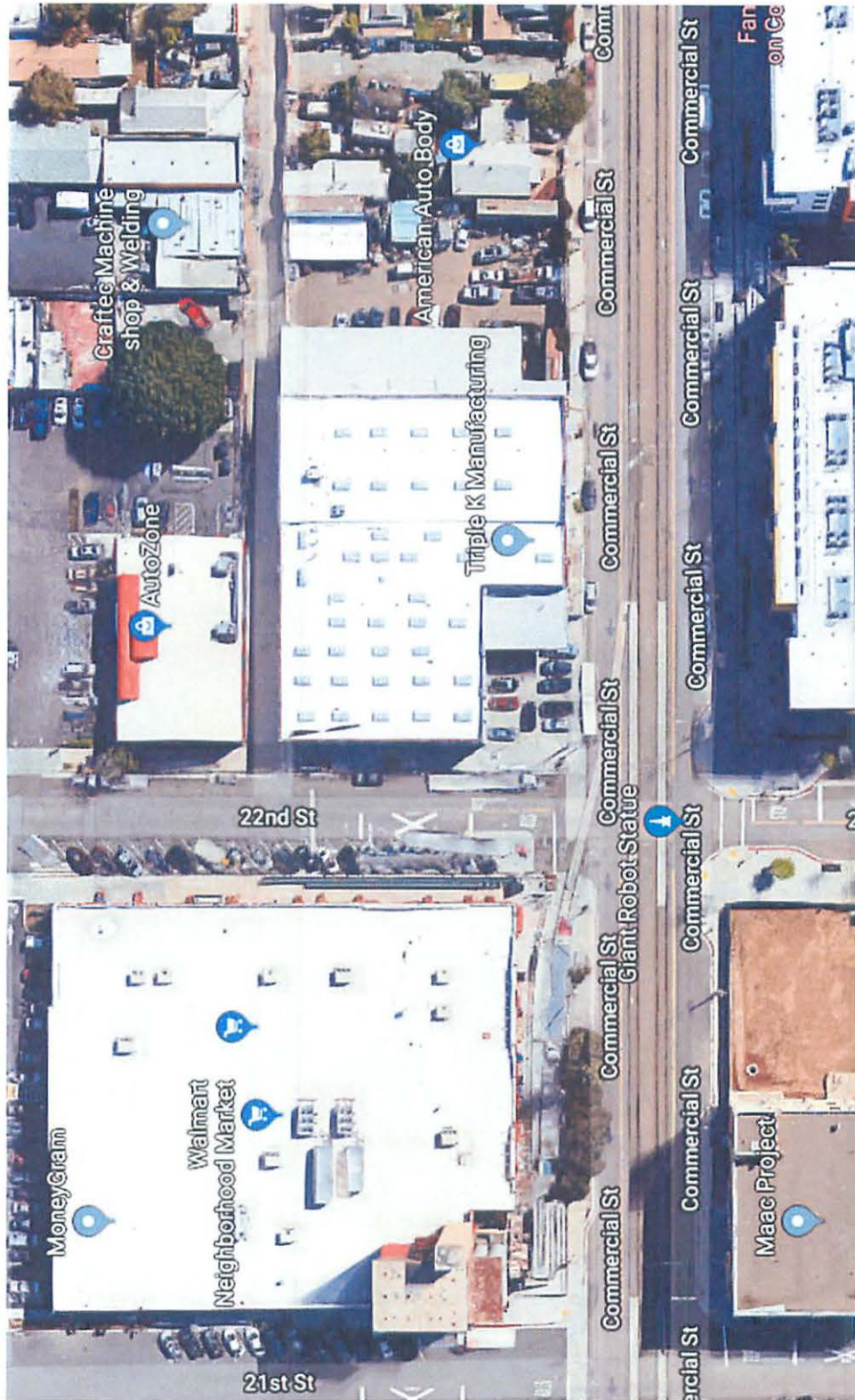
SD&AE Board of Directors
10/9/2018
Agenda Item 7

**REMOVAL OF ABANDONED TRACK –
PROPOSED CAPITAL PROJECT**

Commercial Ave Spurs

22nd Street Spur to Walmart

San Diego



Commercial Ave Spurs & Siding

29th Street to 31st Street

San Diego

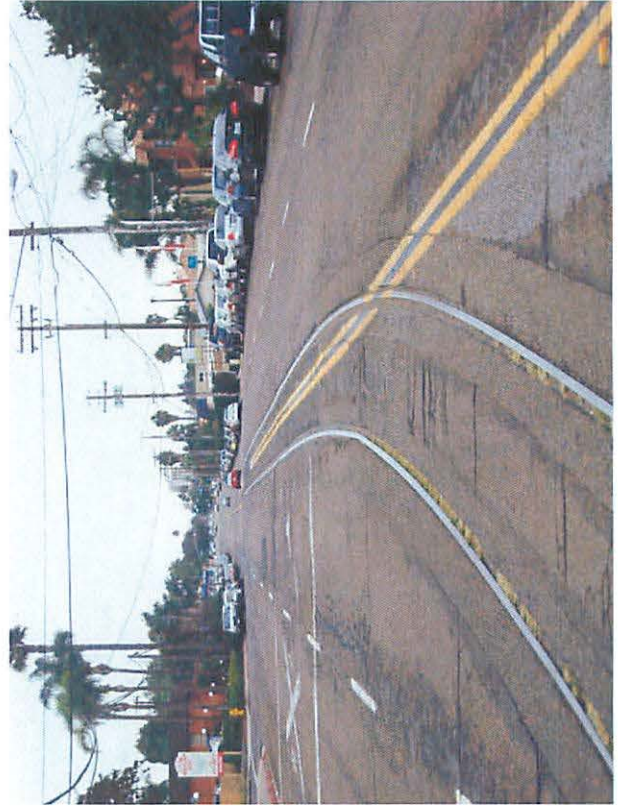


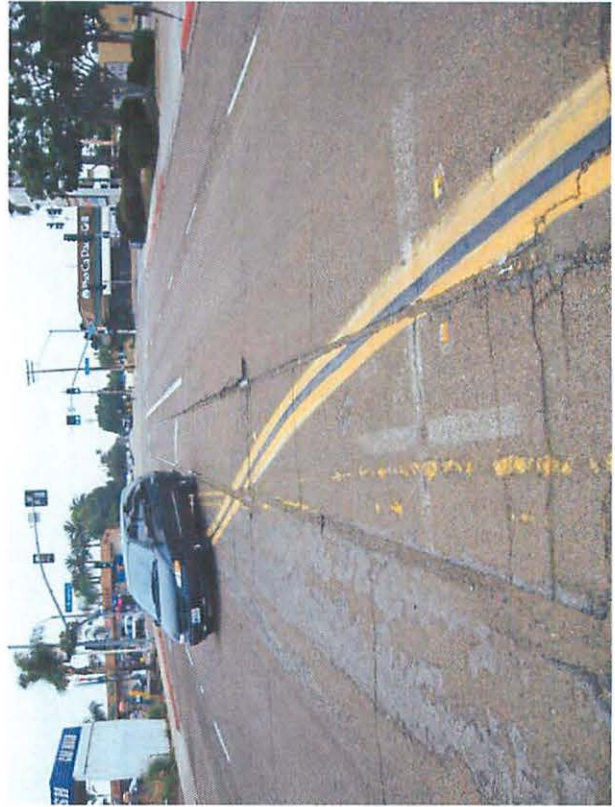
F Street

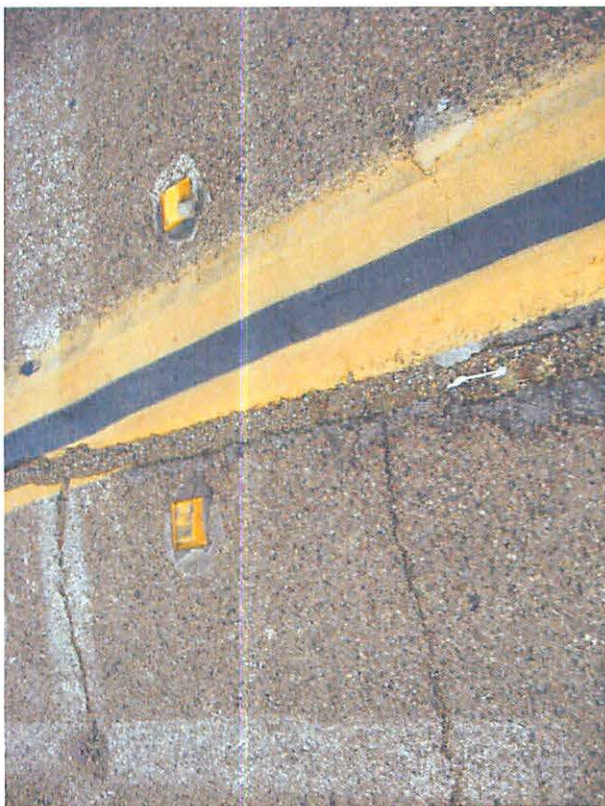
between I-5 and Broadway

Chula Vista



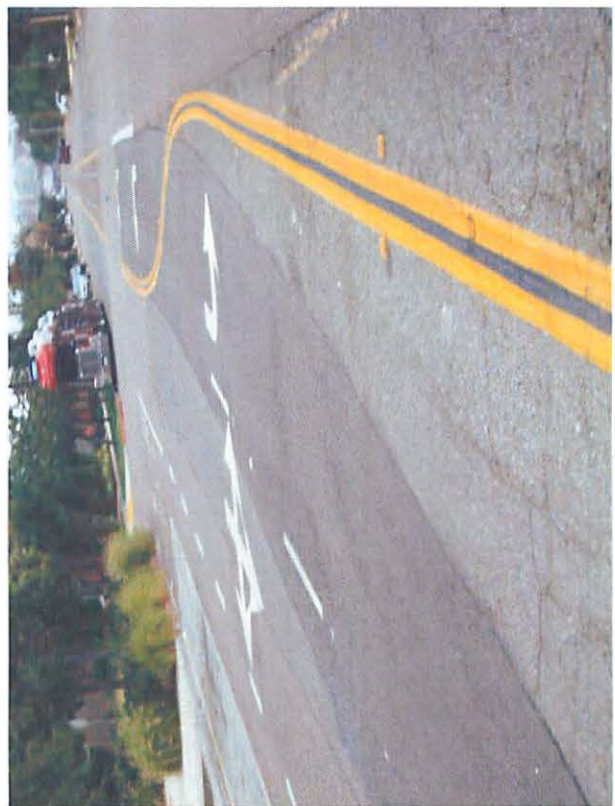
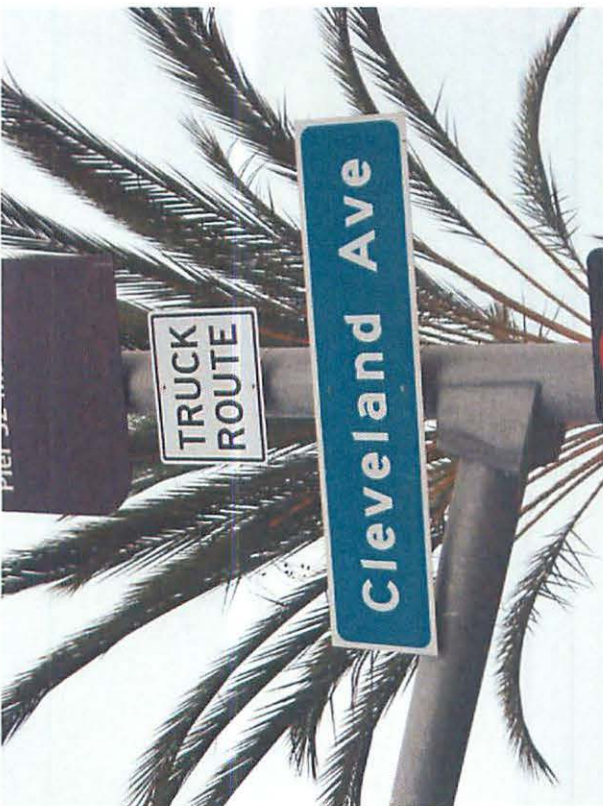




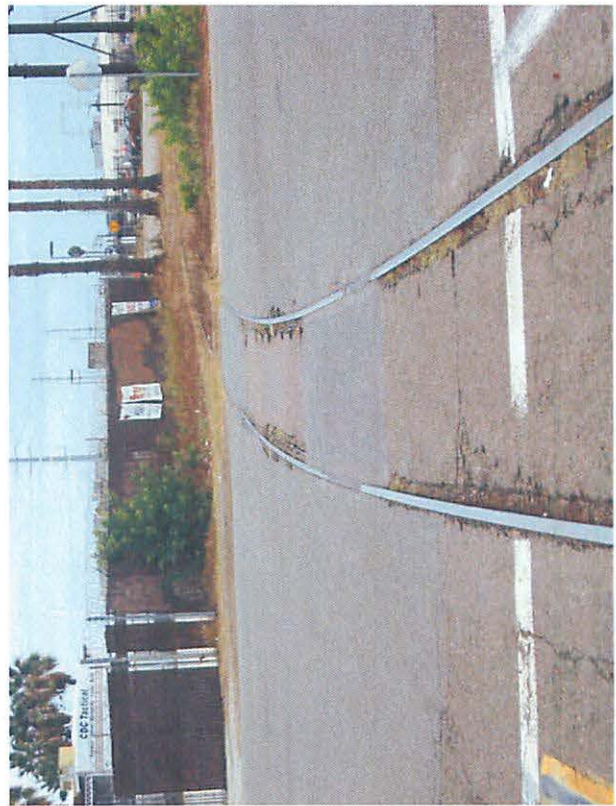
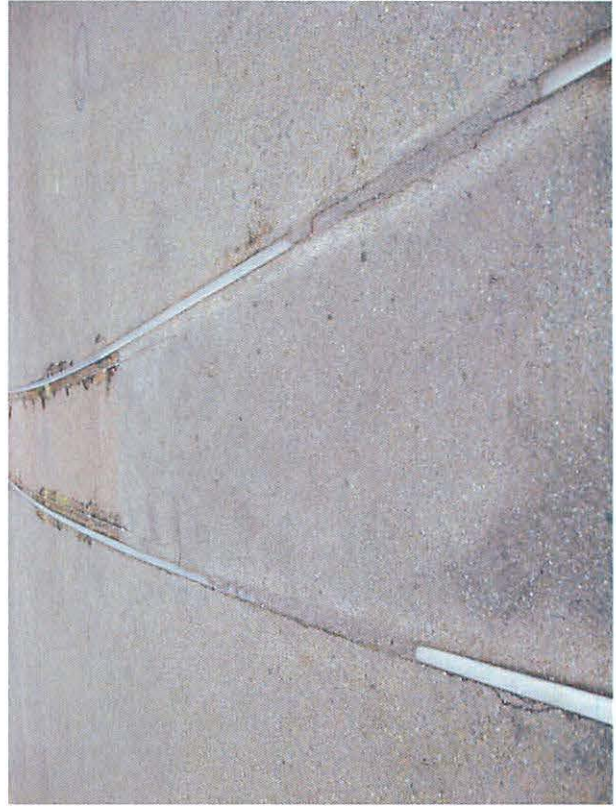




Cleveland
Street
between Civic
Center Dr. and Bay
Marina Drive
National City









REQUEST TO SPEAK

Agenda Item No. 7

Order Request Received

PLEASE SUBMIT THIS COMPLETED FORM (AND ANY WRITTEN STATEMENTS) TO THE CLERK OF THE COMMITTEE PRIOR TO DISCUSSION OF YOUR ITEM¹.

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	<u>R. Michel Beauchamp</u>
Address	<u>1434 East 24th St</u>
Telephone	<u>619 477 5337</u>
Organization represented (if any)	<u>San Diego Electric Railway Assn</u>
Subject of your remarks	<u>Retention of route a Colorado Belt Line</u>
Regarding Agenda Item No.	<u>7</u>
Your comments are presenting a position of:	<div style="display: flex; align-items: center; justify-content: space-around;"><div style="text-align: center;"><input type="checkbox"/> SUPPORT</div><div style="text-align: center;"><input checked="" type="checkbox"/> OPPOSITION</div></div>

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.

Request to Speak Form.doc

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

Agenda Item No. 8

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

October 9, 2018

SUBJECT:

APPROVAL OF THE 2019 SD&AE BOARD OF DIRECTORS MEETING SCHEDULE

RECOMMENDATION:

That the SD&AE Board of Directors approve the 2019 SD&AE Board of Directors meeting schedule.

Budget Impact

None.

DISCUSSION:

The SD&AE Board of Directors customarily meets once each quarter to discuss business and receive reports from its contract operators.

The following meeting schedule is recommended for 2019:

Tuesday, January 15, 2019	9:00 a.m.	(Fourth Quarter 2018 Reports)
Tuesday, April 9, 2019	9:00 a.m.	(First Quarter 2019 Reports)
Tuesday, July 9, 2019	9:00 a.m.	(Second Quarter 2019 Reports)
Tuesday, October 8, 2019	9:00 a.m.	(Third Quarter 2019 Reports)

Upon approval of the above meeting dates, additional information regarding materials due dates and mail-outs is as follows:

Materials Due to Clerk:

Wednesday, January 9, 2019
Wednesday, April 3, 2019
*Tuesday, July 2, 2019
Wednesday, October 2, 2019

Materials Posted:

Friday, January 11, 2019
Friday, April 5, 2019
Friday, July 6, 2019
Friday, October 4, 2019

*Materials due early due to July 4 holiday.



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Agenda Item No. 8

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

FEDERAL TRANSIT ADMINISTRATION (FTA) SECTION 5310 GRANT APPLICATION,
AND *TRANSNET* SENIOR MINI-GRANT APPLICATION, APPORTIONED THROUGH
THE SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG)

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors:

- 1) Adopt Resolution No. 18-14 agreeing to comply with all terms and conditions of the FTA Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities program as set forth by the FTA and SANDAG; and agreeing to comply with all terms and conditions of the *TransNet* Senior Mini-grant program as set forth by *TransNet* and SANDAG;
- 2) Authorize the Chief Executive Officer (CEO) to submit the following applications and execute any grant agreements awarded by SANDAG:
 - a. \$452,685 in federal fiscal year 2020 FTA Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities funding for paratransit vehicle replacements;
 - b. \$499,900 in federal fiscal year 2021 FTA Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities funding for paratransit vehicle replacements;
 - c. \$61,200 in fiscal year 2020 *TransNet* Senior Mini-grant funding for the MTS Access Travel Training Program; and
 - d. \$61,200 in fiscal year 2021 *TransNet* Senior Mini-grant funding for the MTS Access Travel Training Program;
- 3) Authorize the commitment of up to \$292,307 in local matching funds to fully fund the purchase of 11 paratransit vehicles if awarded; and
- 4) Authorize the commitment of up to \$30,600 in local matching funds to fully fund the MTS access Travel Training Program.



Budget Impact

Section 5310 and the *TransNet* Mini-grant require that at least 20 percent of the total project cost is funded by local matching funds. SANDAG has set a maximum Section 5310 and Mini-grant request amount per year at \$500,000. Based on vehicle pricing estimates, the project will require \$292,307 local matching funds for the replacement of 11 paratransit vehicles, and \$30,600 local matching funds for the MTS Access Travel Training Program for a total local match of \$322,907 between the two programs.

DISCUSSION:

The FTA provides capital and operating assistance to agencies providing transportation through Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program. *TransNet* provides mobility management, and operating assistance for enhancing transportation for seniors through the *TransNet* Senior Mini-grant. These funds are to be apportioned by the Metropolitan Planning Organization (MPO), SANDAG, through a competitive grant application process. SANDAG is currently accepting applications for the available funding for federal fiscal years 2020 and 2021. SANDAG requirements include submission of a resolution by the MTS Board of Directors agreeing to comply with the terms and conditions of the Section 5310 program, and the *TransNet* program, authorizing the CEO to submit applications and execute any grant agreements, and authorizing the commitment of local matching funds to the project.

Therefore, staff recommends that the Board of Directors approve Resolution No. 18-14, authorizing the application and use of \$952,585 in FY 2020 and FY 2021 Section 5310 funding for the replacement of 11 paratransit vehicles, \$122,400 in *TransNet* funding for the MTS Access Travel Training program, and a total local match of \$322,907 between the two programs.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Resolution No. 18-14

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

RESOLUTION NO. 18-14

Resolution Authorizing the Filing of an Application for FTA Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program funds for MTS Access Fleet Replacement, and the TransNet Senior Mini-Grant program for the MTS Access Travel Training Program, both apportioned together through the San Diego Association of Governments, Committing the Necessary Local Match for the Project(s), and Stating the Assurance of the San Diego Metropolitan Transit System to Complete the Project

WHEREAS, the San Diego Association of Governments (SANDAG) is making available funds for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, and the TransNet Senior mini-grant program through a competitive process for Federal Fiscal Year 2020 and 2021 funding; and

WHEREAS, San Diego Metropolitan Transit System (MTS) wishes to receive up to \$952,585 in Section 5310 Program funds for the following project(s): MTS Access Fleet Replacement, and \$122,400 TransNet funds for the MTS Access Travel Training Program; and

WHEREAS, MTS understands that the Section 5310 Program funding and the TransNet Program funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded through the Section 5310 Program or TransNet Program; and

WHEREAS, MTS understands that all funds awarded from SANDAG are subject to a use it or lose it policy enunciated in SANDAG Board of Directors Policy No. 035; and

WHEREAS, MTS understands that projects funded through the Section 5310 Program, and TransNet Program, require matching funds to be provided by the project sponsor;

NOW THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED by the MTS Board of Directors that MTS is authorized to submit an application to SANDAG for Section 5310 funding in the amount of \$952,585 for MTS Access Fleet Replacement, and \$122,400 for TransNet Senior Mini-grant funding for the MTS Access Travel Training Program; and

BE IT FURTHER RESOLVED that if an award is made by SANDAG to fund the MTS Access Fleet Replacement project and/or the MTS Access Travel Training, the Board of Directors commits to providing up to \$292,307 of matching funds which is not less than the required amount of \$292,307 based on the required proportion to the grant request amount for Section 5310, and/or the Board of Directors commits to providing up to \$30,600 of matching funds which is not less than the required amount of \$30,600 based on the required proportion to the grant request amount for the TransNet Senior Mini-grant program, and authorizes the MTS Chief Executive Officer to accept the grant funding, execute a Grant Agreement with SANDAG in the form that has been provided by SANDAG, and complete the MTS Access Fleet Replacement project, and/or the MTS Access Travel Training Project.

PASSED AND ADOPTED, by the Board of Directors this 8th day of November 2018 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

Resolution No. 18-14



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San Diego, CA 92101-7490
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Agenda Item No. 9

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

REVISIONS TO SAN DIEGO METROPOLITAN TRANSIT SYSTEM (MTS)
ORDINANCE NO. 11

RECOMMENDATION:

That the Board of Directors:

- 1) Adopt the proposed amendments to MTS Ordinance No. 11, an Ordinance Providing for the Licensing and the Regulating of Transportation Services within the City by the adoption of a Uniform Paratransit Ordinance (Attachment A);
- 2) Direct publication of a summary of the amendments to MTS Ordinance No. 11; and
- 3) Upon adoption of the proposed amendments, authorize the Chief Executive Officer (CEO) the discretion to enforce MTS Ordinance No. 11 in its amended form.

Budget Impact

None with this action.

DISCUSSION:

Effective January 1, 2019, Assembly Bill No. 1069 ("AB 1069") (Attachment B) makes various changes to the regulation of taxicab transportation services.

In order to be in compliance with AB 1069, certain revisions to MTS Ordinance No. 11 are necessary. MTS Ordinance No. 11 provides for the licensing and regulating of transportation services.



MTS Ordinance No. 11, Section 1.1 (g)

Currently, MTS Ordinance No. 11 lists the following Cities to be under a contractual agreement with MTS for the licensing and regulation of transportation services: Cities of Chula Vista, El Cajon, Imperial Beach, La Mesa, Lemon grove, National City, Poway, San Diego and Santee. The proposed revisions would add the unincorporated areas of County of San Diego located within MTS's service area. The County of San Diego at this time has only agreed for MTS to regulate and enforce taxicab transportation services and not other for-hire vehicle services.

MTS Ordinance No. 11, Section 1.1 (hh), (ii)(4), 1.3 (a)(1), and 1.4 (c)

The proposed revisions would add the definition of substantially located. A taxicab must be substantially located within Chula Vista, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee or the unincorporated areas of the County of San Diego located within MTS's service area in order for MTS to regulate. Substantially located means either where the primary business address of the taxicab permit holder and/or the jurisdiction within San Diego County in which originating trips account for the largest share of that taxicab permit holder's total number of trips within San Diego County. The proposed revisions would also update the definition of a taxicab to require that it be substantially located within one of the above listed jurisdictions and that it carry not more than eight (8) passengers excluding the driver.

MTS Ordinance No. 11, Section 1.1 (jj), 1.8 (f)(4), and 2.2 (e)(2)

The proposed revisions update the definition of a taximeter. To clarify, taximeters can be either a hard meter or a soft meter. A hard meter has a prefixed fare with an external seal approved by the County of San Diego Agriculture, Weights and Measures, and mileage is calculated based on distance and time. A soft meter is a smartphone or tablet that uses GPS or other on-board diagnostics approved by the California Department of Food and Agriculture Division of Measurement Standards to calculate distance and rates.

MTS Ordinance No. 11, Section 1.3 (a)(8), and 2.2 (c), (i), (j)

Currently, all permit applicants must provide rates of fare proposed to be charged for vehicle for-hire services within their application. The proposed revisions would exclude this requirement for taxicab permit applicants since AB 1069 now allows the taxicab permit holder or driver to charge any rate of fare or flat fee so long as it does not exceed the maximum rate of fare adopted by MTS.

MTS Ordinance No. 11, Section 1.3 (a)(9)

Currently, all permit applicants must provide a description of their proposed vehicle color scheme or insignia within their application. With the changes adopted in December 2017, MTS no longer regulates a vehicle's proposed color scheme or insignia. Thus, the proposed revisions would remove this permit application requirement.

MTS Ordinance No. 11, Section 1.8 (o), 1.13 (a)(7), 2.2 (d), and 2.4 (w)

MTS Ordinance No. 11 Section 1.8 (o) currently requires that rates of fare charged for a for-hire vehicle shall be clearly displayed. The proposed revisions would only require that the maximum rates of fare be clearly and conspicuously displayed in the interior of the for-hire vehicles other than taxicabs. Per AB 1069, taxicabs may disclose fares to its passengers, by such methods as website, mobile phone application or telephone orders and may post fares on the exterior of the vehicle, on a mobile application or be clearly visible in print or electronic form within the taxicab.

MTS Ordinance No. 11, Section 1.8 (aa) - (ff)

These operating provisions (i.e. no smoking within the vehicle; cannot use abusive language towards passengers; driver can refuse a fare if it is readily apparent it will cause harm to driver; and cannot park near a fire plug or within a disabled parking zone) were moved from Section 2.4 ("Operating Regulations" for Taxicabs and Low Speed Vehicles (LSV)) to Section 1.8 ("Equipment and Operating Regulations") since they were not specific to only taxicabs and LSV, but applied to all for-hire vehicles. In addition, the proposed revisions update the non-discrimination provision to be consistent with how defined in AB 1069.

MTS Ordinance No. 11, Section 1.10 (f)

The proposed revisions would remove the requirement that a permit holder must appear in person to apply for a permit. It is sufficient that a permit application be emailed, mailed or submitted in person.

MTS Ordinance No. 11, Section 1.12 (e)

MTS Ordinance No. 11, Section 1.12 (e) requires every person who operates a for-hire vehicle to successfully complete an MTS approved driver safety training course. The proposed revisions would add the Americans with Disabilities Act (ADA) compliance component be included within the training course, in compliance with AB 1069. MTS currently mandates that all drivers of MTS regulated vehicles attend and pass a driver's safety course once every two years. The class addresses issues that include: driver and vehicle safety, customer service, Ordinance No. 11 provisions and ADA requirements.

MTS Ordinance No. 11, Section 2.2 (b)

Currently, it is required that taxicab trips from San Diego International Airport shall be charged at a uniform rate of fare with an additional Airport Trip Fee as applicable. AB 1069 now allows taxicabs to charge any rate of fare or flat fee so long as no more than the maximum rate of fare adopted by MTS, notwithstanding any additional Airport Trip Fee. The proposed revisions clarify this change.

MTS Ordinance No. 11, Section 2.4 (o)(3)

Since AB 1069 will require at the time of annual renewal that taxicab permit holders or drivers provide the last years' worth of trip log data to substantiate where they are substantially located, the proposed revision would add the requirement to maintain trip log data for at least 18 months. The proposed retention time frame will allow MTS enough time to collect, review and verify the required data without fear the data is no longer maintained.

MTS Ordinance No. 11, Section 2.4

Proposed revisions would remove the requirement that permit holders for taxicabs and LSV: have a color scheme that conforms to the dispatch service, since this requirement was removed in December 2017; maintain a business office that is available to the public, since most taxi companies are individual permit holders who operate out of their homes and the cost of maintaining a physical business office would be too burdensome and outside of current industry standards; file with MTS the rate of fare to be charged, since this is duplicative of what is already discussed and required in Section 1.3 (a)(8); and maintain a lease agreement and receipts of payments from lessee, since lease agreements between a permit holder and lessee is a private contract matter that does not involve MTS.

MTS Ordinance No. 11, Section 2.8

The proposed revisions would add a section relating to prearranged trips by taxicabs. Per AB 1069, once a taxicab is found to be substantially located within at least one jurisdiction within San Diego County, they can conduct prearranged trips anywhere within San Diego County without having to apply for a taxicab permit or business license within that particular jurisdiction. For instance, a MTS taxicab permit holder can now conduct a prearranged trip in Oceanside without having to apply for a separate taxicab permit or business license with the City of Oceanside. Likewise, a taxicab found to be substantially located in Oceanside would only need to get a taxicab permit and business license with the City of Oceanside. Such a taxicab would not be required to apply for a taxicab permit or business license with MTS if they conducted a prearranged trip within the City of San Diego. Nonetheless, AB 1069 does allow MTS Taxicab Administration the authority to enforce public health, safety or welfare measures on taxicabs operating within MTS's jurisdiction, regardless if they are not considered substantially located here. MTS Taxicab Administration will be discussing with the Workshop on Regulatory Matters (WORM) Committee which provisions should apply for taxicabs operating a prearranged trip in MTS's jurisdiction.

MTS Ordinance No. 11, Various Sections throughout MTS Ordinance No. 11

In December 2017, MTS removed the requirement that LSV must have a dispatch service in order to operate. Currently, only taxicabs must subscribe to a dispatch service. The proposed revisions clarify this change.

All other proposed revisions to MTS Ordinance No. 11 that are not described here are minor and non-substantive.

/s/ Paul C. Jablonski

Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Redline Draft of Amended MTS Ordinance No. 11
B. AB 1069

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

CODIFIED ORDINANCE NO. 11

(as amended through ~~September 20~~November 8,
2018)

An Ordinance Providing for the Licensing and the Regulating of
Transportation Services Within the City and County by the Adoption of
a Uniform Paratransit Ordinance

MTS CODIFIED ORDINANCE NO. 11

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SAN DIEGO METROPOLITAN TRANSIT SYSTEM

CODIFIED ORDINANCE NO. 11

(as amended through ~~September 20~~ November 8, 2018)

An Ordinance Providing for the Licensing and the Regulating
of Transportation Services Within the City and County By the Adoption of
a Uniform Paratransit Ordinance

SECTION 1.0 - GENERAL REGULATIONS

Section 1.1 - Definitions

The following words and phrases, wherever used in this section, shall be construed as defined in this section, unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases.

~~(a)~~ "Association" shall mean an incorporated or unincorporated group of persons united for some purpose related to the operation of for hire vehicles.

~~(b)~~ "Board" shall mean the Board of Directors of the San Diego Metropolitan Transit System.

~~(c)~~ A "low speed vehicle" is a motor vehicle, other than a motor truck, having four wheels on the ground and an unladen weight of 1,800 pounds or less, that is capable of propelling itself at a minimum speed of 20 miles per hour and a maximum speed of 25 miles per hour, on a paved level surface. For the purposes of this section, a "low speed vehicle" is not a golf cart, except when operated pursuant to California Vehicle Code Section 21115 or 21115.1.

~~(b)~~ "Charter vehicle" shall mean every vehicle which:

- (1) Transports passengers or parcels or both over the public streets of the City;
- (2) Is routed at the direction of the hiring passenger;
- (3) Is prearranged in writing for hire;
- (4) Is not made available through "cruising"; and
- (5) Is hired by and at the service of a person for the benefit of himself or herself or a specified group.

~~(c)~~ "Chief Executive Officer" shall mean the Chief Executive Officer of MTS or his or her designated representative.

~~(d)~~ "City" and "Cities" shall mean the incorporated areas of the Cities of Chula Vista, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee and any other City that has entered into a contractual agreement with MTS for the licensing and regulation of transportation services.

~~(e)~~ "Compensation" shall mean any money, thing of value, payment, consideration, reward, tip, donation, gratuity or profit paid to, accepted, or received by the driver or owner of any vehicle in exchange for transportation of a person, or persons; whether paid upon solicitation, demand or contract, or voluntarily, or intended as a gratuity or donation.

(f) "Compensation" shall mean any money, thing of value, payment, consideration, reward, tip, donation, gratuity or profit paid to, accepted, or received by the driver or owner of any vehicle in exchange for transportation of a person, or persons; whether paid upon solicitation, demand or contract, or voluntarily, or intended as a gratuity or donation.

(g) "County" shall mean the unincorporated area of the County of San Diego located within MTS's jurisdictional boundaries. Only the sections of MTS Ordinance No. 11 that apply to taxicab permit holders and taxicab drivers shall be applicable to the County of San Diego.

(h)

~~(g)~~ "Cruising" shall mean the movement over the public streets of a taxicab or low-speed vehicle (LSV) in search of prospective passengers; except the term does not include either the travel of a taxicab or LSV proceeding to answer a call for service received by telephone or radio from an intended passenger or the travel of such a vehicle, having discharged a passenger or passengers, returning to the owner's place of business or to its established point of departure.

~~(h)~~ "Days" shall mean working days, exclusive of weekends and holidays for which MTS offices are closed.

~~(i)~~ "Doing business" shall mean accepting, soliciting or transporting passengers for hire or compensation in a City or County.

~~(j)~~ "Driver" shall mean every person operating any for-hire vehicle.

~~(k)~~ "Driver's identification card" shall mean license, issued pursuant to this Ordinance, which permits a person to drive a for-hire vehicle within the City or County.

~~(l)~~ "Employ" as used in this Ordinance includes any form of agreement or contract under which the driver may operate the permit holder's for-hire vehicle.

~~(m)~~ "Exclusive ride" shall mean exclusive use of a for-hire vehicle by one or more related passengers at a time.

~~(n)~~ "For-hire vehicle" shall mean every vehicle, other than public transit vehicles or vehicles involved in an organized carpool not available to the general public, which is operated for any fare for compensation and used for the transportation of passengers over ~~city~~ public streets, irrespective of whether such operations extend beyond the boundary limits of said City or County. Such for-hire vehicles shall include taxicabs, vehicles for charter, jitneys, nonemergency medical vehicles, sightseeing vehicles, and LSVs.

~~(o) "Chief Executive Officer" shall mean the Chief Executive Officer of MTS or his or her designated representative.~~

(p) "Group ride" shall mean shared use of a taxicab or LSV where a group of related passengers enter at the same point of origin and disembark at the same destination and pay a single fare for the trip.

(q) "Hearing officer" shall mean any person or entity that meets the requirements of this Ordinance and that has been retained to conduct administrative hearings.

(r) "Jitney" shall mean every vehicle which:

- (1) Transports passengers or parcels or both over the public streets of the City;
- (2) Follows a fixed route of travel between specified points with the fare based on a per capita charge established in its permit; and
- (3) Is made available to boarding passengers at specified locations along its route on a variable schedule.

(s) A "low-speed vehicle" or "LSV" is a motor vehicle, other than a motor truck, having four wheels on the ground and an unladen weight of 1,800 pounds or less, that is capable of propelling itself at a minimum speed of 20 miles per hour and a maximum speed of 25 miles per hour, on a paved level surface. For the purposes of this section, a "low-speed vehicle" or "LSV" ~~is~~ not a golf cart, except when operated pursuant to California Vehicle Code Section 21115 or 21115.1.

(t) "Medallion" shall mean the numbered plate, sticker, or decal issued by MTS to the permit holder which is displayed on a for-hire vehicle to indicate the authorized use or uses of that vehicle.

(ut) "MTS" shall mean the San Diego Metropolitan Transit System, a public agency created pursuant to Public Utilities Code Section 120050 et seq.

(vut) "MTS inspector" shall mean those individuals, regardless of job title, who are authorized by the Board, by ordinance, to enforce the provisions of this Ordinance.

(wv) "Nonemergency medical vehicle" shall mean every vehicle which: transports persons, regardless of whether specialized transportation equipment or assistance is needed, for primarily medical purposes, over the public streets of the City. Medical purposes is defined as providing transportation services to or from the following places: hospitals, convalescent homes, retirement homes, homes receiving funding for the board and care of residents living in those homes, medical or rehabilitation clinics, senior citizen centers, and any other like social service category, over the public streets of the City. It shall be the responsibility of the transportation provider to determine if the service is primarily for medical purposes.

(xw) "Operate" or "Operating" shall refer to the solicitation or acceptance of a fare within City or County limits for compensation or providing passenger transportation for compensation, regardless if such compensation is obtained from the passenger or a third party. It shall also include, as the context may require, the act of driving, managing or directing the utilization of one or more for-hire vehicles.

(yx) "Owner" shall mean the person, partnership, association, firm or corporation that is the registered owner of any for-hire vehicle and that holds the right to use the vehicle for its advantage.

(zy) "Passenger" shall mean every occupant other than the driver of the for-hire vehicle.

(aaz) "Permit" shall mean the authority under which a person, firm, partnership, association, or corporation may operate a for-hire vehicle as a business.

(bbaa) "Permit holder" shall mean any person or approved entity operating a business under a for-hire vehicle permit.

(~~ccbb~~) "Shared ride" shall mean nonexclusive use of a for-hire vehicle by two or more unrelated passengers traveling between different points of origins and/or destination, and traveling in the same general direction.

(~~ddee~~) "Shifts" shall mean the minimum number of hours a permit holder or driver operates a for-hire vehicle.

(~~eeed~~) "Sightseeing vehicle" shall mean every vehicle which:

(1) Transports passengers for sightseeing purposes of showing points of interest over the public streets of the City; and

(2) Charges a fee or compensation therefor; regardless of whether any fee or compensation is paid to the driver of such sightseeing vehicle, either by the passenger or by the owner or by the person who employs the driver or contracts with the driver or hires such sightseeing vehicle with a driver to transport or convey any passenger; and irrespective of whether or not such driver receives any fee or compensation for his or her services as driver.

(~~ffee~~) "Stands" shall mean public areas designated for specific use of for-hire vehicles.

(~~ggff~~) "Street" shall mean any place commonly used for the purpose of public travel.

(~~hh~~) "Substantially Located" shall mean where the primary business address of the taxicab permit holder is located and/or the jurisdiction with a single county in which trips originating in that jurisdiction account for the largest share of that taxicab permit holder's total number of trips within that county over the past year and determined every five (5) years thereafter. Trip logs and/or documentation showing where fifty percent or more of fare revenue are generated from shall be used to substantiate the jurisdiction of where largest share of originating trips occur.

(~~ii~~gg) "Taxicab" shall mean every vehicle other than a vehicle-for-charter, a jitney, a nonemergency medical vehicle, a sightseeing vehicle, or LSV which:

(1) Carries not more than eight (8) passengers excluding the driver;

(~~2~~4) Transports passengers or parcels or both over City or Countycity public streets;-

(~~3~~2) Is made available for hire on call or demand through "cruising," at taxi stands or by telephone or other communication devices to destination(s) specified by the hiring passenger; and:-

(4) Is Substantially Located within the jurisdiction of City and/or County.

(~~jj~~hh) "Taximeter" shall mean any instrument, appliance, device, or machine by which the charge for hire of a passenger-carrying vehicle is calculated, either for distance traveled or time consumed, or a combination of both, and upon which such charge is indicated by figures. Includes both a Hard Meter and a Soft Meter.

(1) A Hard Meter is a Taximeter that has a prefixed fare with an external seal approved by the County of San Diego Agriculture, Weights and Measures and mileage is calculated based on distance and time.

(2) A Soft Meter is a Taximeter that is provided through a smartphone or tablet that uses GPS or other on-board diagnostics approved by the California Department of Food and Agriculture Division of Measurement Standards to calculate distance and rates.

(kk#) "Vehicle" is a device by which any person or property may be propelled, moved, or drawn upon a street, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

(Section 1.1 amended 11/8/2018, effective 1/1/2019)
(Section 1.1 amended 9/20/2018)
(Section 1.1 amended 12/14/2017)
(Section 1.1 amended 5/12/2016)
(Section 1.1 amended 8/7/2003)
(Section 1.1 amended 11/14/2002)
(Section 1.1 amended 6/24/1999)
(Sections 1.1(d), 1.1(R)(1) amended 6/22/1995)
(Section 1.1 amended 1/12/1995)
(Section 1.1 amended 6/27/1991; effective 7/27/1991)
(Section 1.1 amended 5/23/1991; effective 6/23/1991)

Section 1.2 - Operating Permits

(a) No person shall engage in the business of operating any for-hire vehicle or in the business of providing any vehicle for the operation of vehicle for-hire services within the Cities or Countyities without first having obtained an operating permit from the Chief Executive Officer or designated representative, which permit has not been revoked, suspended or otherwise canceled or terminated by operation of law or otherwise. A separate permit is required for each for-hire vehicle operated or provided for operation.

(b) An operating permit represents the granting of a privilege to operate a for-hire vehicle within the Cities, Countyities or zones specified by the permit for the purpose of the public convenience and necessity. This privilege may be rescinded at any time by operation of law or otherwise.

(c) A person who obtains an operating permit shall be responsible for the provision of vehicle-for-hire services in accordance with the provisions of this Ordinance and shall exercise due diligence to assure that drivers of the permitted vehicles adhere to all pertinent requirements of this ordinance.

(Section 1.2 amended 11/8/2018, effective 1/1/2019)
(Section 1.2 amended 12/14/2017)
(Section 1.2 amended 8/7/2003)
(Section 1.2 amended 11/14/2002)
(Section 1.2 amended 6/24/1999)

Section 1.3 - Application for Permit

(a) All persons applying to the Chief Executive Officer for new permit(s) for the operation of one or more for-hire vehicles shall file with the Chief Executive Officer a proposal to meet San Diego City Council Policy 500-02 requirements, and a sworn application therefore on forms provided by the Chief Executive Officer, stating as follows:

(1) The applicant name, company name, ~~-(doing business as~~ ("DBA") name if different than company name, mailing and business address (a business address or mailing address is not a Post Office [PO] Box or dispatch service address), and business telephone number of the permit applicant. If a taxicab permit applicant, the business address will also serve the purpose of establishing where Substantially Located;

(2) The number of permitted vehicles actually owned and operated by such owner on the date of application, if any;

(3) The name and address of all legal and registered owner(s) of the vehicle(s);

(4) The name and address of each person with a financial interest in the business which operates the vehicle;

(5) Data sufficient to establish the applicant's financial responsibility;

(6) The number of vehicle(s) for which a permit(s) is desired;

(7) Proof that vehicle(s) meet California Air Resources Board criteria for zero emissions/low emissions, are ADA-compliant, are no older than 10 years of the model age and do not have a "salvage" title, and are equipped with a Global Positioning System (GPS);~~:-~~

(8) The rates of fare which the applicant proposes to charge for vehicle-for-hire services. This requirement does not apply to taxicab permit applicants;

(9) A description ~~of the proposed color scheme, insignia, trade style, or any other distinguishing characteristics~~ of the proposed vehicle design;

(10) Where the application is for a limited permit or LSV, a detailed description of the geographic area in which said permit shall be in existence; ~~and~~

(11) Such other information as the Chief Executive Officer may in his or her discretion require;~~:-~~

(12) Provide evidence of at least six-months' experience driving a taxicab, transportation network vehicle, charter party carrier services, or similar service oriented transportation or managing a demand responsive transportation service, or similar service oriented business;~~:-~~

(13) Provide a customer service and a customer complaint plan;~~:-~~

(14) Provide a plan for administrative functions, vehicle maintenance, and off-street storage for vehicle when not in use; ~~and~~:-

(15) Provide a dispatch service plan incorporating 24 hour staffing and computerized dispatch utilizing GPS technology, if a taxicab permit applicant.

(b) The applicant shall also submit, with the application, a nonrefundable application fee prior to the permit approval. Upon issuance of the permit, the applicant shall also pay an initial nonrefundable permit vehicle regulatory fee to be determined by the Chief Executive Officer in order to recover the cost of processing such applications.

(Section 1.3 amended 11/8/2018, effective 1/1/2019)

(Section 1.3 amended 12/14/2017)

(Section 1.3 amended 2/12/2015)

(Section 1.3 amended 11/15/2012)

(Section 1.3 amended 8/7/2003)

(Section 1.3 amended 11/14/2002)

Section 1.4 - Issuance of Permit

(a) Based on San Diego City Council Policy 500-02 requirements, the Chief Executive Officer shall determine the number of permits to be granted any applicant(s) and approve permits for any applicant(s) subject to such conditions as the Board and San Diego City Council Policy 500-02 may deem advisable or necessary in the public interest. Before a permit may be approved, the applicant shall pay an initial regulatory fee in an amount to be determined by the Chief Executive Officer.

(b) The Chief Executive Officer shall deny the approval of a permit upon making a finding:

(1) That the applicant is under twenty-one (21) years of age; or

(2) That within the five (5) years immediately preceding the processing of the application, the applicant has been convicted of, or held by any final administrative determination to have been in violation of any statute, ordinance, or regulation reasonably and rationally pertaining to the same or similar business operation which would have resulted in suspension or revocation of the permit in accordance with Section 1.13 of this Ordinance. For purposes of this section, a plea or verdict of guilty, a finding of guilty by a court, a plea of nolo contendere or a forfeiture of bail shall be deemed a conviction; or

(3) That the applicant provided false information of a material fact in an application within the past five (5) years.

(c) All permits issued after April 1, 2015 shall be renewable annually upon evidence San Diego City Council Policy 500-02 requirements are being met, that if a taxicab permit holder they are Substantially Located within City or County, and payment of a regulatory fee in an amount and on a date to be determined by the Chief Executive Officer.

(d) No permit issued after April 1, 2015 shall be approved or renewed for any person who has not fully complied with all of the requirements of this Ordinance, San Diego City Council Policy 500-02, and all other applicable laws and/or regulations necessary to be complied with before commencement of the operation of the proposed service.

(e) Permits held prior to April 1, 2015 by corporations and LLCs shall meet all of the screening criteria included in San Diego City Council Policy 500-02 by February 12, 2020. However, upon issuance of any new permits to said corporation or LLC, or upon the transfer of a permit to said corporation or LLC, the corporation or LLC shall need to be in compliance with requirements of this Ordinance and San Diego City Council Policy 500-02 for the new permit(s).

(f) When the permit has been approved and upon determination by the Chief Executive Officer that the for-hire vehicle, after appropriate inspection, meets the requirements of this Ordinance, the Chief Executive Officer will issue a numbered medallion(s) to be affixed to the for-hire vehicle.

(Section 1.4 amended 11/8/2018, effective 1/1/2019)

(Section 1.4 amended 12/14/2017)

(Section 1.4 amended 2/12/2015)

(Section 1.4 amended 11/15/2012)

(Section 1.4 amended 11/14/2002)

Section 1.5 - Transfer and Administration of Permits

(a) Each permit issued pursuant to the provisions of this section is separate and distinct and shall be transferable from the permit holder to another person or entity only with the approval of the Chief Executive Officer, and upon meeting the requirements of this Ordinance and San Diego City Council Policy 500-02 including, but not limited to:

(1) Provide evidence of at least six-months' experience driving a taxicab, transportation network vehicle, charter party carrier services, or similar service oriented transportation or managing a demand responsive transportation service, or similar service oriented business.

(2) Vehicle(s) must meet California Air Resources Board criteria for zero emissions/low emissions, be ADA-compliant, be equipped with a Global Positioning System (GPS), be no older than 10 years of the model age and not have a "salvage" title, if a taxicab.

(3) Provide a customer service plan that demonstrates, a requirement for drivers to accept credit cards, detailed record keeping of all calls for service, trips provided, and a customer service complaint resolution plan.

(4) Provide a plan for administrative functions, vehicle maintenance, and off-street storage for vehicle when not in use.

(5) Provide a Dispatch service plan incorporating 24 hour staffing and computerized dispatch utilizing GPS technology, if a taxicab.

(b) Permits held prior to April 1, 2015 shall be in compliance with San Diego City Council Policy 500-02 Screening Criteria by February 12, 2020. Whenever a corporation or LLC is issued any new permits, then it shall be in compliance with requirements of this Ordinance and San Diego City Council Policy 500-02.

(c) The proposed transferee shall file with the Chief Executive Officer a sworn application for the transfer and shall comply with the requirements of Section 1.3. The permit holder shall certify in writing that the permit holder has notified the proposed transferee of the requirements of this section pertaining to the transfer of a permit. Whenever an application for a transfer of permit is filed, the Chief Executive Officer shall process the application for transfer in accordance with Section 1.4 of this Ordinance.

(d) The Chief Executive Officer shall charge regulatory fees to affect the full cost recovery of activities associated with the administration, regulation, issuance, or transfer of for-hire vehicle permits and associated records.

(1) Changes in fee schedules affecting permits shall be mailed to all permit holders. Changes shall be effective thirty (30) calendar days thereafter.

(2) Any person objecting to a particular fee or charge may file, within ten (10) days of the mailing of such changes, an appeal for review with the Chief Executive Officer who shall thereafter process it in accordance with Section 1.17; provided, however, that the sole issue to be determined on review is whether the fee or charge exceeds the reasonable costs for personnel salaries and administrative overhead associated with the particular administrative service or function.

(Section 1.5 amended 11/8/2018, effective 1/1/2019)

(Section 1.5 amended 12/14/2017)

(Section 1.5 amended 2/12/2015)

(Section 1.5 amended 8/7/2003)

(Section 1.5 amended 11/14/2002)

Section 1.6 - Blank

The text of Section 1.6 is deleted in its entirety effective February 12, 2015.

(Section 1.6 deleted 2/12/2015)

(Section 1.6 amended 11/14/2002)

Section 1.7 - Blank

The text of Section 1.7 is deleted in its entirety effective October 24, 1998.

(Section 1.7 was deleted 9/24/1998)

Section 1.8 - Equipment and Operating Regulations

(a) No medallion shall be issued for a vehicle unless the vehicle conforms to all the applicable provisions of this Ordinance.

(b) The privilege of engaging in the business of operating a for-hire vehicle in a City or County granted in the permit is personal to the permit holder, who must be the owner of the for-hire vehicle. The rights, requirements, and responsibilities which attach to the permit remain with the holder at all times the for-hire vehicle is operated under the authority of the permit. These rights, requirements and responsibilities, which include, but are not limited to, the requirements of this Ordinance, will remain unaffected by any agreement or contractual arrangement between the permit holder and those persons who operate for-hire vehicles, irrespective of the form or characterization of the agreement under which the driver operates the for-hire vehicle.

(c) The permit holder shall maintain a business address, a mailing address where he or she can accept mail directed to his or her company, and a business telephone in working order which must be answered during normal business hours, Monday through Friday, and during all hours of operation. A post office box or dispatch service address shall not be used for the business address or mailing address. The permit holder shall, in the case of any change in his or her business address, mailing address, or business telephone, notify the Chief Executive Officer in writing of such change within forty-eight (48) hours of the effective date of this change.

(d) Before a for-hire vehicle is placed in service and at least annually thereafter, the for-hire vehicle shall be delivered to a place designated by the Chief Executive Officer for inspection. All new permit holders are required to observe at least one full vehicle inspection as part of the initial permit issuance. MTS inspectors shall inspect the for-hire vehicle and its equipment to

ascertain whether the vehicle complies with the provisions of this Ordinance. Failure to produce the vehicle for inspection shall be cause for suspension or revocation of the permit for such vehicle.

(e) Any MTS inspector or peace officer, after displaying proper identification, may make reasonable and periodic inspections of any for-hire vehicle operating under an MTS permit for the purpose of determining whether the vehicle is in compliance with the provisions of this Ordinance.

(f) Any for-hire vehicle which fails to meet the requirements of the California Vehicle Code or this section after inspection shall be immediately ordered out-of-service by an MTS inspector or peace officer if it is unsafe for service. Ordering a vehicle out-of-service does not constitute a suspension or revocation of the permit. A vehicle is deemed unsafe for service when any of the following conditions exists:

- (1) Tires fail to meet the requirements of the California Vehicle Code;
- (2) Headlights, taillights or signal lights are inoperable during hours of darkness (sunset to sunrise);
- (3) Windshield wipers are inoperable during rainy conditions;
- (4) Taximeter is not working, the Taximeter displays signs of tampering, the seal of a Hard Meter is broken, the County of San Diego seal of a Hard Meter is more than thirteen (13) months old from the date of issuance, ~~or~~ a Service Agent's temporary seal of a Hard Meter is more than ninety (90) days old from the date of issuance, or a Soft Meter displays technology not approved by the California Department of Food and Agriculture Division of Measurement Standards or does not appear to be operating as is intended or approved;
- (5) Brakes, brake lights or brake system are inoperable or otherwise fail to meet the requirements of the California Vehicle Code;
- (6) Excessive play in steering wheel exceeding three (3) inches;
- (7) Windshield glass contains cracks or chips that interfere with driver's vision;
- (8) Any door latch is inoperable from either the interior or exterior of the vehicle;
- (9) Any seat is not securely fastened to the floor;
- (10) Seat belts, when required, fail to meet requirements of the California Vehicle Code;
- (11) Either side or rearview mirrors are missing or defective;
- (12) Any vehicle safety system light is activated; and
- (13) Any other condition which reasonably and rationally pertains to the operating safety of the vehicle or to passenger or pedestrian safety.

(g) If the vehicle is not unsafe but is unsuitable or otherwise in violation of this Ordinance or any vehicle condition/equipment section of the California Vehicle Code, the operator or permit holder, as appropriate, shall be subject to a seventy-two (72) hours correction notice.

(1) Failure to correct such violation within the seventy-two (72) hours shall then be cause to order the vehicle out-of-service. When a vehicle is ordered out-of-service, the medallion shall be immediately removed.

(2) Before the vehicle may again be placed in service, the violation shall be corrected and the vehicle shall be inspected by an MTS inspector.

(3) The medallion shall be reaffixed when the MTS inspector finds that the vehicle meets prescribed standards.

(h) The interior and exterior of the for-hire vehicle shall be maintained in a safe and efficient operating condition, and meet California Vehicle Code requirements and the requirements of this Ordinance at all times when in operation. The following minimum vehicle standards must be maintained to comply with this section:

(1) Wheels. Hubcaps or wheel covers shall be on all wheels for which hubcaps or wheel covers are standard equipment.

(2) Body Condition. There shall be no tears or rust holes in the vehicle body and no loose pieces hanging from the vehicle body. Fenders, bumpers, and light trim shall be securely fixed to the vehicle. No extensive unrepaired body damage shall be allowed and exterior paint shall be free from excessive fading. The vehicle shall be equipped with front and rear bumpers. The exterior of the vehicle shall be maintained in a reasonably clean condition so as not to obscure approved vehicle markings.

(3) Lights. Headlights shall be operable on both high and low beam. Taillights, parking lights, signal lights, and interior lights shall all be operable.

(4) Wipers. Each vehicle shall be equipped with adequate windshield wipers maintained in good operating condition.

(5) Brakes. Both the parking and hydraulic or other brake system must be operable.

(6) Steering. Excessive play in the steering mechanism shall not exceed three (3) inches free play in turning the steering wheel from side to side.

(7) Engine. The engine compartment shall be reasonably clean and free of uncontained combustible materials.

(8) Mufflers. Mufflers shall be in good operating condition.

(9) Windows. The windshield shall be without cracks or chips that could interfere with the driver's vision. All other windows shall be intact and able to be opened and closed as intended by the manufacturer. The windows and windshield shall be maintained in a reasonably clean condition so as not to obstruct visibility.

(10) Door Latches. All door latches shall be operable from both the interior and exterior of the vehicle.

(11) Suspension. The vehicle's suspension system shall be maintained so that there are no sags because of weak or broken springs or excessive motion when the vehicle is in operation because of weak or defective shock absorbers.

(12) Seats. All seats shall be securely fastened. Seat belts, when required by the California Vehicle Code, shall be installed. The upholstery shall be free of grease, holes, rips, torn seams, and burns.

(13) Interior. The interior of each vehicle and the trunk or luggage area shall be maintained in a reasonably clean condition, free of foreign matter, offensive odors, and litter. The seats shall be kept reasonably clean and without large wear spots. The door handles and doors shall be intact and clean. The trunk or luggage area shall be kept empty except for spare tire and personal container for the driver not exceeding one (1) cubic foot in volume and emergency equipment, to allow maximum space for passenger luggage and belongings.

(i) Each for-hire vehicle, except taxicabs and Low Speed Vehicles, shall contain:

(1) A fire extinguisher of the dry chemical or carbon dioxide type with an aggregate rating of at least 5 B/C units and a current inspection card affixed to it.

(2) A minimum of three (3) red emergency reflectors.

(3) A first-aid kit containing medical items to adequately attend to minor medical problems.

(j) In the event that a for-hire vehicle for which a permit has been approved is taken out of service, by the permit holder for maintenance or any purpose, other than a violation of any provision of this Ordinance, a spare vehicle operating permit may be granted. The spare vehicle operating permit shall only be valid for the vehicle for which it was issued. The permit holder may only utilize a spare for-hire vehicle which has been duly inspected by an MTS inspector and approved prior to use. The permit holder must immediately inform an MTS inspector when a spare for-hire vehicle is in use and the location of the disabled vehicle. The spare vehicle will be issued a "spare vehicle" sticker which must be affixed to the left rear portion of the for-hire vehicle for which it is approved, in plain view from the rear of the for-hire vehicle. The permit holder may utilize one (1) spare for-hire vehicle for a period not to exceed thirty (30) calendar days from the date of issuance. This subsection shall not be construed, nor deemed to replace, those provisions in this Ordinance which apply to permanent replacement of a for-hire vehicle.

(k) The medallion issued to the permit holder must be affixed by an MTS inspector on the for-hire vehicle for which the permit is approved in plain view from the rear of the for-hire vehicle. The permit holder must immediately report the loss, destruction, or defacing of a medallion to the Chief Executive Officer. Except as provided in Subsection (j), it shall be unlawful to operate a for-hire vehicle without the medallion affixed and visible.

(l) There shall be displayed in the passenger compartment of each for-hire vehicle between the sun visors, in full view of the passengers in the front and rear seats, a card not less than ten (10) inches wide by six (6) inches high in size. Posted on this card, utilizing "Universe" font in black ink on white background, shall be:

1) The first line of the card, 3/4 inch in height, shall say one of the following according to permit type: TAXICAB, SIGHTSEEING, CHARTER, NONEMERGENCY, LOW-SPEED VEHICLE, OR JITNEY LOST AND FOUND.

2) Below this, the card shall include the vehicle medallion number in three-inch numerals.

3) Below the medallion number, the name, address, and phone number of the MTS Taxicab Administration and the permit holder and/or permit holder trade name shall be printed, 1/4-inch in height.

4) Without approval from MTS, no other signs, markings, lettering, decals, or any type of information shall be displayed within 18 inches around the card.

(m) Advertisements, whether displayed on the inside or outside of the vehicle, shall be posted in accordance with MTS Board Policy No. 21, Revenue-Generating Display Advertising, Concessions, and Merchandise, any guidelines developed by the Chief Executive Officer, and the provisions of this Ordinance. Advertisements shall not be displayed without prior approval from MTS.

(n) The driver of each for-hire vehicle may either carry: a map of the City or County, published within the past two (2) years; or an electronic device equipped with a GPS enabled map, which shall be displayed to any passenger upon request.

(o) The maximum rates of fare charged for for-hire vehicle services shall be clearly and conspicuously displayed in the passenger compartment. unless if a taxicab which shall be in compliance with Section 2.2(d) of this Ordinance.

(p) Each for-hire vehicle licensed to operate in the City or County shall have located on the passenger side dashboard area a driver identification card provided by the County of San Diego or Sheriff or the Chief Executive Officer. The driver identification card shall have no alterations or information covered. The driver identification card shall be visible to passengers, peace officers and MTS inspectors so they can easily view the driver identification card from either inside or outside the vehicle. The driver identification card shall bear the following information:

- (1) The number of the license of the driver;
- (2) The name and business address of the driver;
- (3) The name of the owner of the vehicle; and
- (4) A small photograph of the driver.

(q) Each for-hire vehicle shall be equipped with a rearview mirror affixed to the right side of the vehicle, as an addition to those rearview mirrors otherwise required by the California Vehicle Code.

(r) The driver shall offer each passenger a printed receipt upon payment of the fare. The receipt shall accurately show the date, the amount of the fare, the driver's name and ID number, the taxicab number, the company (DBA) name, and the dispatch service name with phone number if a taxicab.

(s) All disputes to fare shall be determined by the peace officer or MTS inspector most readily available where the dispute is had. It shall be unlawful for any person to fail or refuse to comply with such determination by the peace officer or MTS inspector.

(t) It is unlawful for any person to refuse to pay the lawful fare of a for-hire vehicle after employing or hiring the same.

(u) The driver of any for-hire vehicle shall promptly obey all lawful orders or instructions of any peace officer, fire fighter, or MTS inspector.

(v) No driver of any for-hire vehicle shall transport any greater number of persons, including the driver, than the manufacturer's rated seating capacity for the vehicle.

(w) It shall be unlawful for any person to solicit business for a for-hire vehicle by making a contract or agreement with any owner of any hotel, apartment house, motel, inn, rental units, restaurant, or bar, or with the agent or employees of such owner, by which the owner, agent or employee receives any type of payment or commission for recommending or directing any passenger to a specific for-hire vehicle or company. It shall be unlawful for any permit holder, association, or driver to have or make a contract or agreement with any owner of any hotel, apartment house, motel, inn, rental units, restaurant, or bar, or with the agents or employees of such owner, by which the permit holder, association or driver receives any type of payment or commission for recommending or directing any passenger to an establishment operated by a specific owner.

(x) The driver of a for-hire vehicle shall wear, in a manner clearly visible on their person, an identification card approved by the Chief Executive Officer.

(y) The Board specifically finds that the dress, grooming, and conduct of for-hire vehicle drivers affect the public health and safety, particularly as it relates to visitors and the tourist industry. Therefore, while driving or operating a for-hire vehicle, drivers shall be hygienically clean, well-groomed, and neat, and suitably dressed. Violations of this subsection are administrative in nature and shall not be the subject of criminal prosecution.

(1) The term "hygienically clean" shall refer to that state of personal hygiene, body cleanliness, and absence of offensive body odor normally associated with bathing or showering on a regular basis.

(2) The term "well-groomed" shall mean that male drivers shall be clean-shaven, except for those parts of the face where a beard or mustache is worn and their hair shall be neatly trimmed; beards or mustaches shall be groomed and neatly trimmed at all times in order not to present a ragged appearance. For all drivers, it shall mean that scalp or facial hair shall be combed or brushed and that all clothing is clean, free from soil, grease and dirt, and without unrepaired rips or tears.

(3) The term "neat and suitably dressed" shall be interpreted to require that a driver shall be fully covered by clothing at a minimum from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms. Drivers shall wear shoes. It shall not be permissible for any driver to wear as an outer garment any of the following: undershirt or underwear, tank tops, body shirts (see-through mesh), swim wear, jogging or warm-up suits or sweatshirts or similar attire, jogging or bathing shorts or trunks, or sandals. Trouser-type shorts that are no shorter than four inches above the center of the kneecap are permissible.

(z) For-hire vehicles shall comply with the California Vehicle Code, e.g., not impede traffic, and, where applicable, not operate on streets where posted speed limits are above 35 miles per hour. For-hire vehicle drivers, including taxicab, shall not load or unload passengers in traffic lanes.

(aa) Smoking is not permitted at any time inside a MTS-permitted vehicle.

(bb) A driver or permit holder shall not prejudice, disadvantage, or require a different rates or provide different service to a person because of race, national origin, religion, color, ancestry, physical disability, medical condition, occupation, marital status or change in marital status, sex or any characteristic listed or defined in Section 11135 of the Government Code.

(cc) A driver shall not use rude or abusive language toward a passenger(s) or conduct any physical action that a reasonable person would construe as threatening or intimidating.

(dd) A driver may refuse a fare if it is readily apparent that the prospective or actual fare is a hazard to the driver or operator. A driver is not obligated to transport any person who is verbally or otherwise abusive to the driver. Such incidents shall also be noted on the trip log and notification shall be immediately sent to the dispatch service organization, if a taxicab, which shall record the incident and keep the record for the minimum of 6 months.

(ee) No driver shall stop, park, or otherwise leave standing any MTS permitted vehicle within fifteen (15) feet of any fire plug except as modified in Section 2.5 of this Ordinance.

(ff) No driver shall stop, park or otherwise leave standing any MTS permitted vehicle in a disabled parking zone except as authorized per California Vehicle Code section 22507.8.

(Section 1.8 amended 11/8/2018, effective 1/1/2019)

(Section 1.8 amended 12/14/2017)

(Section 1.8 amended 10/13/2016)

(Section 1.8 amended 5/12/2016)

(Section 1.8 amended 2/12/2015)

(Section 1.8 amended 8/7/2003)

(Section 1.8 amended 11/14/2002)

(Section 1.8 amended 9/24/1998)

(Section 1.8 amended 2/13/1997)

(Section 1.8 amended 6/24/1993)

Section 1.9 - Public Liability

(a) It shall be unlawful to operate a for-hire vehicle unless the permit holder establishes and maintains in effect one of the forms of financial responsibility specified in this section.

(1) This requirement may be met by maintaining a valid policy of insurance executed and delivered by a company authorized to carry on an insurance business, the financial responsibility of which company has been approved by the Chief Executive Officer. The terms of the policy shall provide that the insurance company assumes financial responsibility for injuries to persons or property caused by the operation of the for-hire vehicle in an amount determined by the Chief Executive Officer.

(2) The permit holder may also meet this requirement by obtaining a certificate of self-insurance for a specified amount approved by the Board and pursuant to the applicable provisions of the California Vehicle Code.

(b) A valid proof of insurance issued by the company providing the insurance policy required under Subsection (a) (1) of this section shall be filed with and approved by the Chief Executive Officer. This certificate shall provide that MTS is a named certificate holder and shall be placed in each vehicle, per California Vehicle Code Section 16020. It shall also provide that the insurer will notify MTS of any cancellation and that the cancellation notice shall be in writing and

shall be sent by registered mail at least thirty (30) days prior to cancellation of the policy. The certificate shall also state:

- (1) The full name of the insurer;
- (2) The name and address of the insured;
- (3) The insurance policy number;
- (4) The type and limits of coverage;
- (5) The specific vehicle(s) insured;
- (6) The effective dates of the certificate; and
- (7) The certificate issue date.

(Section 1.9 amended 9/17/2015)

(Section 1.9 amended 11/14/2002)

Section 1.10 - Financial Ownership and Operating Records: Reporting Requirements

(a) Every person engaged in the business of operating a for-hire vehicle within the City under a permit granted by the Chief Executive Officer shall maintain:

(1) Financial records, including but not limited to the current executed taxicab driver lease agreement that includes all aspects of the business relationship between the permit holder and the lessee, and written receipts of all payments from lessee in accordance with good accounting practices;

(2) Ownership records; and

(3) Operating records in a form, and at intervals, which shall be determined from time to time by the Chief Executive Officer.

(b) Ownership and operating records shall be made available to the Chief Executive Officer upon demand at any reasonable time. The permit holder shall retain operating records for a minimum of six (6) months from the date the records are created.

(c) For purposes of this section, ownership records shall include, but are not limited to, the following:

(1) Copies of the Articles of Incorporation as filed with the Secretary of State of California;

(2) Records identifying all corporate officers and members of the corporation's Board of Directors. A corporation shall report any change in corporate officers or members of its Board of Directors to MTS within ten (10) days of the effective date.

(3) A stock register recording the issuance or transfer of any shares of the corporate stock; and

(4) The registration cards issued by the State of California Department of Motor Vehicles to the vehicle owner for all for-hire vehicles operated under the authority of an MTS for-hire vehicle permit. Valid proof of registration shall be maintained in the vehicle at all times.

(d) For purposes of this section, operating records shall include, but are not limited to, the following:

(1) Typed or written dispatch records for taxicab ~~or LSV~~ companies which operate their own dispatch service;

(2) Any logs which a for-hire vehicle driver keeps describing the trips carried by a for-hire vehicle other than a taxicab;

(3) Copies of the daily trip log required by taxicab or LSV drivers under Section 2.4 (~~oe~~); and

(4) Any other similar records.

(e) Between January 1 and December 31 of each calendar year, every permit holder shall file with the Chief Executive Officer a signed statement which shall report and attest to the accuracy of the following information:

(1) The individual name(s), business name, business address, and telephone number of the permit holder(s);

(2) The name and address of all legal and registered owner(s) of the for-hire vehicle(s);

(3) The name and address of each person with a financial interest in the business which operates the vehicle(s); and

(4) The year, manufacturer, model, vehicle identification number, license plate, and medallion number affixed to the permitted vehicle(s).

(f) If the permit holder is an individual, the permit holder must email, mail or appear in person in the offices of MTS to file the statement; if the permit holder is a partnership, one of the partners must email, mail or appear in person in the offices of MTS to file the statement; if the permit holder is a corporation or LLC, an officer of the corporation, or a member of the LLC, authorized to represent the company, must email, mail or appear in person in the offices of MTS to file the statement and provide evidence San Diego City Council Policy 500-02 requirements are being met. If email or mail is used, the email address or mailing address used by the permit holder must be an email address or mailing address that is on file with the Chief Executive Officer.

(Section 1.10 amended 11/8/2018, effective 1/1/2019)

(Section 1.10 amended 5/12/2016)

(Section 1.10 amended 2/12/2015)

(Section 1.10 amended 8/7/2003)

(Section 1.10 amended 11/14/2002)

(Section 1.10 amended 6/24/1993)

Section 1.11 - Destruction, Permanent Replacement or Retirement of For-Hire Vehicles

(a) Whenever a for-hire vehicle is destroyed, rendered permanently inoperative, is sold, or the permit holder is no longer the owner of the for-hire vehicle, the permit holder shall notify the Chief Executive Officer in writing within forty-eight (48) hours.

(b) A replacement vehicle must be placed in service within ninety (90) days of the date the original vehicle is removed from service unless prior written permission has been obtained from the Chief Executive Officer. It is the intent of this section that the Chief Executive Officer, in granting

such permission, gives due consideration to the operating situation of the permit holder on a case-by-case basis.

The following guidelines are to be used in granting permission for a permit holder to take longer than ninety (90) days in placing a replacement vehicle in service.

(1) The permit holder must submit a written request for an extension of time, stating the specific reason(s) additional time is required and identifying a plan and timetable for placing the replacement vehicle in service. Written documents sufficient to substantiate the factual information contained in the request should also be submitted.

(2) The plan and timetable submitted must reflect a reasonable approach for placing the vehicle in service within the shortest possible time frame.

(3) An additional period of time, not to exceed sixty (60) calendar days, may be granted to a permit holder in case of severe personal illness or other similar hardship.

(4) An additional period of time, not to exceed thirty (30) calendar days, may be granted to a permit holder in case of extensive vehicle repairs or other similar reasons.

(5) No extensions will be granted to any permit holder who is unable to meet the basic operational costs, including liability insurance, regulatory fees, and normal maintenance and repairs of operating a for-hire vehicle.

(6) No more than one (1) extension will be granted for each vehicle in a single twelve (12) month period.

(c) The Chief Executive Officer shall, as a matter of owner right, allow the replacement of a vehicle which is destroyed, rendered inoperative, sold or transferred, provided that the permit holder has complied with, and the for-hire vehicle is in conformance with, all applicable provisions of this Ordinance. An owner must remove the markings from the vehicle that indicate it is a taxicab or LSV before the owner disposes of it.

(d) When a permit holder retires any for-hire vehicle or vehicles from service and does not replace them within ninety (90) days, the permit for each such retired for-hire vehicle shall be considered abandoned and will be void. The permit holder shall immediately surrender each related medallion to the Chief Executive Officer. Such abandoned permits may not be restored by any means other than through application for new permits in the manner provided in this Ordinance.

(Section 1.11 amended 10/13/2016)

(Section 1.11 amended 8/7/2003)

(Section 1.11 amended 11/14/2002)

(Section 1.11 amended 2/13/1997)

Section 1.12 - Driver's Identification Cards

(a) No person shall drive or operate any for-hire vehicle under the authority of a permit granted under this Ordinance unless such person has and displays a valid driver's identification card obtained annually through the Sheriff of the County of San Diego.

(b) No permit holder shall employ as a for-hire vehicle driver or operator any person who has not obtained a for-hire vehicle driver's identification card through the Sheriff of the County of San Diego.

(c) No permit holder shall employ as a driver or operator any person whose privilege to operate a for-hire vehicle within the City has expired, or has been revoked, denied or suspended or prohibited.

(d) A driver may drive for more than one permit holder. The driver must, however, have on file with and accepted by the Sheriff of the County of San Diego, a separate application on forms provided by the Sheriff, for each permit holder with whom he has a current driving agreement. A driver may have on file with the Sheriff a maximum of four (4) such applications at any one time. It shall be unlawful for a driver to accept or solicit passengers for hire in the City or County while operating the taxicab or LSV of any permit holder for whom the driver does not have such an application on file with the Sheriff.

(e) No person shall drive or operate any for-hire vehicle, 7 under the authority of a permit granted under this Ordinance unless such person has successfully completed an MTS-approved driver safety training course concerning driver safety, 7 rules, 7 and regulations, map-Map reading, crime prevention, courtesy and professionalism, compliance with ADA, and a corresponding qualification examination.

(f) No person who has received a notice of prohibition pursuant to Section 1.14, or whose privilege to operate a for-hire vehicle within the City has expired, or has been suspended, revoked or denied by the Sheriff or the Chief Executive Officer shall drive or operate a for-hire vehicle within the City.

(g) No for-hire vehicle driver's identification card shall be issued or renewed to any of the following persons:

(1) Any person under the age of twenty-one (21) years.

(2) Any person who has been convicted of a felony involving a crime of force or violence against any person, or the theft of property, unless five (5) years have elapsed since his or her discharge from a penal institution or satisfactory completion of probation for such conviction during which period of time his or her record is good.

(3) Any person who has been convicted of assault, battery, resisting arrest, solicitation of prostitution, any infraction, misdemeanor, or felony involving force and violence, or any crime reasonably and rationally related to the paratransit industry or any similar business operation which bears upon the integrity or ability of the driver to operate a for-hire vehicle business and transport passengers, unless five (5) years shall have elapsed from the date of discharge from a penal institution or the satisfactory completion of probation for such conviction.

(4) Any person who, within the five (5) years immediately preceding the processing of the application, has been convicted of or held by any final administrative determination to have been in violation of any statute, ordinance, or regulation reasonably and rationally related to the for-hire vehicle industry or any similar business operation which would have authorized the suspension or revocation of the driver's identification card in accordance with Section 1.14 of this Ordinance.

(5) Any person who is required to register as a sex offender pursuant to the California Penal Code.

(6) Any person who has provided false information of a material fact in their application within the past five (5) years.

(7) No person shall obtain or renew a driver's identification card unless such person has successfully completed a ~~driver~~~~personal~~ safety training course approved by the Chief Executive Officer.

(8) When a driver permanently no longer drives for an MTS Taxicab Administration permit holder, the permit holder shall report this to the Sheriff's Department within ten (10) calendar days.

(h) The Sheriff is authorized to issue temporary for-hire vehicle driver identification cards pending the approval or denial of an application for a regular for-hire vehicle driver identification card. No temporary for-hire vehicle driver identification card shall be issued without the satisfactory completion of a local law enforcement agency record check of the applicant. Any temporary identification card so issued shall be valid for a period not to exceed ninety (90) days or until the date of approval or denial of the application for a regular for-hire vehicle driver identification card, whichever shall occur first. The issuance of a temporary identification card hereunder shall not authorize the operation of a for-hire vehicle following the denial of the application while pending the resolution of any appeal otherwise provided for in Section 1.16 of this Ordinance. The Sheriff or the Chief Executive Officer shall establish nonrefundable filing fees to defray the costs of processing regular and temporary driver identification cards.

(Section 1.12 amended 11/8/2018, effective 1/1/2019)

(Section 1.12 amended 12/14/2017)

(Section 1.12 amended 5/12/2016)

(Section 1.12 amended 11/15/2012)

(Section 1.12 amended 8/7/2003)

(Section 1.12 amended 11/14/2002)

(Section 1.12 amended 9/24/1998)

(Section 1.12 amended 10/30/1997)

(Section 1.12 amended 11/9/1995)

Section 1.13 - Suspension and Revocation of Permit

(a) Permits may be suspended or revoked by the Chief Executive Officer at any time in case:

(1) The Chief Executive Officer finds the permit holder's past record to be unsatisfactory with respect to satisfying the provisions of this Ordinance.

(2) The permit holder fails to comply with the applicable provisions of this Ordinance.

(3) The drivers of the for-hire vehicle or vehicles fail to act in accordance with those provisions of this Ordinance which govern driver actions. The permit holder shall have strict liability in this regard; however, this provision shall not restrict the Chief Executive Officer's ability to penalize a driver for violations of those provisions of this Ordinance which govern driver actions.

(4) The owner shall cease to operate any for-hire vehicle for a period of ninety (90) consecutive days without having obtained written permission for cessation of such operation from the Chief Executive Officer. It is the intent of this section that the Chief

Executive Officer, in granting such permission, gives due consideration to the operating situation of the permit holder on a case-by-case basis.

The following guidelines are to be used in granting permission for a permit holder to cease operating a for-hire vehicle for a period longer than ninety (90) days.

(a) The permit holder must submit a written request for an extension of time, stating the specific reason(s) additional time is required and identifying a plan and timetable for placing the vehicle back in service. Written documents sufficient to substantiate the factual information contained in the request should also be submitted.

(b) The plan and timetable submitted must reflect a reasonable approach for placing the vehicle back in service within the shortest possible time frame.

(c) An additional period of time, not to exceed sixty (60) calendar days, may be granted to a permit holder in case of severe personal illness or other similar hardship.

(d) An additional period of time, not to exceed thirty (30) calendar days, may be granted to a permit holder in case of extensive vehicle repairs or other similar reasons.

(e) No extension will be granted to any permit holder who is unable to meet the basic operational costs including liability insurance, regulatory fees, and normal maintenance and repairs of operating a for-hire vehicle.

(f) No more than one (1) extension in time will be granted for each vehicle permit in a single twelve (12) month period.

(5) The for-hire vehicle or vehicles, if operated as other than a taxicab, are operated at a rate of fare other than those fares on file with the Chief Executive Officer.

(6) The for-hire vehicle or vehicles, if operated as a ~~taxicab or~~ LSV, are operated at a rate of fare greater than those fares on file with the Chief Executive Officer or posted on the taxicab or LSV pursuant to Section 2.2 (b) of this Ordinance.

(7) The for-hire vehicle or vehicles, if operated as a taxicab ~~or LSV~~, are operated at a rate of fare greater than current maximum rate established by the Board pursuant to Section 2.2(a) of this Ordinance or posted ~~on the LSV~~ pursuant to Section 2.24 (b) of this Ordinance.

(8) The permit holder fails to begin operating the for-hire vehicle for which the permit is first approved within ninety (90) days after the approval date.

(9) The permit holder has been convicted of assault, battery, resisting arrest, solicitation of prostitution, any infraction, misdemeanor, or felony involving force and violence, or any crime reasonably and rationally related to the paratransit industry or any similar business operation which bears upon the integrity or ability of the applicant or permit holder to operate a for-hire vehicle business and transport passengers, unless five (5) years shall have elapsed from the date of discharge from a penal institution or the satisfactory completion of probation for such conviction.

(10) The permit holder has been convicted of a crime that would require a person to register as a sex offender under the California Penal Code. For purposes of this section, a plea or verdict of guilty, a finding of guilt by a court, a plea of nolo contendere or a forfeiture of bail shall be considered a conviction.

(b) A permit holder shall be notified in writing within 10 working days when a credible complaint has been filed with the Chief Executive Officer by a member of the public where such complaint involves the permit holder, the driver of the permitted for-hire vehicle, or the dispatch service to which the permit holder is subscribed. It shall be the responsibility of the permit holder to investigate the complaint and report in writing to the Chief Executive Officer within 30 days the result of the investigation and any corrective action taken or proposed. Where the complainant has agreed to the sharing of their identity, the results of the investigation, findings, and actions shall be communicated to the complainant.

(c) In the event the Chief Executive Officer finds a permit holder has failed to responsibly respond to notification of complaints or to initiate corrective action, the Chief Executive Officer shall issue a notice of proposed adverse action to the permit holder. If the circumstances of the complaint or subsequent investigation so warrant, the Chief Executive Officer may issue a notice of adverse action to a driver independently of or in conjunction with any adverse action proposed to the permit holder. The Chief Executive Officer shall refer to the Administrative Penalty Guidelines in determining a proposed adverse action.

(d) The permit holder or driver in receipt of a notice of proposed adverse action shall be given the opportunity to appear for an informal hearing before the Chief Executive Officer or designated representative. Failure to appear will constitute waiver of the hearing. Following the hearing or waiver thereof, the Chief Executive Officer shall issue the notice of adverse action if justified by the facts. If the Chief Executive Officer determines that the performance of the permit holder or driver involves criminal activity or constitutes a serious degradation of the public safety, convenience, or necessity, a notice of adverse action may be issued and the action effected without hearing.

(e) Upon a finding by the Chief Executive Officer that a permit holder falls within the provisions of this section, the permit holder or driver shall be notified that his or her permit has been subjected to an adverse action and that the matter is such that the action may be appealed. In lieu of an action provided for in the Administrative Penalty Guidelines, the Chief Executive Officer may impose a fine or a fine and a period of suspension for any violation(s) of this Ordinance.

(Section 1.13 amended 11/8/2018, effective 1/1/2019)

(Section 1.13 amended 12/14/2017)

(Section 1.13 amended 10/13/2016)

(Section 1.13 amended 5/12/2016)

(Section 1.13 amended 8/7/2003)

(Section 1.13 amended 11/14/2002)

(Section 1.13 amended 6/24/1999)

Section 1.14 - Suspension and Revocation of Driver's Identification Cards

(a) Driver's identification cards may be suspended or revoked by the Chief Executive Officer at any time in case:

(1) The Chief Executive Officer finds the driver's past record to be unsatisfactory with respect to satisfying the provisions of this Ordinance; or

- (2) The driver fails to comply with the applicable provisions of this Ordinance; or
- (3) Circumstances furnish grounds for the denial, suspension, revocation or refusal to renew the driver's identification card by the Sheriff under the terms of the applicable Ordinance of the County of San Diego; or
- (4) His/her California Driver's License is revoked or suspended; or
- (5) The driver is convicted of reckless driving or driving while under the influence of intoxicating liquors and/or narcotics; or
- (6) The driver has been convicted of assault, battery, resisting arrest, solicitation of prostitution, any crime involving force and violence, or reasonably and rationally is related to the ability or integrity of the driver to operate a for-hire vehicle or transport passengers; or
- (7) The driver has ever been convicted of a crime that requires registration under the California Penal Code as a sex offender.

(b) For purposes of Subsections (a) (1) through (a) (6) of this section, a plea of nolo contendere, or a forfeiture of bail shall be considered a conviction if it occurred within the five (5) years immediately preceding the date of application for a permit or identification card.

(c) Notwithstanding a driver's possession of a valid taxicab or LSV driver identification card, the Chief Executive Officer may deny, suspend, revoke, or refuse to renew the driver's privilege to operate a for-hire vehicle in the City if the driver falls within the provisions of this section. The Chief Executive Officer shall send a notice of prohibition the date postmarked to operate a taxicab or LSV to any holder of a Sheriff's driver identification card who is ineligible under Subsection (a) to operate a for-hire vehicle within the City limits. The notice of prohibition shall be appealable in accordance with Section 1.16.

(Section 1.14 amended 5/12/2016)

(Section 1.14 amended 8/7/2003)

(Section 1.14 amended 11/14/2002)

(Section 1.14 amended 6/24/1999)

Section 1.15 - Surrender of Medallion

(a) When a permit has been suspended or revoked, the operation of any for-hire vehicle authorized by such permit shall cease, and its medallion surrendered immediately to the Chief Executive Officer.

(Section 1.15 amended 11/14/2002)

Section 1.16 - Right of Administrative Appeal from Denial, Suspension or Revocation of Permit or Driver's Identification Card or Related Adverse Action

(a) The permit holder or driver shall be notified that he or she may file with the Chief Executive Officer a written administrative appeal ten (10) days after delivery of the notice of revocation or suspension, or the denial of a license, permit, or driver's identification card, the notice of prohibition to operate or the imposition of a fine. The permit holder or driver shall set forth in the appeal the reasons why such action is not proper.

(b) If no administrative appeal is filed within the proper time, the permit or driver's identification card shall be considered revoked, suspended or denied, and shall be surrendered, the fine be imposed, as applicable, or the notice of prohibition to operate take effect.

(c) Except as provided in Subsection (d), once an administrative appeal is filed, the revocation or suspension of the permit or driver's identification card, the effect of the notice of prohibition to operate, or the imposition of the fine shall be stayed pending the final determination of the administrative appeal.

(d) If, in the Chief Executive Officer's opinion, the continued operation of a for-hire vehicle or possession of a driver's identification card represents an unsafe condition for any passenger or pedestrian, the revocation or suspension of the related permit, driver's identification card, or the effect of any notice of prohibition to operate shall not be stayed. A revocation or suspension of a permit imposed for failure to comply with Section 1.8 (f) or Section 1.9 is rebuttably presumed to represent an unsafe condition pending the determination of the appeal or the correction of the violation, whichever shall occur first. Notwithstanding, no medallion shall be reaffixed to a vehicle until the violation under Sections 1.8 (f) or 1.9 has been corrected.

(Section 1.16 amended 8/7/2003)

(Section 1.16 amended 11/14/2002)

Section 1.17 - Procedure Upon Administrative Appeal

(a) When an appeal is filed, the Chief Executive Officer shall review the appeal, and based on additional information provided therein, may revise the findings and penalty; in accordance with the additional information provided; or cause the appeal to be assigned to a Hearing Officer, who shall expeditiously schedule the hearing before him/her.

(1) The Chief Executive Officer shall use California Department of General Services, Office of Administrative Hearings Administrative Law Judges as Hearing Officers. The assignment of Administrative Law Judges as Hearing Officers shall be determined by the California Department of General Services, Office of Administrative Hearings.

(2) The Hearing Officer shall be a member of the California State Bar and shall not be an MTS employee.

(b) The appellant and the Chief Executive Officer or designate shall each have the right to appear in person and be represented by legal counsel, to receive notice, to present evidence, to call and cross-examine witnesses under oath, and to present argument.

(c) An appellant may select an individual to interpret for them. MTS will not pay any costs or be held responsible for any aspect of the interpreter's ability to accurately interpret the hearing.

(1) The Hearing Officer shall have the power to compel attendance of witnesses and documents by subpoena, in accordance with state law.

(2) The formal rules of evidence need not apply, and any relevant evidence that is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs shall be admissible. Hearsay evidence may be considered by the Hearing Officer, but no findings may be based solely on hearsay evidence unless supported or corroborated by other relevant and competent evidence. The formal exceptions to the hearsay rule shall apply.

(d) The Chief Executive Officer shall promulgate supplementary rules and procedures for the conduct of the hearing, the forms of notice and proceedings, and the preparation and submission of the record.

(e) The decision of the Hearing Officer shall be the final administrative remedy and shall be binding upon the parties to the appeal.

(f) If the Hearing Officer decides to suspend or revoke a permit or driver's identification card, the appellant shall immediately surrender the medallion or driver's identification card to the Chief Executive Officer.

(Section 1.17 amended 5/12/2016)

(Section 1.17 amended 11/15/2012)

Section 1.18 - Exceptions to Provisions

(a) The provisions of this Ordinance do not apply to:

(1) a vehicle properly licensed under the jurisdiction of the California Public Utilities Commission (CPUC) unless such vehicle also provides transportation services regulated by MTS under this Ordinance;

(2) or to public transit vehicles owned, operated, or contracted for by MTS; or

(3) to a vehicle properly licensed by the State or County as an ambulance.

(b) For compliance purposes, MTS inspectors may inspect all CPUC licensed vehicles, ensure they are not exceeding the authority granted by their license or operating as unlicensed private- hire transportation provider.

(Section 1.18 amended 12/14/2017)

(Section 1.18 amended 5/12/2016)

(Section 1.18 amended 11/15/2012)

(Section renumbered to 1.18 9/24/1998)

(Section 1.17 amended 1/12/1995)

(Section 1.17 amended 6/24/1993)

Section 1.19 - Chief Executive Officer's Authority to Adopt Rules and Promulgate a Schedule of Fines

(a) Except where Board action is specifically required in this Ordinance, the Chief Executive Officer may adopt any rules and regulations reasonable and necessary to implement the provisions of this Ordinance. The Chief Executive Officer shall promulgate a schedule of administrative fines and penalties for violations of this Ordinance in lieu of the revocation or suspension of a permit or identification card, a copy of which schedule shall be filed with the Clerk of the Board.

(Section renumbered to 1.19 9/24/1998)

Section 1.20 - Americans with Disabilities Act

(a) Permit holders, vehicles, and drivers are required to comply with the requirements of the federal Americans with Disabilities Act (ADA), and ADA regulations are hereby incorporated into MTS Ordinance No. 11 by reference. A violation of ADA requirements is a violation of this Ordinance and subject to a fine or suspension or revocation or a combination.

**(Section renumbered to 1.20 9/24/1998)
(Section 1.19(a) was added 4/10/1997)**

SECTION 2.0 - TAXICABS AND/OR LSVs

Section 2.1 - Types of Service

(a) A taxicab or LSV is authorized to provide exclusive ride and group ride service.

(Section 2.0 and 2.1 amended 8/7/2003)

Section 2.2 - Rates of Fare

(a) After a ~~noticed~~notice and open public hearing of the Taxicab Advisory Committee, MTS shall establish a maximum rate of fare for exclusive ride and group ride hire of taxicabs and/or LSVs except for trips from San Diego International Airport. A permit holder may petition the Board for any desired change in the maximum taxicab or LSV rates for exclusive ride and/or zone rates and group ride hire.

(b) Taxicab trips from San Diego International Airport shall ~~not be charged more than the authorized maximum~~ be at a uniform rate of fare. ~~Notwithstanding, rates~~ Rates for trips originating at the airport may include an extra charge equal to the Airport ~~Access~~ Trip Fee assessed against the individual taxicab operator by the San Diego County Regional Airport Authority. The extra may not be charged on any trip that does not originate at the airport or on any trip where the taxicab operator does not pay the fee to the San Diego County Regional Airport Authority. The extra charge may only be charged to the ~~passenger~~ customer by ~~visually identifying~~ utilizing the ~~Airport Access Fee~~ extra button on the taxicab meter. A driver may not verbally request payment. All taxicabs utilizing the Airport ~~Access~~ Trip Fee ~~extra button~~ must have a decal, approved by the Chief Executive Officer and the County of San Diego Office of Weights and Measures. The decal shall identify and accurately describe the extra charge consistent with regulatory requirements.

~~(c) Each permit holder shall file with the Chief Executive Officer the rates of fare that he/she will charge, which shall not exceed the maximum rate set by the Board pursuant to Section 2.2(a).~~

~~(1) Each taxicab permit holder shall have the taximeter set by properly licensed personnel for the rate that he/she will charge and have the taximeter sealed and inspected.~~

~~(2)~~ All taxicabs shall accept major credit cards including, but not limited to, VISA, MasterCard, American Express, and Discover. ~~Credit Card fees~~ Fees shall not be passed onto passengers.

~~(d) The taxicab permit holder or taxicab driver shall disclose fares, fees or rates to the passenger. The taxicab permit holder or taxicab driver may disclose by website, mobile telephone application or telephone orders.~~

~~(d) If a taxicab permit holder desires to change his/her rates of fare, he/she shall file with the Chief Executive Officer the new rates, reset the taximeter, have the taximeter sealed and~~

~~inspected, and post the revised rates on each side of the taxicab as provided in Subsection (c) of this section.~~

(e) It shall be unlawful for a permit holder or driver to operate any taxicab in the City or County, unless the vehicle is equipped with a Taximeter~~taximeter~~ that meets the requirements of the State of California.

(1) If Hard Meter, each taxicab permit holder shall have the Taximeter set by properly licensed personnel for the rate that he/she will charge and have the Taximeter sealed and inspected.

(2) If Soft Meter, a certificate of approval must be provided by the California Department of Food and Agriculture Division of Measurement Standards

(1) — The taximeter

(3) The Taximeter shall calculate fares upon the basis of a combination of mileage traveled and time elapsed. When operative with respect to fare indication, the fare-indicating mechanism shall be actuated by the mileage mechanism whenever the vehicle is in motion at such a speed that the rate of mileage revenue equals or exceeds the time rate, and may be actuated by the time mechanism whenever the vehicle speed is less than this, and when the vehicle is not in motion.

(42) Waiting time shall include all time when a taxicab occupied or engaged by a passenger is not in motion or is traveling at a speed which is slow enough for the time rate to exceed the mileage rate. Waiting time will also include the time consumed while standing at the direction of the passenger or person who has engaged the taxicab.

(53) It shall be the duty of every permit holder operating a taxicab to keep the Taximeter~~taximeter~~ in proper condition so that the Taximeter~~taximeter~~ will, at all times, correctly and accurately indicate the charge for the distance traveled and waiting time. The Taximeter~~taximeter~~ shall be at all times subject to the charge for the distance traveled and waiting time.

(64) The Taximeter~~taximeter~~ shall be at all times subject to inspection by an MTS inspector or any peace officer. The MTS inspector or peace officer is hereby authorized at his or her instance or upon complaint of any person to investigate or cause to be investigated the Taximeter~~taximeter~~, and upon discovery of any inaccuracy in the Taximeter~~taximeter~~, or if the Taximeter~~taximeter~~ is unsealed, to remove or cause to be removed the vehicle equipped with this taximeter from the streets of the City until the Taximeter~~taximeter~~ has been correctly adjusted and sealed. Before being returned to service, the vehicle and Taximeter~~taximeter~~ must be inspected and approved by the Chief Executive Officer.

(75) Any device repairperson who places into service, repairs, or recalibrates a Taximeter~~taximeter~~ shall record the tire size and pressure of the drive wheels of that vehicle, as tested, on the repair person's sticker.

(86) It shall be the duty of the permit holder to ensure the proper device repair person's sticker is affixed to the Taximeter~~taximeter~~ and to ensure the tires are the proper size.

(f) It shall be unlawful for any driver of a taxicab, while carrying exclusive or group ride passengers, to display the flag or device attached to the Taximeter~~taximeter~~ in such a position as to

denote that the vehicle is for hire, or is not employed, or to have the flag or other attached device in such a position as to prevent the ~~Taximeter~~taximeter from operating. It shall be unlawful for any driver to throw the flag into a position which causes the ~~Taximeter~~taximeter to record when the vehicle is not actually employed, or to fail to throw the flag or other device into non-recording position at the termination of each and every service.

(g) The ~~Taximeter~~taximeter shall be so placed in the taxicab that the reading dial showing the amount of fare to be charged shall be well-lighted and easily readable by the passenger riding in such taxicab.

(h) It shall be unlawful for any permit holder and/or driver of a taxicab or LSV to demand of a passenger a charge for hire which is greater than the current maximum rate approved by the Board pursuant to Section 2.2 (a) or (b) of this Ordinance.

(i) Except as provided in this section, is shall be unlawful for any permit holder and/or driver to demand of a passenger a charge for hire which is greater than the permit holder's meter rate ~~filed with the Chief Executive Officer~~ pursuant to Sections 2.1 (a), ~~2.2 (b)~~, or 2.2 (~~b~~c) of this Ordinance.

(j) Nothing in this Ordinance shall preclude a permit holder or driver from agreeing with prospective passenger(s) to a rate of fare which is less than the permit holder's ~~filed and~~ posted rates of fare if the agreement is entered into in advance of the passenger(s)~~),~~ hiring the taxicab for the trip.

(Section 2.2 amended 11/8/2018, effective 1/1/2019)

(Section 2.2 amended 12/14/2017)

(Section 2.2 amended 5/12/2016)

(Section 2.2(c)(2)amended 11/15/2012)

(Section 2.2(b) amended 4/19/2012)

(Section 2.2 amended 8/7/2003)

(Section 2.2 amended 5/8/2003)

(Section 2.2 amended 11/14/2002)

(Section 2.2 amended 6/24/1999)

(Section 2.2 amended 9/24/1998; Section 2.2c operative May 1, 1999)

(Section 2.2 amended 10/30/1997)

(Section 2.2 amended 4/10/1997)

Section 2.3 - Equipment and Specifications

(a) No taxicab shall be operated until the taximeter thereon has been inspected, tested, approved and sealed, if applicable, by an authorized representative of the State of California, and thereafter so maintained in a manner satisfactory to the Chief Executive Officer.

(b) Each taxicab may be equipped with a device which plainly indicates to a person outside the taxicab whether the taximeter is in operation or is not in operation.

(c) **Mandatory Exterior Markings:** The permit holder must display one of the following exterior markings schemes on each taxicab:

(1) **Exterior Marking Scheme 1:** The following must be displayed if in use of Exterior Marking Scheme 1:

(A) The permit holder's trade name shall be painted or permanently affixed in letters and numerals four (4) inches high all on one line on the upper third part of both rear doors or both rear quarter panels utilizing "Univers" or other Chief Executive Officer pre-approved font in black or white lettering to produce maximum contrast adequately spaced for maximum readability. In the event the trade name does not fit on one line utilizing four (4) inch lettering, the trade name lettering must be as large as possible, up to four (4) inches in height, to enable the trade name to fit on one line.

(B) The medallion number shall be painted or permanently affixed, on both rear doors or both rear quarter panels, one (1) inch below the permit holder's trade name, six (6) inches high, utilizing "Univers" or other Chief Executive Officer pre-approved font in black or white lettering to produce maximum contrast adequately spaced for maximum readability.

(2) Exterior Marking Scheme 2: The following must be displayed if in use of Exterior Marking Scheme 2:

(A) The permit holder's trade name shall be painted or permanently affixed in letters and numerals four (4) inches high all on one line on the upper third part of both front doors utilizing "Univers" or other Chief Executive Officer pre-approved font in black or white lettering to produce maximum contrast adequately spaced for maximum readability. In the event the trade name does not fit on one line utilizing four (4) inch lettering, the trade name lettering must be as large as possible, up to four (4) inches in height, to enable the trade name to fit on one line.

(B) The medallion number shall be painted or permanently affixed, on both front doors, one (1) inch below the permit holder's trade name, six (6) inches high, utilizing "Univers" or other Chief Executive Officer pre-approved font in black or white lettering to produce maximum contrast adequately spaced for maximum readability.

(C) The permit holder's trade name and medallion number shall be painted or permanently affixed on the rear of the taxicab, four (4) inches high, utilizing "Univers" or other Chief Executive Officer pre-approved font in black or white lettering to produce maximum contrast adequately spaced for maximum readability. In the event the rear of the vehicle does not have four inches of vertical space for the trade name and medallion number, the rear lettering may be less than four inches, provided that it is easily readable from a distance of 50 feet.

(d) Optional Exterior Vehicle Markings. The permit holder has the option of choosing to post any combination of the below-listed five options on his or her taxicab which must be posted only at the specific location and in the size noted.

(1) Trade Name Logo. If the permit holder chooses to display his or her trade name logo, the trade name logo shall be posted only on the rear portion of both side rear quarter panels.

(2) Dispatch Service Provider. If the permit holder chooses to display the dispatch service provider name or logo, the dispatch service provider name or logo cannot utilize the words "cab" or taxi." The dispatch service provider name or logo must be displayed only on the rear portion of both side rear quarter panels.

(3) Telephone Number. If permit holder chooses to display a telephone number, the telephone number must be no more than three (3) inches in height and posted only on the top front portion of both front side quarter panels.

(4) "Driver Carries Only \$_____ Change". If the permit holder chooses to post "Driver Carries only \$_____ Change", postings must be located only on rear quarter panels near the rear door but clear of the rates of fare.

(5) "Leased to Driver". If permit holder chooses to post "Leased to Driver," it must be posted only on both side rear quarter panels near the rear door but clear of the rate of fares in lettering no larger than 1 inch.

(6) Body Numbers. If the permit holder chooses to post an internally assigned body number, different from the medallion number, the body number shall be posted in one (1) inch numerals on the front and rear bumpers.

(e) All other exterior vehicle markings are prohibited unless they are directly related to the permit holder's business and pre-approved by the Chief Executive Officer.

(f) All taxicabs shall be equipped and operated so that they may be dispatched by two-way radio or two-way electronic communication, monitored by a dispatcher, in response to a telephone or other request for service by a prospective passenger.

(1) Means of dispatch device must be turned on, and audible to driver, at all times the taxicab is in service.

(2) Dispatch equipment, such as a two-way radio, cellular phone or tablet, shall be securely mounted within the vehicle in such a way to be visible to peace officers and MTS inspectors and allow for hands-free operation while the vehicle is in motion.

(g) If radio dispatch capability is utilized, the dispatch service must abide by the following: the radio dispatch capability described in paragraph (d) of this section must be provided so as to conform to the regulations of the Federal Communications Commission (FCC) pertaining to Land Transportation Radio Services. Failure to conform to those regulations will additionally constitute a failure to meet the requirements of this section.

(1) The current valid FCC license shall be on file with MTS.

(2) Taxicab permit holder shall provide current proof the radio or electronic device has passed inspection by an MTS-approved inspector.

(3) Taxicab radios shall have the capability to receive or transmit only on frequencies specified in the FCC license of the radio service subscribed to by the permit holder.

(h) Each permit holder shall equip each permitted taxicab with a device capable of electronically processing credit card transactions. The device must be visible to all passengers and must allow the passenger to operate the payment device independently of the driver, without having to hand the credit card to the driver. The device must be fully operational at all times. The permit holder or dispatch service shall be the merchant of record associated with the device. Any means of electronic credit card acceptance is acceptable so long as it complies with the provisions set forth in Section 1.8 (r).

(Section 2.3 amended 11/8/2018, effective 1/1/2019)

(Section 2.3 amended 12/14/2017)

(Section 2.3 amended 10/13/2016)

(Section 2.3 amended 5/12/2016)

(Section 2.3 amended 2/12/2015)

(Section 2.3 amended 11/15/2012)

(Section 2.3 amended 6/27/2002)

(Section 2.3 amended 9/24/1998; Section 2.3c operative May 1, 1999)

(Section 2.3 amended 6/27/1991; effective 7/27/1991)

(Section 2.3 amended 4/10/1997)

Section 2.4 - Operating Regulations

(a) Operating regulations shall be promulgated and adopted from time to time by resolution of the Board. These resolutions will have the force of law and will be published and processed as though set forth in this Ordinance.

~~(1) — Smoking is not permitted at any time inside a MTS-permitted vehicle.~~

(b) Any driver employed to transport passengers to a definite point shall take the most direct route possible that will carry the passenger to the destination safely and expeditiously.

~~(c) — It shall be unlawful for the driver or operator of any taxicab or LSV to refuse a prospective or actual fare or to take any action to actively discourage a prospective or actual fare on the basis of race, creed, color, age, sex, national origin, disability, or for any other reason, unless it shall be readily apparent that the prospective or actual fare is a hazard to the driver or operator. Rude or abusive language directed to a passenger(s) or any physical action that a reasonable person would construe as threatening or intimidating shall be specifically defined as a violation of this section.~~

~~(1) — A driver, however, is not obligated to transport any person who is verbally or otherwise abusive to the driver. Such incidents shall also be noted on the trip log and notification shall be immediately sent to the dispatch service organization, which shall record the incident and keep the record for the minimum of 6 months.~~

~~(2)(b) — Any driver employed to transport passengers to a definite point shall take the most direct route possible that will carry the passenger to the destination safely and expeditiously.~~

(c) A failure of the driver of any taxicab or LSV to assist a passenger with the loading or unloading of a reasonable size, number, and kind of passenger luggage or other items, when requested to do so, shall be specifically defined as a violation of this section.

(1) A driver is not required to lift any single piece of passenger luggage or other item that exceeds 25 pounds in weight. The requirement for loading or unloading assistance shall be limited to retrieval from or deposit onto the nearest curbside adjacent to the legally parked taxicab or LSV. A sign in the form of a transparent decal may be affixed to the rear-door, side window stating that, "DRIVER IS NOT REQUIRED TO LOAD LUGGAGE IN EXCESS OF 25 POUNDS PER ITEM OR OF A SIZE OR KIND THAT WILL NOT SAFELY FIT IN THE DESIGNATED LUGGAGE AREA OF THIS VEHICLE."

(23) A driver with a lawful disability that prevents him/her from handling items as defined in subsection (2) above is, upon submission of proof of such disability, relieved of

responsibility for the requirements of subsection (2). A driver so situated may affix a small sign either in the passenger section of the vehicle to be clearly visible to a rear seat passenger or on the inside of the trunk cover lid stating that, "DRIVER HAS DISABILITY THAT PREVENTS HANDLING OF LUGGAGE."

(d) It shall be unlawful for taxicab operators to refuse or discourage a prospective or actual fare based upon trip length within City or Countythe cities, or method of payment. Driver shall not refuse payment by credit card.

(1) A vehicle designated as an LSV may refuse a prospective or actual fare if the trip distance is outside allowed areas of operations.

(2) A failure to promptly dispatch (within the standards required by Sections 2.6(a)(1), (2), and (3) of this Ordinance), or any action by a driver of any taxicab or LSV to refuse or discourage a prospective or actual passenger who must transport foodstuffs or who must meet a medical appointment, irrespective of trip length, shall be specifically defined as a violation of this section so long as that prospective passenger has notified the dispatch service of this circumstance at the time a request for taxi service was made.

(e) No driver of any taxicab or LSV shall stop, park, or otherwise leave standing a taxicab or LSV on the same side of the street in any block in which taxicabs or LSVs are already stopped, parked, or otherwise standing except the taxicab or LSV may actively unload in a passenger loading zone or be parked in a marked taxi/LSV stand.

(f) No driver shall stop, park or otherwise leave standing a taxicab or LSV within one-hundred (100) feet of any other taxicab or LSV except in a marked taxi/LSV stand or while actively loading or unloading passengers.

~~(g) No driver shall stop, park, or otherwise leave standing any MTS permitted vehicle within fifteen (15) feet of any fire plug except as modified in Section 2.5 of this Ordinance.~~

~~(h) No driver shall stop, park or otherwise leave standing any MTS permitted vehicle in a disabled parking zone except as authorized per California Vehicle Code section 22507.8.~~

~~(gi)~~ (g) An out-of-service sign must be displayed when the taxicab or LSV is not available for hire and is being operated or is lawfully parked for purposes of maintenance, inspection, or personal use. The sign must be placed in a location in the vehicle that is clearly visible from the exterior of the vehicle. The sign must be of durable material and written in block letters in black ink and easily readable from a distance of not less than ten (10) feet.

~~(hj)~~ (h) A taxicab driver may seek passengers by driving through any public street or place without stops, other than those due to obstruction of traffic, and at such speed as not to interfere with or impede traffic.

~~(ik)~~ (i) It shall be unlawful, however, for the driver to seek passengers by stopping at or driving slowly in the vicinity of an entertainment center or transportation center or any other location of public gathering, in such a manner as to interfere with public access to or departure from that center or location, or so as to interfere with or impede traffic.

~~(jl)~~ (j) It shall also be unlawful for a taxicab or LSV driver, having parked and left his or her taxicab or LSV, to solicit patronage among pedestrians on the sidewalk, or at any entertainment center, transportation center, or other location of public gathering.

(~~km~~) No person shall solicit passengers for a taxicab or LSV other than the driver thereof; however, the Chief Executive Officer may authorize a dispatcher to solicit passengers and assist in loading passengers at such times and places as, in his or her discretion, public service and traffic conditions require.

(~~ln~~) It shall be unlawful for the driver or operator of any taxicab or LSV to remain standing in any established taxicab or LSV stand or passenger loading zone, unless the driver or operator remains within twelve (12) feet of his or her taxicab or LSV, except when the driver or operator is actually engaged in assisting passengers to load or unload.

(~~me~~) Only paying passengers and persons specifically authorized by the Chief Executive Officer may occupy a taxicab or LSV that is already occupied by a paying passenger. No driver, once a paying passenger has occupied the taxicab or LSV, shall permit any other nonpaying passenger to occupy or ride in the taxicab or LSV.

(~~np~~) It shall be unlawful to respond to a call for service dispatched to another operator except when an LSV refers service to another operator because the trip distance is outside of the approved area of jurisdiction.

(~~oe~~) The taxicab or LSV driver shall maintain a daily trip log which shall be available for inspection upon request by any peace officer or MTS inspector. The trip log will accurately show the driver's name, taxicab or LSV number, date, time, beginning odometer reading, starting and ending locations, type of service provided, and fare paid for each trip provided.

(1) The daily trip log shall consist, at a minimum, of a five- by seven-inch paper form retained on a stiff-board writing surface with ruled lines and columns sufficient to contain the required information. All entries will be in black or dark blue ink, block letters, and be clearly legible. Colored paper that is lightly shaded is allowed provided there is sufficient contrast for entries to be easily read. Onboard electronically generated reports that meet the legibility requirements are acceptable.

(2) The driver shall deliver trip logs to the permit holder upon request or at a weekly interval, whichever is less.

(3) If a taxicab, the trip log shall be retained for at least 18 months.

(~~p~~(~~r~~) All operating regulations set forth in Section 1.8 apply.

(~~q~~) ~~s~~) The permit holder ~~for any taxicab or LSV with a permit issued after July 1, 1991, shall comply with the following:~~

~~(1) The color scheme of the vehicle may conform to that of the dispatch service.~~

~~(2) Establish a business office in a location available to the public, and have staff on duty during regular business hours.~~

~~(3) File with MTS, and charge a rate of fare common to the radio service organization providing service required by this Ordinance.~~

~~(4) Maintain a current executed taxicab driver lease agreement for each current driver that includes all aspects of the business relationship between the permit holder and the lessee, and written receipts of all payments from lessee.~~

~~(t) The taxicab company~~ or the driver of the taxicab shall notify the passenger of the applicable rate prior to the passenger accepting the ride for walkup rides and street hails. The rate may be provided on the exterior of the vehicle, with an application of a mobile phone, device, or other internet-connected device, or be clearly visible in either print or electronic form inside the taxicab if different than the posted maximum rate.

(Section 2.4 amended 11/8/2018, effective 1/1/2019)

(Section 2.4 amended 12/14/2017)

(Section 2.4 amended 10/13/2016)

(Section 2.4 amended 5/12/2016)

(Section 2.4 amended 2/12/2015)

(Section 2.4 amended 11/15/2012)

(Section 2.4 amended 8/7/2003)

(Section 2.4 amended 11/14/2002)

(Section 2.4 amended 6/24/1999)

(Section 2.4 amended 2/13/1997)

(Section 2.4 amended 6/27/1991; effective 7/27/1991)

Section 2.5 - Stands

(a) The Chief Executive Officer may establish, locate and designate shared use taxicab/LSV stands for one or more taxicabs/LSVs, which stands when so established shall be appropriately designated "Taxis/LSVs Only." The operating regulations of this Ordinance shall apply to such stands and to taxicab/LSV stands established by the San Diego Unified Port District in areas under its jurisdiction within the City.

(b) Each taxicab or LSV stand established hereunder may be in operation twenty-four (24) hours of every day, unless otherwise specified by the Chief Executive Officer.

(c) Any individual, partnership, association, or other organization may petition MTS requesting that a new taxicab/LSV stand be established, or that the location of an existing taxicab/LSV stand be changed to another location. A nonrefundable filing fee to be determined by the Chief Executive Officer must be paid at the time the petition is submitted.

(d) It shall be unlawful for a vehicle other than a taxicab or LSV with a proper MTS taxicab or LSV permit to occupy a taxi/LSV stand.

(e) LSVs may only occupy taxicab stands that are specially signed, designated their approved use.

(Section 2.5 amended 11/15/2012)

(Section 2.5 amended 8/7/2003)

Section 2.6 - Dispatch Services

(a) In order to provide taxicab ~~or LSV~~ dispatch service required by Section 2.3(d, e), the dispatch service organization adding or changing subscribers after July 1, 1991 shall establish and conform to written policies and procedures concerning the following:

(1) Standard time elapse for answering the telephone service-request line(s).

(2) Standard time elapse for the taxicab's ~~or LSV's~~ arrival at requested pick-up location.

- (3) Passenger's request for a specific driver ("personals").
- (4) Additional two-way communication devices (mobile or cellular phones) in taxicabs ~~or LSVs~~
- (5) Lost and found for passengers' items.
- (6) Assignment of vehicle body numbers.
- (7) Immediately notify the permit holder of all lost items and inquiries.

Current written policies and procedures shall be available to subscribers from the radio dispatch organization, and on file with MTS.

(b) Taxicab ~~and/or LSV~~ service organizations shall, 24 hours a day, have dispatch staff on duty at the business location, which must be a preapproved physical address, answer telephone-request line(s), properly dispatch those requests to all members, provide radio response to all licensed radio frequencies/channels, and respond to direct requests from drivers, permit holders, and MTS as well as law enforcement and local regulatory agencies.

(c) Taxicab ~~and/or LSV~~ dispatch services shall keep written records of all requests for taxi ~~and/or LSV~~ service, calls dispatched, and the time(s) each taxicab ~~and/or LSV~~ goes in and out of service. These records shall be kept on file for a minimum of six (6) months, and made available to MTS, upon request.

(d) No person, partnership, corporation, association, other organization providing radio or other dispatch service shall dispatch a request for service to a driver, owner, or vehicle unless the driver, owner, and vehicle are properly licensed to provide the service requested.

(e) The Chief Executive Officer may, at any time, revoke or suspend the taxicab ~~or LSV~~ privileges of or fine any person, partnership, corporation, association, other organization providing radio or other dispatch service that violates a provision of this ordinance.

(Section 2.6 amended 11/8/2018, effective 1/1/2019)

(Section 2.6 amended 12/14/2017)

(Section 2.6 amended 10/13/2016)

(Section 2.6 amended 11/15/2012)

(Section 2.6 amended 8/7/2003)

(Section 2.6 amended 9/24/1998)

(Section 2.6 added 6/27/1991; effective 7/27/1991)

Section 2.7 - Driver Safety Requirements

(a) No taxicab vehicle shall be operated unless such vehicle is equipped with an emergency signaling device approved by the Chief Executive Officer.

(b) No taxicab vehicle may be operated with window tinting, shades, or markings that could interfere with a clear view of the cab interior from the outside, unless equipped by the vehicle manufacturer and approved by an MTS inspector.

(c) Taxicab/ dispatch services required by Section 2.3 shall at all times have a dispatch staff person on duty who has successfully completed a driver safety training course approved by the Chief Executive Officer.

(d) The use of a cellular phone or other similar electronic device by drivers is prohibited at all times when the vehicle is in motion. Otherwise, California Vehicle Code rules apply.

(Section 2.7 amended 11/8/2018, effective 1/1/2019)

(Section 2.7 amended 12/14/2017)

(Section 2.7 amended 10/13/2016)

(Section 2.7 amended 5/12/2016)

(Section 2.7 amended 11/15/2012)

(Section 2.7 amended 8/7/2003)

(Section 2.7 added 9/24/1998)

Section 2.8 – Prearranged Trips by Taxicabs

(a) A Prearranged Trip shall mean a trip using an online enabled application, dispatch or Internet Web site.

(b) A MTS taxicab permit holder may provide Prearranged Trips anywhere within San Diego County.

(c) A taxicab not permitted by MTS, but permitted by another authorized agency within San Diego County, may provide Prearranged Trips within City or County. MTS will not require such a taxicab to apply for a permit with MTS if the taxicab is not Substantially Located in City or County. MTS will require such a taxicab to comply with all mechanical safety regulations required of taxicabs permitted by MTS as a public health, safety and welfare measure.

(Section 2.8 added 11/8/2018, effective 1/1/2019)

SECTION 3.0 - CHARTER VEHICLES

Section 3.1 - Rates of Fare

(a) Within thirty (30) calendar days following the issuance of a permit by the Chief Executive Officer, each permit holder shall file a document with the Chief Executive Officer reflecting the rates of fare being charged by said permit holder for charter services.

(b) If a permit holder desires to change the rates of fare being charged for charter services during any calendar year, he shall first file a document with the Chief Executive Officer indicating said changes, and no change shall be effective until fourteen (14) days following the filing of said change.

(c) No permit holder shall charge any rate of fare for charter services unless said rates are on file with the Chief Executive Officer as aforesaid, and duly displayed.

(d) The rates of fare shall be established by a prearranged written contract on a per-mile or per-hour basis.

(Section 3.1 amended 4/10/1997)

Section 3.2 - Operating Regulations

(a) It shall be unlawful for any charter vehicle to remain standing on any public street in the City, except such reasonable time necessary when enabling passengers to load or unload.

(b) It shall be unlawful for any person, either as owner, driver, or agent, to approach and solicit patronage upon the streets, sidewalks, in any theater, hall, hotel, public resort, railway or airport, or light rail transit station.

(c) The charter for-hire vehicle driver shall maintain a daily trip log which shall be available for inspection upon request by any peace officer or MTS inspector. The trip log will accurately show the driver's name and the medallion number on the vehicle. In addition, the trip log shall identify the scheduling parties by name, date, and time of the prearranged hire. If the trip is medical in nature, the passenger's name may be omitted.

(d) All other operating regulations defined in Section 1.8 apply.

(Section 3.2 amended 12/14/2017)

(Section 3.2 amended 11/14/2002)

SECTION 4.0 - SIGHTSEEING VEHICLES

Section 4.1 - Rates of Fare

(a) Within thirty (30) calendar days following the issuance of a permit by the Chief Executive Officer, each permit holder shall file a document with the Chief Executive Officer reflecting the rates of fare being charged by said permit holder of sightseeing vehicle services.

(b) If a permit holder desires to change the rates of fare being charged for sightseeing services during any calendar year, [the permit holder](#) shall first file a document with the Chief Executive Officer indicating said changes, and no change shall be effective until fourteen (14) days following the filing of said changes.

(c) No permit holder shall charge any rate of fare for sightseeing services unless said rates are on file with the Chief Executive Officer as aforesaid, and duly displayed.

(d) The rate of fare shall be established on a per capita or per event basis.

[\(Section 4.1 amended 11/8/2018, effective 1/1/2019\)](#)

(Section 4.1 amended 4/10/1997)

Section 4.2 - Operating Regulations

(a) It shall be unlawful for any sightseeing vehicle to remain standing on any public street in the City, except such reasonable time necessary when enabling passengers to load or unload.

(b) It shall be unlawful for any person, either as owner, driver, or agent, to approach and solicit patronage upon the streets, sidewalks, in any theater, hall, hotel, public resort, railway or airport, or light rail transit station.

(c) All other operating regulations defined in Section 1.8 apply, except Section 1.8 (v).

SECTION 5.0 - NONEMERGENCY MEDICAL VEHICLES

Section 5.1 - Rates of Fare

(a) Within thirty (30) calendar days following the issuance of a permit by the Chief Executive Officer, each permit holder shall file a document with the Chief Executive Officer reflecting the rates of fare being charged by said permit holder for nonemergency medical vehicle services.

(b) If a permit holder desires to change the rates of fare being charged for nonemergency medical vehicle services during any calendar year, he shall first file a document with the Chief Executive Officer indicating said changes, and no change shall be effective until fourteen (14) days following the filing of said change.

(c) No permit holder shall charge any rate of fare for nonemergency medical vehicle services unless said rates are on file with the Chief Executive Officer as aforesaid.

(d) The rate of fare for exclusive ride service shall be established on a per capita plus per mile basis.

(e) The rates of fare for shared ride service shall be established on a per capita plus per mile basis, or on a per capita plus per zone basis.

(Section 5.1 amended 12/14/2017)

(Section 5.1 amended 4/10/1997)

Section 5.2 - Operating and Equipment Regulations

(a) It shall be unlawful for any nonemergency medical vehicle to remain standing on any public street in the City, except when enabling passengers to load or unload.

(b) All other operating regulations defined in Section 1.8 apply.

(c) Special equipment on a nonemergency medical vehicle shall, at all times the vehicle is in operation, be in proper working order. Such vehicles equipped with wheelchair ramps or lifts shall have proper device(s) to secure each wheelchair on board.

(d) The permit holder is responsible for ensuring that the driver of a nonemergency medical vehicle is properly trained:

(1) in the use of any of the vehicle's special equipment;

(2) concerning supervision of or assistance to the disabled passengers whom the driver is to transport.

(Section 5.2 amended 6/22/1995)

(Section 5.2 amended 6/24/1993)

Section 5.3 - Driver Identification Cards

In addition to the requirements set forth in Section 1.12, nonemergency medical vehicle drivers shall acquire and maintain valid proof of proper first-aid and CPR training.

(Section 5.3 added 6/24/1993)

SECTION 6.0 - JITNEY VEHICLES

Section 6.1 - Rates of Fare

(a) Within thirty (30) calendar days following the issuance of a permit by the Chief Executive Officer, each permit holder shall file a document with the Chief Executive Officer reflecting the rates of fare being charged by said permit holder for jitney services.

(b) If a permit holder desires to change the rates of fare being charged for jitney services during any calendar year, he shall first file a document with the Chief Executive Officer indicating said changes, and no change shall be effective until fourteen (14) days following the filing of said change.

(c) No permit holder shall charge any rate of fare for jitney services unless said rates are on file with the Chief Executive Officer~~General Manager as aforesaid~~, and duly displayed.

(d) The rates of fare shall be established on a per capita basis.

(Section 6.1 amended 11/8/2018, effective 1/1/2019)
(Section 6.1 amended 4/10/1997)

Section 6.2 - Jitney Routes

(a) A permit holder who wishes to provide a fixed route service shall apply to the Chief Executive Officer for authorization to serve a defined route with a specific vehicle. No for-hire vehicle may be operated as a jitney until it has met all other requirements of this Ordinance and has been approved for service on a specific fixed route. A jitney may be authorized to serve more than one route; however, a jitney may provide fixed route service on only those routes which the Chief Executive Officer has approved in writing for that vehicle.

(b) The application for a fixed route shall be in writing and shall contain the following information:

(1) A description of the vehicle(s) which will be utilizing the route;

(2) A detailed written description of the route, to include starting location, ending location, and the street name and direction of travel for all streets to be used in the route;

(3) A map in sufficient detail to clearly indicate the proposed route;

(4) The fare to be charged; and

(5) Such other information as the Chief Executive Officer may, in his or her discretion, require.

(c) Upon approval of a fixed route by the Chief Executive Officer, the permit holder shall display a representation of the route, the fare, and the permit holder's trade name on each side of the vehicle in letters large enough to be easily read by potential customers in accordance with the standards established by the Chief Executive Officer under Section 6.5 of this Ordinance. Only one (1) route may be displayed on a vehicle at any time.

(d) If a permit holder wishes to alter his or her approved fixed route(s), he or she must apply in writing to the Chief Executive Officer, submitting the information required in Section 6.2 (b).

(e) The Chief Executive Officer may, in his or her discretion, place conditions on the approval of fixed routes.

(f) The Chief Executive Officer may change a route that has been approved previously when the Chief Executive Officer finds it necessary to do so. A change of route may be necessary when a street has been closed temporarily or permanently because of construction, or the direction of a street has been changed, or a street has been vacated, or for similar reasons as determined by the Chief Executive Officer. The Chief Executive Officer shall notify in writing any permit holder whose route has been changed. The Chief Executive Officer's change of a route is subject to appeal under Section 1.16 of this Ordinance.

(g) Except as provided for within this subsection, an approved fixed route may not be transferred to another vehicle or permit holder. A permit holder may receive approval for a vehicle that is replacing a jitney already in service to use the approved fixed routes of the replaced vehicle.

(Section 6.2 amended 11/14/2002)

Section 6.3 – Operating Regulations

(a) It is unlawful for any jitney to remain standing on any public street in the City, except when enabling passengers to load or unload, or except when standing in a jitney holding zone for the time period established by MTS.

(b) It is unlawful for any person including, but not limited to, a jitney owner, driver, or agent thereof, to approach and solicit patronage upon the streets, sidewalks, in any theater, hall, hotel, public resort, railway, airport, or light rail transit station.

(c) A peace officer or MTS inspector may authorize a dispatcher to solicit passengers and assist with loading passengers at such times and places as, in his/her discretion, public service and traffic conditions require.

(d) Except when a driver or operator is actually engaged in assisting passengers to load or unload, a jitney driver or operator must remain within twelve (12) feet of his/her jitney while the jitney is in service.

(e) It is unlawful for a jitney vehicle to operate a fixed route service on other than that route designated by the Chief Executive Officer.

(f) It shall be unlawful for a jitney driver to load or unload passengers in any place other than an authorized jitney stop, bus stop, or passenger loading zone.

(g) All other operating regulations defined in Section 1.8 apply.

(Section 6.3 amended 11/14/2002)

Section 6.4 - Jitney Holding Zones

(a) The Chief Executive Officer may, by resolution, locate and designate holding zones for one (1) or more jitneys, which holding zones when so established, shall be designated by appropriate signs. The operating regulations of Section 6.3 shall apply to any holding zones so

established, and to holding zones established by the San Diego Unified Port District in areas under its jurisdiction. The Chief Executive Officer may, by his or her discretion, establish the maximum number of jitneys permitted to remain standing at one time in a holding zone.

(b) Each holding zone established hereunder shall be in operation twenty-four (24) hours of every day, unless otherwise specified by the Chief Executive Officer. The Chief Executive Officer shall adopt written standards to determine whether to allow holding zones to be in operation fewer than twenty-four (24) hours every day. If a holding zone is to be in operation fewer than twenty-four (24) hours every day, the Chief Executive Officer shall cause signs to be posted at or near the holding zone indicating the hours and days of operation.

(c) The Chief Executive Officer may, on his or her own motion, establish holding zones.

(d) Any individual, partnership, corporation, association or other organization may petition MTS requesting that a new holding zone be established. The petition must be filed in writing with the Chief Executive Officer or his/her designee. The petition must state the reason for the request and the proposed location(s). The Board may approve, deny, or modify the request.

(e) Whether initiated by the Chief Executive Officer under Subsection (c) of this section or by persons described in Subsection (d) of this section, before any holding zone is established, the proposed location of any holding zone must be reviewed by the Traffic Engineer of the City. The Traffic Engineer shall report his/her recommendations to approve, deny, or modify the proposed location in writing to the Chief Executive Officer. The Traffic Engineer's report shall include a statement of reasons supporting the recommendation to the Chief Executive Officer.

(f) The Chief Executive Officer shall, by resolution, establish a maximum time limit for individual jitneys to remain standing in any holding zone. The time limit shall apply uniformly to all holding zones.

(g) It shall be unlawful for a vehicle other than a jitney with a proper MTS jitney permit to occupy a jitney holding zone.

(Section 6.4 amended 11/15/2012)

Section 6.5 - Equipment and Specifications

(a) Each jitney shall bear on the outside, signs clearly designating the route which it serves. The specifications of the sign are subject to the approval of the Chief Executive Officer. The Chief Executive Officer shall adopt written standards for approval or denial of the size of the signs, the location of the signs on the vehicle, the size of the lettering or graphics on the signs, and other specifications that the Chief Executive Officer finds necessary.

(b) All jitney vehicles must bear a trade name and shall be assigned a body number by the permit holder. The trade name and body number so assigned shall be placed on the vehicle in accordance with written standards adopted by the Chief Executive Officer.

Any violation of this Ordinance shall constitute an infraction unless otherwise specified.

SECTION 7.0 – LOW-SPEED VEHICLES

Section 7.1 – Low-Speed Vehicle (LSV) Definition

Low-Speed Vehicles (LSV) shall mean every vehicle that is designated per the requirements of Ordinance No. 11, Section 1.1(~~se~~). LSVs may operate by zones and/or a prearranged basis as set forth in Section 1.1 (~~bd~~) (1)-(5).

(Section 7.1 amended 11/8/2018, effective 1/1/2019)
(Section 7.0 and 7.1 added 8/7/2003)

Section 7.2 – Establishment of Zones

The Chief Executive Officer shall establish and authorize the use of zones of operation.

(Section 7.2 added 8/7/2003)

Section 7.3 – Zone Rates of Fare

(a) All vehicles permitted as LSV may use two methods of seeking compensation, either by zone rates or on a prearranged basis. Either method may be used when working inside of an approved zone. However, when operating on a prearranged charter basis, within an approved zone, no operator may exceed the maximum number of vehicles that are permitted.

(b) Within thirty (30) calendar days following the issuance of a permit by the Chief Executive Officer, each permit holder shall file a document with the Chief Executive Officer reflecting the rates of fare being charged by said permit holder for LSV services.

(c) When a permit holder desires to change the rates of fare being charged for LSV services during any calendar year, he shall first file a document with the Chief Executive Officer indicating said changes, and no change shall be effective until fourteen (14) days following the filing of said change.

(d) No permit holder shall charge any rate of fare for LSV services unless said rates are on file with the Chief Executive Officer as aforesaid, and duly displayed.

(e) The rates of fare shall be established by a zone and/or prearranged written contract on a per-mile or per-hour basis.

(f) The maximum rates of fare shall be established pursuant to Section 2.2.

(Section 7.3 amended 10/13/2016)
(Section 7.3 added 8/7/2003)

Section 7.4 – Spare Vehicle Policy

(a) The following sets out procedures for LSV permit holders to place a spare vehicle into service as either a temporary replacement for a permitted vehicle that is out of service for recharging or mechanical problems.

(1) Spare LSVs must be marked with the approved company markings.

(2) In place of the medallion number, the spare LSV must be marked "Spare LSV." Where more than one spare LSV is being requested, under the provisions of paragraph 9, the LSVs will be marked "Spare LSV 1," "Spare LSV 2," and so on. The "Spare LSV" marking should be sized to fit in approximately the same space as the medallion number would otherwise be placed with legibility and visibility being the primary criteria.

- (3) Spare LSVs must be inspected upon initial issuance and annually thereafter.
- (4) All spare LSVs must meet all MTS insurance requirements.
- (5) To use a spare LSV that meets the requirements of 1 through 4 above, the permit holder must communicate in writing (facsimile is acceptable), a request to place a spare LSV into service.

The request must state:

- (A) the medallion number of the LSV being taken out of service, the reason for being out of service, and the location of the out-of-service LSV; and
 - (B) the estimated time the spare LSV will be in use.
- (6) When the out-of-service LSV is ready to re-enter service, the permit holder must immediately notify MTS in writing (facsimile is acceptable).
 - (7) The out-of-service LSV may not be required to be reinspected to be placed back into service.
 - (8) The spare LSV must be removed from service at the time the LSV it has been replacing is placed back into service.
 - (9) Under normal circumstances, a permit holder may utilize spare LSVs. Permit holders may utilize spare LSVs in a ratio of 3:1 permits held.
 - (10) Spare LSVs that are placed in service may only operate inside of the MTS-approved zone or zones. A permit holder shall not operate more spare vehicles than he/she has regular permitted vehicles.
 - (11) A permit holder found to have operated a spare LSV in deliberate violation of these procedures will be subject to immediate suspension/revocation of the permit and the loss of the spare LSV utilization privilege.

(Section 7.4 amended 10/13/2016)

(Section 7.4 amended 10/16/2003)

(Section 7.4 added 8/7/2003)

Section 7.5 – LSV Driver Identification Cards

- (a) Refer to Section 1.12 of this Ordinance to reference driver and permit holder ID requirements.

(Section 7.5 added 8/7/2003)

Section 7.6 - Equipment and Specifications

- (a) Each LSV shall display whether out of service in accordance with section 2.4 (g) of this Ordinance, which shall indicate to a person outside the LSV whether the LSV is in operation or is not.

(b) Exterior Markings

(1) Mandatory Exterior Vehicle Markings. The medallion number shall be painted or permanently affixed, on the front of the vehicle, one (1) inch below the permit holder's trade name, two (2) inches high, utilizing "Univers" or other Chief Executive Officer pre-approved font in black or white lettering to produce maximum contrast adequately spaced for maximum readability.

(2) Optional Exterior Vehicle Markings. The permit holder has the option of choosing to post any combination of the below-listed five options on his or her LSV which must be posted only at the specific location and in the size noted and are subject to the Chief Executive Officer's approval.

(A) Trade Name Logo. If the permit holder chooses to display his or her trade name logo, the trade name logo shall be posted only on the rear portion of both side rear quarter panels.

(B) Radio Service Provider. If the permit holder chooses to display the radio service provider name or logo, the radio service provider name or logo cannot utilize the words "cab" or taxi." The radio service provider name or logo must be displayed only on the rear portion of both side rear quarter panels.

(C) Telephone Number. If permit holder chooses to display a telephone number, the telephone number must be no more than two (2) inches in height and posted only on the top front portion of both front side quarter panels.

(D) "Driver Carries Only \$_____ Change". If the permit holder chooses to post "Driver Carries only \$_____ Change", postings must be located only on panels near the rear door but clear of the rates of fare.

(E) "Leased to Driver". If permit holder chooses to post "Leased to Driver," it must be posted only on both rear quarter panels near the rear door area but clear of the rate of fares in lettering no larger than 1 inch.

(3) All other exterior vehicle markings are prohibited unless they are directly related to the permit holder's business and pre-approved by the Chief Executive Officer.

(c) All LSVs shall be equipped and operated so that they have adequate means of electronic communication during business hours. The LSV company business address shall serve as the storefront for the purpose of handling lost and found items. All other operational requirements shall be met as set forth in section 1.8 (cG).

(Section 7.6 amended 11/8/2018, effective 1/1/2019)

(Section 7.6 amended 12/14/2017)

(Section 7.6 amended 10/4/2016)

(Section 7.6 added 8/7/2003)

SECTION 8 - EFFECTIVE DATE OF ORDINANCE

This Ordinance shall be effective 30 days after adoption, and before the expiration of 15 days after its passage, this Ordinance shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of San Diego.

| Amended: [11/8/2018](#)
Amended: 9/20/2018
Amended: 12/14/2017
Amended: 10/13/2016
Amended: 5/12/2016
Amended: 9/17/2015
Amended: 2/12/2015
Amended: 11/15/2012
Amended: 4/19/2012
Amended: 10/16/2003
Amended: 8/7/2003
Amended: 5/8/2003
Amended: 11/14/2002
Amended: 6/27/2002
Amended: 5/23/2002
Amended: 6/24/1999
Amended: 9/24/1998
Amended: 10/30/1997
Amended: 4/10/1997
Amended: 2/13/1997
Amended: 11/9/1995
Amended: 6/22/1995
Amended: 1/12/1995
Amended: 6/24/1993
Amended: 6/27/1991
Amended: 5/23/1991
Amended: 10/11/1990
Repealed & Readopted: 8/9/1990
Amended: 4/12/1990
Amended: 4/27/1989
| Adopted: 8/11/1988

Assembly Bill No. 1069

CHAPTER 753

An act to amend, repeal, and add Section 53075.5 of, and to add Sections 53075.51, 53075.52, and 53075.53 to, the Government Code, and to amend Section 1808.1 of the Vehicle Code, relating to local government.

[Approved by Governor October 13, 2017. Filed with
Secretary of State October 13, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1069, Low. Local government: taxicab transportation services.

Existing law requires every city or county to adopt an ordinance or resolution in regard to taxicab transportation service and requires each city or county to provide for a policy for entry into the business of providing taxicab transportation service, the establishment or registration of rates for the provision of taxicab transportation service, and a mandatory controlled substance and alcohol testing certification program for drivers, as specified.

Existing law, referred to as the pull-notice system, requires the prospective employer of a driver who drives a specified vehicle to obtain a report showing the driver's current public record as recorded by the Department of Motor Vehicles, as specified. A violation of this provision of the Vehicle Code is a crime.

This bill, commencing January 1, 2019, would limit the applicability of that ordinance or resolution adoption requirement and related provisions to a city or county, including a charter city or charter county, in which a taxicab company is substantially located, and the City and County of San Francisco, regardless of whether a taxicab company is substantially located in the city and county. The bill, with respect to these cities or counties, except for the City and County of San Francisco, would additionally require provisions for the establishment or registration of rates for the provision of taxicab transportation service to meet specified requirements, would require permitted taxicab companies and drivers to comply with various additional specified requirements, including participation in the Department of Motor Vehicles' pull-notice system, would authorize the issuance of inspection stickers or other inspection compliance devices to compliant taxicab companies and the issuance of photo permits to compliant taxi drivers, would prohibit the placement of licensure, permitting, and certification requirements on taxicab companies or drivers that are not substantially located in their jurisdictions, would prohibit taxicab companies and taxicab drivers from operating within a county without a permit from the county or at least one city within the county and authorize a permitted taxicab company to provide prearranged trips anywhere within the county, and would subject unpermitted taxicab operation to a minimum fine of \$5,000, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program. The bill would provide an airport operator with separate and ultimate authority to regulate taxicab access to the airport and set access fees for taxicabs at the airport.

The bill would define “substantially located” for these purposes and deem a city or county in which a taxicab company or taxicab driver operates as a city or county in which a taxicab company or taxicab driver is substantially located if the city or county enacts a resolution of intention to enter into a joint exercise of powers agreement or join a joint powers authority, or to enter into an agreement with a transit agency, for the purpose of regulating or administering taxicab companies and taxicab drivers. The bill, commencing January 1, 2018, would require taxicab companies and taxicab drivers to collect trip data to determine in what jurisdictions each company and driver are substantially located, and beginning January 1, 2019, would require the trip data collected in the previous 12 months to be provided upon date of renewal to the jurisdictions in which the company and driver are substantially located.

The bill, commencing January 1, 2019, would authorize a city or county, regardless of whether a taxicab company or taxicab driver is substantially located within its jurisdiction, to adopt operating requirements for taxicab companies and taxicab drivers that are not related to permitting or business licensing and to impose civil liability for violation of these ordinances, as specified.

The bill would include findings that the changes proposed by this bill address a matter of statewide concern and is not a municipal affair, and therefore shall apply equally to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature in enacting this act:

- (a) To modernize the regulation of taxicab transportation services in order for taxicabs to better compete with all for-hire modes of transportation.
- (b) To move taxicab permitting from the patchwork of various local requirements to require a permit in the jurisdiction in which taxicab transportation services have the most substantial connection.
- (c) To authorize a joint powers authority, as an alternative to regulation by an individual city or county, or a transit agency or countywide transportation agency, upon the approval of its board, to prescribe duties and responsibilities for the regulation of taxicab transportation services.

SEC. 2. Section 53075.5 of the Government Code is amended to read:

53075.5. (a) Notwithstanding Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code, every city or county shall protect the public health, safety, and welfare by adopting an ordinance or resolution in regard to taxicab transportation service rendered in vehicles designed for carrying not more than eight persons, excluding the driver, which is operated within the jurisdiction of the city or county.

(b) Each city or county shall provide for, but is not limited to providing for, the following:

(1) A policy for entry into the business of providing taxicab transportation service. The policy shall include, but need not be limited to, all of the following provisions:

(A) Employment, or an offer of employment, as a taxicab driver in the jurisdiction, including compliance with all of the requirements of the program adopted pursuant to paragraph (3), shall be a condition of issuance of a driver's permit.

(B) The driver's permit shall become void upon termination of employment.

(C) The driver's permit shall state the name of the employer.

(D) The employer shall notify the city or county upon termination of employment.

(E) The driver shall return the permit to the city or county upon termination of employment.

(2) The establishment or registration of rates for the provision of taxicab transportation service.

(3) (A) A mandatory controlled substance and alcohol testing certification program. The program shall include, but need not be limited to, all of the following requirements:

(i) Drivers shall test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, before employment. Drivers shall test negative for these controlled substances and for alcohol as a condition of permit renewal or, if no periodic permit renewals are required, at such other times as the city or county shall designate. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent.

(ii) Procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the driver shall show a valid California driver's license at the time and place of testing, and except as provided otherwise in this section. Requirements for rehabilitation and for return-to-duty and followup testing and other requirements, except as provided otherwise in this section, shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.

(iii) A test in one jurisdiction shall be accepted as meeting the same requirement in any other jurisdiction. Any negative test result shall be accepted for one year as meeting a requirement for periodic permit renewal testing or any other periodic testing in that jurisdiction or any other

jurisdiction, if the driver has not tested positive subsequent to a negative result. However, an earlier negative result shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment, or any testing requirements under the program other than periodic testing.

(iv) In the case of a self-employed independent driver, the test results shall be reported directly to the city or county, which shall notify the taxicab leasing company of record, if any, of positive results. In all other cases, the results shall be reported directly to the employing transportation operator, who may be required to notify the city or county of positive results.

(v) All test results are confidential and shall not be released without the consent of the driver, except as authorized or required by law.

(vi) Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. Employing transportation operators shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees and potential employees, except that an operator may require employees who test positive to pay the costs of rehabilitation and of return-to-duty and followup testing.

(vii) Upon the request of a driver applying for a permit, the city or county shall give the driver a list of the consortia certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that the city or county knows offer tests in or near the jurisdiction.

(B) No evidence derived from a positive test result pursuant to the program shall be admissible in a criminal prosecution concerning unlawful possession, sale or distribution of controlled substances.

(c) Each city or county may levy service charges, fees, or assessments in an amount sufficient to pay for the costs of carrying out an ordinance or resolution adopted in regard to taxicab transportation services pursuant to this section.

(d) Nothing in this section prohibits a city or county from adopting additional requirements for a taxicab to operate in its jurisdiction.

(e) For purposes of this section, "employment" includes self-employment as an independent driver.

(f) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 3. Section 53075.5 is added to the Government Code, to read:

53075.5. (a) Notwithstanding Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code, every city or county in which a taxicab company is substantially located, as defined in subparagraph (B) of paragraph (2) of subdivision (k), shall protect the public health, safety, and welfare by adopting an ordinance or resolution in regard to taxicab transportation service rendered in vehicles designed for carrying not more than eight persons, excluding the driver, which are operated within the jurisdiction of the city or county.

(b) Each city or county that adopts an ordinance pursuant to subdivision (a) shall provide for, but is not limited to providing for, the following:

(1) A policy for entry into the business of providing taxicab transportation service. The policy shall include, but need not be limited to, all of the following provisions:

(A) Employment, or an offer of employment, as a taxicab driver in the jurisdiction, including compliance with all of the requirements of the program adopted pursuant to paragraph (3), shall be a condition of issuance of a driver's permit.

(B) The driver's permit shall become void upon termination of employment.

(C) The driver's permit shall state the name of the employer.

(D) The employer shall notify the city or county upon termination of employment.

(E) The driver shall return the permit to the city or county upon termination of employment.

(2) The establishment or registration of rates for the provision of taxicab transportation service that meets the following requirements:

(A) The taxicab company may set fares or charge a flat rate. However, a city or county may set a maximum rate.

(B) The taxicab company may use any type of device or technology approved by the Division of Measurement Standards to calculate fares, including the use of Global Positioning System metering, provided that the device or technology complies with Section 12500.5 of the Business and Professions Code and with all regulations established pursuant to Section 12107 of the Business and Professions Code.

(C) The taxicab company shall disclose fares, fees, or rates to the customer. A permitted taxicab company may satisfy this requirement by disclosing fares, fees, or rates on its Internet Web site, mobile telephone application, or telephone orders upon request by the customer.

(D) The taxicab company shall notify the passenger of the applicable rate prior to the passenger accepting the ride for walkup rides and street hails. The rate may be provided on the exterior of the vehicle, within an application of a mobile telephone, device, or other Internet-connected device, or be clearly visible in either print or electronic form inside the taxicab.

(3) (A) A mandatory controlled substance and alcohol testing certification program. The program shall include, but need not be limited to, all of the following requirements:

(i) Drivers shall test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, before employment. Drivers shall test negative for these controlled substances and for alcohol as a condition of permit renewal or, if no periodic permit renewals are required, at such other times as the city or county shall designate. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent.

(ii) Procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the driver shall show a valid California driver's license at the time and place

of testing, and except as provided otherwise in this section. Requirements for rehabilitation and for return-to-duty and followup testing and other requirements, except as provided otherwise in this section, shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.

(iii) A test in one jurisdiction shall be accepted as meeting the same requirement in any other jurisdiction. Any negative test result shall be accepted for one year as meeting a requirement for periodic permit renewal testing or any other periodic testing in that jurisdiction or any other jurisdiction, if the driver has not tested positive subsequent to a negative result. However, an earlier negative result shall not be accepted as meeting the preemployment testing requirement for any subsequent employment, or any testing requirements under the program other than periodic testing.

(iv) In the case of a self-employed independent driver, the test results shall be reported directly to the city or county, which shall notify the taxicab leasing company of record, if any, of positive results. In all other cases, the results shall be reported directly to the employing transportation operator, who may be required to notify the city or county of positive results.

(v) All test results are confidential and shall not be released without the consent of the driver, except as authorized or required by law.

(vi) Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. Employing transportation operators shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees and potential employees, except that an operator may require employees who test positive to pay the costs of rehabilitation and of return-to-duty and followup testing.

(vii) Upon the request of a driver applying for a permit, the city or county shall give the driver a list of the consortia certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that the city or county knows offer tests in or near the jurisdiction.

(B) No evidence derived from a positive test result pursuant to the program shall be admissible in a criminal prosecution concerning unlawful possession, sale or distribution of controlled substances.

(c) Each city or county may levy service charges, fees, or assessments in an amount sufficient to pay for the costs of carrying out an ordinance or resolution adopted in regard to taxicab transportation services pursuant to this section.

(d) (1) A city or county may issue to a taxicab company that complies with all provisions of this section and Section 53075.52, and with all applicable local ordinances or resolutions of that city or county, an inspection sticker or other inspection compliance device. A city or county shall issue to a taxi driver that complies with all provisions of this section and Section 53075.52, and with all applicable local ordinances or resolutions of that county, a photo permit, and that driver is required to display that photo permit in a place visible to a passenger.

(2) A city or county may accept a taxicab company or driver permit issued by another city or county as valid, and may issue to that taxicab company or driver an inspection sticker or photo permit that authorizes that taxicab company or driver to operate within the county.

(e) A city or county shall not require a taxicab company or driver to obtain a business license, service permit, car inspection certification, or driver permit, or to comply with any requirement under this section or Section 53075.52, unless the company or driver is substantially located within the jurisdiction of that city or county.

(f) A permitted taxicab company may provide prearranged trips anywhere within the county in which it has obtained a permit under subdivision (a).

(g) A permitted taxicab company shall not prejudice, disadvantage, or require different rates or provide different service to a person because of race, national origin, religion, color, ancestry, physical disability, medical condition, occupation, marital status or change in marital status, sex, or any characteristic listed or defined in Section 11135 of the Government Code.

(h) A permitted taxicab company shall do all of the following:

(1) Maintain reasonable financial responsibility to conduct taxicab transportation services in accordance with the requirements of an ordinance adopted pursuant to subdivision (a).

(2) Participate in the pull-notice program pursuant to Section 1808.1 of the Vehicle Code to regularly check the driving records of all taxicab drivers, whether employees or contractors.

(3) Maintain a safety education and training program in effect for all taxicab drivers, whether employees or contractors.

(4) Maintain a disabled access education and training program to instruct its taxicab drivers on compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) and amendments thereto, and state disability rights laws, including making clear that it is illegal to decline to serve a person with a disability or who has a service animal.

(5) Maintain its motor vehicles used in taxicab transportation services in a safe operating condition, and in compliance with the Vehicle Code and obtain a Bureau of Automotive Repair inspection annually.

(6) Provide the city or county that has issued a permit under this article an address of an office or terminal where documents supporting the factual matters specified in the showing required by this subdivision may be inspected by the permitting city or county.

(7) Provide for a taxicab driver fingerprint-based criminal history check and a drug and alcohol testing program pursuant to paragraph (3) of subdivision (b).

(8) Comply with all provisions of an ordinance adopted pursuant to subdivision (a).

(9) Provide documentation in the format required by an ordinance adopted pursuant to subdivision (a) substantiating that 50 percent or more of the revenues from fares of the taxicab company or driver are generated from within a specific jurisdiction.

(i) (1) It shall be unlawful to operate a taxicab without a valid permit to operate issued by each jurisdiction in which the taxicab company or driver is substantially located.

(2) The minimum fine for violation of paragraph (1) shall be five thousand dollars (\$5,000) and may be imposed administratively by the permitting city or county.

(j) (1) A taxicab company or a taxicab driver shall not operate within a county unless the company and the driver are substantially located in at least one city within that county or the unincorporated area of the county.

(2) (A) Notwithstanding paragraph (2) of subdivision (k), a city or county shall be deemed to have a taxicab company or taxicab driver substantially located within its jurisdiction if the company or driver operates within the jurisdiction of the city or county and the city or county has enacted a resolution of intention to do either of the following:

(i) Enter into a joint exercise of powers agreement or join a joint powers authority for the purpose of regulating or administering taxicab companies and taxicab drivers.

(ii) Enter into an agreement with a transit agency for the purpose of regulating or administering the taxicab companies and taxicab drivers.

(B) A city or county that is deemed to have a taxicab company or taxicab driver substantially located within its jurisdiction pursuant to subparagraph (A) shall not issue permits or require business licenses except through an agreement or joint powers authority.

(k) For purposes of this section:

(1) "Employment" includes self-employment as an independent driver.

(2) (A) A taxicab company or taxicab driver is substantially located within the jurisdiction where the primary business address of the company or driver is located. A taxicab company or taxicab driver is also substantially located in the jurisdiction within a single county in which trips originating in that jurisdiction account for the largest share of that company or driver's total number of trips within that county over the past year and determined every five years thereafter.

(B) A taxicab company or taxicab driver may be substantially located in more than one jurisdiction.

(3) "City or county" includes a charter city or charter county, but does not include the City and County of San Francisco.

(4) "Prearranged trip" means trip using an online enabled application, dispatch, or Internet Web site.

(l) Notwithstanding any other provision of this section, an airport operator shall have separate and ultimate authority to regulate taxicab access to the airport and set access fees for taxicabs at the airport.

(m) Nothing in this section, or Section 53075.51, 53075.52, or 53075.53 shall affect the authority of a jurisdiction to regulate taxi access to an airport it owns or operates and to set access fees or requirements.

(n) This section shall become operative on January 1, 2019.

SEC. 4. Section 53075.51 is added to the Government Code, to read:

53075.51. (a) Any city or county, regardless of whether a taxicab company or driver is substantially located within its jurisdiction as defined in Section 53075.5, may adopt, by ordinance, operating requirements for taxicab companies and taxicab drivers that do not relate to permitting or business licensing, including, but not limited to, all of the following:

(1) Limits on the number of taxicab service providers that may use taxi stand areas or pickup street hails within that city's or county's jurisdiction. If a city or county chooses to limit the number of taxis that use the stand areas or pick up street hails, the city or county shall identify those vehicles with a window sticker and shall not establish additional requirements or costs to the taxis beyond that authorized by Section 53075.5 or this section.

(2) Requirements on a taxicab service provider to provide services in a manner that provides equal accessibility for all populations within a jurisdiction.

(3) Other public health, safety, or welfare ordinances relating to taxicabs.

(b) Compliance with requirements adopted pursuant to subdivision (a) shall not be a condition for issuance of a permit.

(c) A city or county may administratively impose civil liability for violation of ordinances adopted pursuant to this section. The minimum fine for violation of ordinances relative to this section shall be one hundred dollars (\$100) and shall not exceed one thousand dollars (\$1,000). Civil liability imposed pursuant to this section shall be paid to the city or county where the violation occurred and expended solely for the purposes of this chapter.

(d) This section shall become operative on January 1, 2019.

SEC. 5. Section 53075.52 is added to the Government Code, to read:

53075.52. Beginning January 1, 2018, taxicab companies and taxicab drivers shall collect trip data to determine in what jurisdictions each company and driver are substantially located. Beginning January 1, 2019, the trip data collected in the previous 12 months shall be provided upon date of renewal to the jurisdictions in which the taxicab company and taxicab driver are substantially located, as defined in Section 53075.5.

SEC. 6. Section 53075.53 is added to the Government Code, to read:

53075.53. (a) Notwithstanding Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code, the City and County of San Francisco shall protect the public health, safety, and welfare by adopting an ordinance or resolution in regard to taxicab transportation service rendered in vehicles designed for carrying not more than eight persons, excluding the driver, which is operated within its jurisdiction.

(b) The City and County of San Francisco shall provide for, but is not limited to providing for, the following:

(1) A policy for entry into the business of providing taxicab transportation service. The policy shall include, but need not be limited to, all of the following provisions:

(A) Employment, or an offer of employment, as a taxicab driver in the jurisdiction, including compliance with all of the requirements of the program

adopted pursuant to paragraph (3), shall be a condition of issuance of a driver's permit.

(B) The driver's permit shall become void upon termination of employment.

(C) The driver's permit shall state the name of the employer.

(D) The employer shall notify the City and County of San Francisco upon termination of employment.

(E) The driver shall return the permit to the City and County of San Francisco upon termination of employment.

(2) The establishment or registration of rates for the provision of taxicab transportation service.

(3) (A) A mandatory controlled substance and alcohol testing certification program. The program shall include, but need not be limited to, all of the following requirements:

(i) Drivers shall test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, before employment. Drivers shall test negative for these controlled substances and for alcohol as a condition of permit renewal or, if no periodic permit renewals are required, at such other times as the City and County of San Francisco shall designate. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent.

(ii) Procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the driver shall show a valid California driver's license at the time and place of testing, and except as provided otherwise in this section. Requirements for rehabilitation and for return-to-duty and followup testing and other requirements, except as provided otherwise in this section, shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.

(iii) A test in one jurisdiction shall be accepted as meeting the same requirement in any other jurisdiction. Any negative test result shall be accepted for one year as meeting a requirement for periodic permit renewal testing or any other periodic testing in that jurisdiction or any other jurisdiction, if the driver has not tested positive subsequent to a negative result. However, an earlier negative result shall not be accepted as meeting the preemployment testing requirement for any subsequent employment, or any testing requirements under the program other than periodic testing.

(iv) In the case of a self-employed independent driver, the test results shall be reported directly to the city or county, which shall notify the taxicab leasing company of record, if any, of positive results. In all other cases, the results shall be reported directly to the employing transportation operator, who may be required to notify the City and County of San Francisco of positive results.

(v) All test results are confidential and shall not be released without the consent of the driver, except as authorized or required by law.

(vi) Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. Employing transportation operators shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees and potential employees, except that an operator may require employees who test positive to pay the costs of rehabilitation and of return-to-duty and followup testing.

(vii) Upon the request of a driver applying for a permit, the City and County of San Francisco shall give the driver a list of the consortia certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that the city or county knows offer tests in or near the jurisdiction.

(B) No evidence derived from a positive test result pursuant to the program shall be admissible in a criminal prosecution concerning unlawful possession, sale, or distribution of controlled substances.

(c) The City and County of San Francisco may levy service charges, fees, or assessments in an amount sufficient to pay for the costs of carrying out an ordinance or resolution adopted in regard to taxicab transportation services pursuant to this section.

(d) Nothing in this section prohibits the City and County of San Francisco from adopting additional requirements for a taxicab to operate in its jurisdiction.

(e) For purposes of this section, "employment" includes self-employment as an independent driver.

(f) This section shall become operative on January 1, 2019.

SEC. 7. Section 1808.1 of the Vehicle Code is amended to read:

1808.1. (a) The prospective employer of a driver who drives a vehicle specified in subdivision (k) shall obtain a report showing the driver's current public record as recorded by the department. For purposes of this subdivision, a report is current if it was issued less than 30 days prior to the date the employer employs the driver. The report shall be reviewed, signed, and dated by the employer and maintained at the employer's place of business until receipt of the pull-notice system report pursuant to subdivisions (b) and (c). These reports shall be presented upon request to an authorized representative of the Department of the California Highway Patrol during regular business hours.

(b) The employer of a driver who drives a vehicle specified in subdivision (k) shall participate in a pull-notice system, which is a process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the employer's notification request remains valid and uncanceled. As used in this section, participation in the pull-notice system means obtaining a requester code and enrolling all employed drivers who drive a vehicle specified in subdivision (k) under that requester code.

(c) The employer of a driver of a vehicle specified in subdivision (k) shall, additionally, obtain a periodic report from the department at least every 12 months. The employer shall verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of Section 23152 or 23153. The report shall be signed and dated by the employer and maintained at the employer's principal place of business. The report shall be presented upon demand to an authorized representative of the Department of the California Highway Patrol during regular business hours.

(d) Upon the termination of a driver's employment, the employer shall notify the department to discontinue the driver's enrollment in the pull-notice system.

(e) For the purposes of the pull-notice system and periodic report process required by subdivisions (b) and (c), an owner, other than an owner-operator as defined in Section 34624, and an employer who drives a vehicle described in subdivision (k) shall be enrolled as if he or she were an employee. A family member and a volunteer driver who drives a vehicle described in subdivision (k) shall also be enrolled as if he or she were an employee.

(f) An employer who, after receiving a driving record pursuant to this section, employs or continues to employ as a driver a person against whom a disqualifying action has been taken regarding his or her driving privilege or required driver's certificate, is guilty of a public offense, and upon conviction thereof, shall be punished by confinement in a county jail for not more than six months, by a fine of not more than one thousand dollars (\$1,000), or by both that confinement and fine.

(g) As part of its inspection of bus maintenance facilities and terminals required at least once every 13 months pursuant to subdivision (c) of Section 34501, the Department of the California Highway Patrol shall determine whether each transit operator, as defined in Section 99210 of the Public Utilities Code, is then in compliance with this section and Section 12804.6, and shall certify each operator found to be in compliance. Funds shall not be allocated pursuant to Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code to a transit operator that the Department of the California Highway Patrol has not certified pursuant to this section.

(h) (1) A request to participate in the pull-notice system established by this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811. An employer who qualifies pursuant to Section 1812 shall be exempt from any fee required pursuant to this section. Failure to pay the fee shall result in automatic cancellation of the employer's participation in the notification services.

(2) A regularly organized fire department, having official recognition of the city, county, city and county, or district in which the department is

located, shall participate in the pull-notice program and shall not be subject to the fee established pursuant to this subdivision.

(3) The Board of Pilot Commissioners for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun, and its port agent shall participate in the pull-notice system established by this section, subject to Section 1178.5 of the Harbors and Navigation Code, and shall not be subject to the fees established pursuant to this subdivision.

(i) The department, as soon as feasible, may establish an automatic procedure to provide the periodic reports to an employer by mail or via an electronic delivery method, as required by subdivision (c), on a regular basis without the need for individual requests.

(j) (1) The employer of a driver who is employed as a casual driver is not required to enter that driver's name in the pull-notice system, as otherwise required by subdivision (a). However, the employer of a casual driver shall be in possession of a report of the driver's current public record as recorded by the department, prior to allowing a casual driver to drive a vehicle specified in subdivision (k). A report is current if it was issued less than six months prior to the date the employer employs the driver.

(2) For the purposes of this subdivision, a driver is employed as a casual driver when the employer has employed the driver less than 30 days during the preceding six months. "Casual driver" does not include a driver who operates a vehicle that requires a passenger transportation endorsement.

(k) This section applies to a vehicle for the operation of which the driver is required to have a class A or class B driver's license, a class C license with any endorsement issued pursuant to Section 15278, a class C license issued pursuant to Section 12814.7, or a certificate issued pursuant to Section 12517, 12519, 12520, 12523, 12523.5, or 12527, a passenger vehicle having a seating capacity of not more than 10 persons, including the driver, operated for compensation by a charter-party carrier of passengers or passenger stage corporation pursuant to a certificate of public convenience and necessity or a permit issued by the Public Utilities Commission, or a permitted taxicab company as described in Section 53075.51 of the Government Code.

(l) This section shall not be construed to change the definition of "employer," "employee," or "independent contractor" for any purpose.

(m) A motor carrier who contracts with a person to drive a vehicle described in subdivision (k) that is owned by, or leased to, that motor carrier, shall be subject to subdivisions (a), (b), (c), (d), (f), (j), (k), and (l) and the employer obligations in those subdivisions.

(n) Reports issued pursuant to this section, but only those for a driver of a taxicab engaged in transportation services as described in subdivision (a) of Section 53075.5 of the Government Code, shall be presented upon request, during regular business hours, to an authorized representative of the administrative agency responsible for issuing permits to taxicab transportation services pursuant to Section 53075.5 of the Government Code.

SEC. 8. The Legislature finds and declares that taxicabs face a substantial competitive disadvantage due to the numerous and differing requirements

from city to city while all other modes of for-hire transportation are regulated by one statewide entity, and, therefore, the regulation of taxicab transportation services and taxi cab service providers is an issue of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to charter cities.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



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Agenda Item No. 10

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

INVESTMENT REPORT – QUARTER ENDING SEPTEMBER 30, 2018

INFORMATIONAL ONLY

Budget Impact

None.

DISCUSSION:

Attachment A comprises a report of the San Diego Metropolitan Transit System (MTS) investments as of September 30, 2018. The combined total of all investments has increased quarter to quarter from \$102.3 million to \$152.3 million. This \$50.0 million increase is attributable to \$58.6 million in Federal Transit Administration (FTA) revenue, \$8.4 million in State Transit Assistance (STA) revenue, partially offset by \$15.0 million in capital expenditures, as well as normal timing differences in other payments and receipts.

The first column provides details about investments restricted for capital improvement projects.

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

MTS remains in compliance with Board Policy 30 and is able to meet expenditure requirements for a minimum of the next six months as required.

/s/ Paul C. Jablonski

Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Investment Report for the Quarter Ending September 30, 2018



**San Diego Metropolitan Transit System
Investment Report
September 30, 2018**

Institution / Issuer	Function	Investment Type	Restricted	Unrestricted	Total	Avg. Rate of Return	Benchmark
J.P. Morgan Chase	Operating Funds	Depository Bank	-	71,877,446	71,877,446	0.28%	* 0.430% WSJ Money Market
U.S. Bank - Retention Trust Account	Restricted for Capital Support	Depository Bank	2,934,964	-	2,934,964	N/A	** -
California Bank & Trust - Retention Trust Account	Restricted for Capital Support	Depository Bank	321,884	-	321,884	N/A	*** -
San Diego County Treasurer's Office	Prop 1B TSGP Grant Funds	Investment Pool	8,414,826	3,580,317	11,995,143	2.023%	1.525% S&P US T-Bill 0-3 Mth Index
Subtotal: Restricted for Capital Support			11,671,675	3,580,317	15,251,992		
Local Agency Investment Fund (LAIF)	Investment of Surplus Funds	Investment Pool	5,165,754	12,896,572	18,062,327	2.063%	1.525% S&P US T-Bill 0-3 Mth Index
San Diego County Treasurer's Office	Investment of Surplus Funds	Investment Pool	-	47,058,532	47,058,532	2.023%	1.525% S&P US T-Bill 0-3 Mth Index
Subtotal: Investment Surplus Funds			5,165,754	59,955,104	65,120,859		
Grand Total Cash and Investments			\$ 16,837,429	\$ 135,412,868	\$ 152,250,297		

*-The .28% is an annual percentage yield on the average daily balance that exceeds \$22 million

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

***- Retention was released and the account was closed in October 2018



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Agenda Item No. 11

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

LIGHT RAIL VEHICLE LIFTING JACKS REPLACEMENT – SOLE SOURCE
CONTRACT AWARD

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWL266.0-19 (in substantially the same format as Attachment A) with Macton Corporation for the purchase and installation of In-Floor Lifting Hoists for the service of the MTS Light Rail Vehicle (LRV) fleet and modernization of control systems within the LRV Maintenance Facility.

Budget Impact

The value of this agreement will not exceed \$687,949.00 and is funded under the MTS Capital Improvement Program (CIP) project account 2008107201.

DISCUSSION:

The MTS LRV maintenance facility has two sets of lifting hoists installed in the floor of the maintenance facility. These jacks have been in service since 1995 and see daily use in the maintenance and repairs of the MTS LRV fleet. The in-floor lifting hoists are beginning to fail and require replacement. The lift system recently had a catastrophic failure in which an LRV was stuck in a raised position for many hours, requiring careful work by MTS maintenance personnel to safely secure and lower the LRV back to track level. Despite numerous repairs and continued maintenance, MTS staff has determined that these assets are now past their useful life and is recommending a replacement of these systems.

This project completely replaces both sets of jacking systems in the maintenance facility with new modern equipment as well as updating the control systems of the hoists to ensure safe operation and enhanced wireless control.



The installation of the new system will utilize some of the original electronic infrastructure that was installed more recently to reduce the cost. In addition to the existing electronic system, two Joyce Dalton in-floor jacks were recently installed. The new system must work with the existing infrastructure in order to avoid unnecessary and costly system-wide upgrades. MTS staff has determined that a sole-source procurement is necessary to avoid these costs and to ensure compatibility with the existing system.

A new Joyce Dayton in-floor jack system is solely owned, distributed and maintained by the Macton Corporation. All drawings and intellectual property of the existing system are owned by Macton Corporation, and no other vendor is able to supply the OEM materials or provide warranty service on the lifts. Macton Corporation would also be the sole source provider for replacement parts and installation of new equipment ensuring minimal loss of work-time and that the equipment operates in a safe manner.

The pricing provided by the Macton Corporation, in comparison with the independent cost estimate (ICE) and an MTS price analysis was determined Macton Corporation to be fair and reasonable.

COMPANY NAME	BID AMOUNT
Macton	\$687,949.00
ICE	\$712,416.78

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute MTS Doc. No. PWL266.0-19 (in substantially the same format as Attachment A), with Macton Corporation for the purchase and installation of In-Floor Lifting Hoists for the service of the MTS LRV fleet and modernization of control systems within the LRV Maintenance Facility.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

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

Attachments: A. Draft MTS Doc. No. PWL266.0-19
B. Macton Corporation of Connecticut Price Proposal

SECTION 4.0 – SAMPLE OF STANDARD SERVICES AGREEMENT, STANDARD CONDITIONS SERVICES
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**STANDARD SERVICES AGREEMENT
FOR
PROJECT TITLE**

PWL266.0-19 CONTRACT NUMBER

FILE/PO NUMBER(S)

THIS AGREEMENT is entered into this _____ day of _____ 2018, in the State of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following, hereinafter referred to as "Contractor":

Name: Macton Corporation Address: _____

Form of Business: Corp. _____

(Corporation, partnership, sole proprietor, etc.)

Telephone: _____ Email Address: _____

Authorized person to sign contracts: _____
Name Title

The attached Standard Conditions are part of this Agreement. The Contractor agrees to furnish to MTS services and materials, as follows: Installation of In-Floor Lifting Hoists as specified in the Scope of Work (attached as Exhibit A), Bid Form (attached as Exhibit B), and in accordance with the Standard Conditions (attached as Exhibit C).

The contract term is for **LIGHT RAIL In-Floor Lifting Hoists System**. Payment terms shall be net 30 days from invoice date. The total cost of this contract shall not exceed \$687,949.00 without the express written consent of MTS.

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

AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
\$687,949.00	2008107201	FY19

By: _____
Chief Financial Officer Date

(____ total pages, each bearing contract number)

SA-SERVICES (REV 2/22/2017)
DATE



July 20, 2018

Quote MTS9917

Andy Goddard
Superintendent of LRV Maintenance
1341 Commercial Street
San Diego, CA 92113

Subject: Electrical and Jacking Assembly Upgrade with Equipment Installation

Andy,

Macton Corporation is pleased to provide this proposal for the Electrical and Jacking Assembly Upgrade with Installation of the Equipment, per your request.

Scope of Supply:

(8) BH Jacking Assembly's for track # 4
(6) TRH Jacking Assembly's for track # 4
(6) BH Jacking Assembly's for track # 5
(6) TRH Jacking Assembly's for track # 5
(14) Steel Safety Nuts
(16) New Nut Wear Switches
(2) New Operators panels
(2) Radio Remotes
Delivery
Installation
Checkout/Testing/Training

Installation Scope:

- Removing old jacks
- Remove old oil from caissons
- Clean any Debris in Caissons
- Fill caissons with new oil
- The (2) two new Body Hoists on track # 5 will be installed with nut wear switches to monitor the gap between the Bronze and the Steel Safety Nut.
- Drill and Tap New Grease Hole/Fitting Into Guide for Lifting Ram or Tube (BH ONLY)
- Drill and Tap new holes for the Nut wear switches into Jacking Plate (BH ONLY)
- Add hole into existing junction box for nut wear switch (BH ONLY)
- Macton is going to reuse the existing limit switch boxes that attach to one jack in each pit

- Reinstall new Truck Repair Hoist Jacking units
- Remove old Operators panel and install new panel
- Remotes Install and test
- Test and Debug New Electrical Upgrades
- Install will be performed by two (2) Macton Field Engineers for 15 Days of work and 2 Travel Days @ \$1,680.00 per for a total of \$57,120.00 which includes all travel, lodging and other expenses.
- Price per track is the same since Macton will have to disassemble the Two BH Jacks for the added holes for grease and for nut wear switches.
- The install price is on a Per Track Basis

Note: MTS is responsible for disposal of old oil and the supply of new oil for caisson work.

Price:

Track # 4: New Jacks & Electrical Upgrade: \$367,567.00

(Equipment: \$310,447.00; Installation: \$57,120.00.)

Track # 5: New Jacks & Electrical Upgrade: \$320,337.00

(Equipment: \$263,217.00; Installation: \$57,120.00.)

Terms:

See schedule of values and Payments are Net 10 calendar days after Invoicing.

Proposal Qualifications:

This proposal is subject to the following;

- This Scope of work will be performed in two phases and quoted on a per track basis. Whereas Track #5 has already has two (2) new Body Hoist Jacking Units, Track #5 work will be performed first...
- As the equipment manufacturer, Macton is the only Qualified Vendor to perform this work (See Sole Source Letter Attached)
- All New Equipment comes with Mactons Standard 5 year Warrant (See Attached)
- The Warranty is valid as long as Macton provides the annual Maintenance (See Attached Proposal)
- Macton will provide three (3) copies of an updated version of the O&M Manual
- This price includes all travel, food and lodging costs for Macton Service Engineers. Once all equipment is installed the Macton Service Engineer will provide the startup and commissioning of the equipment and provide training for all equipment operators.
- Price is based upon unlimited and non-restrictive use of MTS Forklift for the duration of the installation of the equipment.

- Macton reserves the right to revise our proposal to meet any specific requirements not known at this time.

EXCLUSIONS:

The following items are not included in Macton's Scope of Supply:

- Taxes, Retentions & Permits – Taxes, Retentions and Permits are not included in the price.
- Disposal of old oil
- Supply of new caisson oil
- Concrete, rebar and foundation repair work not included in quoted price.

VALIDITY:

Our pricing will remain in effect for 30 days. Attached is a copy of our Standard Terms and Conditions. Please note that our pricing is based on these terms and conditions and any requests for changes from these stated terms and conditions (or any of the payment or other terms listed above) may require us to modify the pricing we have quoted.

Thank you for this opportunity to quote our products and services. Please do not hesitate to contact us if we can provide any additional information or clarification.

Sincerely,

Timothy Brenes
Customer Service Manager

Macton Schedule of Values**Track # 4**

Total Project Value \$ 367,567.00

Project Phase*	% of Value	US\$ Amount
Initial downpayment once order is placed to start engineering work	30.0%	\$ 110,270
Procurement Process	30.0%	\$ 110,270
Manufacturing Progress	28.0%	\$ 102,919
O&M manuals & other documentation provided	2.0%	\$ 7,351
Installation, Start-up & Testing	10.0%	\$ 36,757
Total	100.0%	\$ 367,567

Track # 5

Total Project Value \$ 320,337.00

Project Phase*	% of Value	US\$ Amount
Initial downpayment once order is placed to start engineering work	30.0%	\$ 96,101
Procurement Process	30.0%	\$ 96,101
Manufacturing Progress	28.0%	\$ 89,694
O&M manuals & other documentation provided	2.0%	\$ 6,407
Installation, Start-up & Testing	10.0%	\$ 32,034
Total	100.0%	\$ 320,337.0

***Payment Terms** - Each of these project phases will be billed on a monthly basis as expenses are incurred in those areas, based on the percentage of work to be done in those areas on the applicable piece of equipment. Payments are due no later than 10 calendar days after the date each such invoice is submitted by Macton (whether submitted by email or otherwise). Such amounts shall be owed to Macton, regardless of the status of any payments which your company may or may not have received from the project owner and regardless of any internal payment procedures; provided that the customer may delay payment for as long as there is a material deficiency in the work performed by Macton, so long as customer has provided prior written notice of such deficiency to Macton and has given Macton an adequate period of time to cure it. No retainages will be permitted against any amounts owed.

Background to Payment Terms - In order to commit to the equipment pricing shown above, well in advance of its required delivery date, Macton must make commitments to its suppliers and plan its production far in advance - in addition, it is not able to start and stop work on a project (without causing production disruptions that increase costs and delay shipments to all of Macton's customers). Accordingly, the following payment schedule is a basic requirement for Macton in order for us to meet our equipment pricing commitment to our customers and take this project on.

	Qty	Labor Hrs	Burdened Rate	Labor	Material	Consum	Total
Engineering		360	\$ 195.00	\$ 70,200.00			\$ 70,200.00
PM		120	\$ 215.00	\$ 25,800.00			\$ 25,800.00
BH Jacking Assy (Track 4)	8				\$ 95,800.00		\$ 95,800.00
Machining		240	\$ 120.00	\$ 28,800.00		\$ 1,200.00	\$ 30,000.00
Mfg/Assembly		64	\$ 85.00	\$ 5,440.00			\$ 5,440.00
Paint		16	\$ 85.00	\$ 1,360.00			\$ 1,360.00
TRH Jacking Assy (Track 4)	6				\$ 60,750.00		\$ 60,750.00
Machining		180	\$ 120.00	\$ 21,600.00		\$ 800.00	\$ 22,400.00
Mfg/Assembly		48	\$ 85.00	\$ 4,080.00			\$ 4,080.00
Paint		12	\$ 85.00	\$ 1,020.00			\$ 1,020.00
BH Jacking Assy (Track 5)	6				\$ 60,750.00		\$ 60,750.00
Machining		180	\$ 120.00	\$ 21,600.00		\$ 800.00	\$ 22,400.00
Mfg/Assembly		48	\$ 85.00	\$ 4,080.00			\$ 4,080.00
Paint		12	\$ 85.00	\$ 1,020.00			\$ 1,020.00
TRH Jacking Assy (Track 5)	6				\$ 60,750.00		\$ 60,750.00
Machining		180	\$ 120.00	\$ 21,600.00		\$ 800.00	\$ 22,400.00
Mfg/Assembly		48	\$ 85.00	\$ 4,080.00			\$ 4,080.00
Paint		12	\$ 85.00	\$ 1,020.00			\$ 1,020.00
Steel Safety Nuts	14				\$ 1,400.00		\$ 1,400.00
Machining		56	\$ 120.00	\$ 6,720.00		\$ 600.00	\$ 7,320.00
Operators Panel	2				\$ 9,600.00		\$ 9,600.00
Machining		2	\$ 120.00	\$ 240.00		\$ 300.00	\$ 540.00
Mfg/Assembly		16	\$ 85.00	\$ 1,360.00			\$ 1,360.00
Radio Remotes	2			\$ -	\$ 480.00		\$ 480.00
Hardware (Lot)				\$ -	\$ 6,500.00		\$ 6,500.00

Sub-Total							\$ 520,550.00
Profit (18%)							\$ 93,699.00
Total (Equipment)							\$ 620,749.00
Installation/Startup/Test*	40		\$ 1,680.00				\$ 67,200.00
Total							\$ 687,949.00

*\$1,680.00 per day is a flat rate charged for field work. Per diem, travel lodging included.
While on site, technician will work 10-12 hours/day and weekends at no extra charge to customer.



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Agenda Item No. 12

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

TICKET VENDING MACHINE (TVM) ENHANCED CREDIT AND DEBIT CARDHOLDER
DATA SECURITY - CONTRACT AWARD

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc No. G2191.0-19, (in substantially the same format as the Attachment A), with AT&T Corp. for the enhanced credit and debit cardholder data project.

Budget Impact

The total value of this agreement will not exceed \$150,000.00. The project will be funded through Capital Improvement Project (CIP) WBSE: 1007106301 and the maintenance agreement will be funded through the Information Technology Operations Budget cost center: 661010-571250.

DISCUSSION:

MTS continues to review the fare payment system with the goal of providing additional security for our customers and has identified a project that will enhance cardholder data security. Cardholder data is any Personally Identifiable Information (PII) associated with a person who has a debit or credit card. Cardholder data can include the primary account number (PAN) along with any of the following data types: cardholder name, expiration date or service code.

MTS has determined installing dedicated encryption devices in TVMs will allow for transactions to be encrypted prior to leaving the TVM. This device will encrypt the data while it is still physically inside the TVM and the data will remain encrypted as it is transmitted across the MTS private network to the point where it is handed off to the



credit/debit card processor. Once the processor has processed the transaction, the response information is again encrypted on its return journey to the TVM to complete the transaction. As an added benefit this project will move MTS closer to Payment Card Industry (PCI) compliance by removing the MTS corporate network from PCI scope.

MTS intends to utilize the County of Merced's contract with AT&T for this procurement. The quoted pricing is based on the Fast-Open Contracts Utilization Services (FOCUS) 3 contract number 2015156, which is California's only nationwide, local government-to-government purchasing program created to allow cities, counties, schools, special districts and other public entities to acquire technology products and services at competitive rates.

AT&T will be engaged to implement the new TVM enhanced card security systems and will provide all necessary software, hardware and professional services required to complete the project.

A strategic procurement practice is to obtain better pricing through larger purchases of goods and services; which is obtained through the use of cooperative purchases. This cooperative approach achieves cost-effectiveness, efficiency and takes advantage of volume pricing achieved through competition.

The following table summarizes the not-to-exceed cost estimate for this project:

PROJECT COST SUMMARY	
DESCRIPTION	AMOUNT
MATERIALS (HARDWARE) + TAX (7.75%)	\$87,129.45
PROFESSIONAL SERVICES	\$36,000.00
SUPPORT MAINTENANCE (EXCH 7210&AP-303HR)	\$17,013.69
CONTINGENCY FEE (6.57%)	\$9,856.86
TOTAL:	\$150,000.00

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute MTS Doc No. G2191.0-19, (in substantially the same format as the Attachment A) with AT&T Corp., to enhance credit and debit card security in all TVM devices at trolley stations.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Sharon Coney, 619.557.4515, Sharon.Cooney@sdmts.com

Attachment: A. Draft MTS Doc. No. G2191.0-19

STANDARD SERVICES AGREEMENT

DRAFT

G2191.0-19
CONTRACT NUMBER

FILE NUMBER(S)

THIS AGREEMENT is entered into this _____ day of _____ 2018, 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: AT&T Corp Address: 7337 Trade Street Suite 3100

Form of Business: Corporation San Diego CA 92121
(Corporation, partnership, sole proprietor, etc.)

Telephone: (254) 316-4230

Authorized person to sign contracts: Laura Morales Contract Specialist
Name Title

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

Provide Ticket Vending Machine (TVM) Enhanced Credit and Debit Cardholder Data Services, piggybacked through Fast Open Contracts Utilization Services (FOCUS) Contract no. 2015156 in accordance with the Change Order Request Pricing Schedule-Network Schedule Tracking ID: 214095-15.1 (attached as Exhibit A) and Focus 3 Contract Terms and Conditions between Contractor ("AT&T") AT&T Corp (attached as Exhibit B).

The total contract cost shall not exceed \$150,000.00 [\$132,986.31 for the Materials and Installation and \$17,013.69 for the maintenance support].

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

AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
\$132,986.31	1007106301-599902	
\$17,013.69	661010-571250	19

By: _____ Date
Chief Financial Officer



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Agenda Item No. 13

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

DRUG AND ALCOHOL COLLECTION, TESTING, AND ADMINISTRATION SERVICES
– CONTRACT AWARD

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G2150.0-18 (in substantially the same format as Attachment A) with Drug Testing Network, Inc., for the provision of drug and alcohol collection, testing, and administration services for a two (2) year base period with three (3) one-year optional terms, exercisable at MTS's sole determination, for a total of five years; and exercise each option year at the CEO's discretion.

Budget Impact

The total cost of this agreement would not exceed \$426,960.25 (as follows):

Base Year 1	\$ 85,392.05
Base Year 2	\$ 85,392.05
Option Year 1	\$ 85,392.05
Option Year 2	\$ 85,392.05
Option Year 3	\$ 85,392.05
Total	\$426,960.25

Funding would be covered under budget account number 711010-571160.

DISCUSSION:

On June 27, 2018, MTS issued a Request for Proposals (RFP) for Drug and Alcohol Collection, Testing, and Administrative Services. Four (4) proposals were received by the due date of July 25, 2018, as follows:



1. AK&A Labs, San Diego, CA 92116
2. DSI Medical Services, Inc., Horsham, PA 19044
3. Drug Testing Network, Inc., Vista, CA 92083
4. Phamtech Inc., San Diego, CA 92101

All proposals were deemed responsive and responsible.

An evaluation committee was convened and scored the proposal on the following:

Proposer's Qualifications, Related Experience and References	35%
Staffing, Organization, and Management Plan	15%
Work Plan	25%
Cost	25%
Total	100%

After the initial evaluation and scoring of the proposals received, the evaluation panel decided to interview the top three proposers that were in competitive range. Following the interviews, revised cost proposals were requested from two proposers. The panel then met to review the revised cost proposals and decided to negotiate pricing with the top two proposers. The following table represents the proposers' final scores and rankings:

PROPOSER NAME	TOTAL AVG. TECH. SCORE	AVG. COST SCORE	TOTAL SCORE (Tech + Cost)	RANKING
Drug Testing Network	60.17	20.55	80.72	1
Phamatech	54.67	25.00	79.67	2
DSI Medical Services	47.33	18.48	65.81	3
AK&A Labs	35.83	19.01	54.84	4

Based on the evaluation committee's analysis of the technical proposal, interviews, and then its negotiations with the top two proposers, it was determined that Drug Testing Network, Inc.'s proposal and offer is most advantageous to MTS.

Therefore, staff recommends that the Board of Directors authorize the CEO to execute MTS Doc. No. G2150.0-18, (in substantially the same format as Attachment A) with Drug Testing Network, Inc., for the provision of drug and alcohol collection, testing, and administration services for a two (2) year base period with three (3) one-year optional terms, exercisable at MTS's sole determination, for a total of five years; and exercise each option year at the CEO's discretion.

/s/ Paul C. Jablonski
 Paul C. Jablonski
 Chief Executive Officer

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

Attachment: A. Draft MTS Doc. No. G2150.0-18

DRAFT
STANDARD SERVICES AGREEMENT

G2150.0-18
CONTRACT NUMBER
FILE/PO NUMBER(S)

THIS AGREEMENT is entered into this _____ day of _____ 2018, in the State of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following, hereinafter referred to as "Contractor":

Name: Drug Testing Network, Inc Address: 958 Postal Way, Suite 6-B

Form of Business: Corporation Vista, CA 92083-6935

(Corporation, partnership, sole proprietor, etc.)

Telephone: (760) 940-2015

Authorized person to sign contracts: Rene De La Cova Chief Executive Officer
Name Title

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

Provide Drug & Alcohol Collection, Testing and Administration Services as set forth in the Scope of Work (attached as Exhibit A), Drug Testing Network, Inc.'s cost proposal (attached as Exhibit B) and in accordance with the Standard Services Agreement, including Standard Conditions Services (attached as Exhibit C) and RFP Submitted Forms (attached as Exhibit D).

This contract term is for up to a five (5) year period two (2) year base and three (3) one-year options exercisable at MTS's sole discretion. Base period shall be effective January 1, 2019 through December 31, 2020 and option years shall be effective January 1, 2021 through December 31, 2023.

Payment terms shall be net 30 days from invoice date. The total cost of this contract shall not exceed \$170,784.10 for the base years and \$256,176.15 for the option years, for a total not to exceed \$426,960.25 without the express written consent MTS.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM		CONTRACTOR AUTHORIZATION	
By: _____ Chief Executive Officer		Firm: _____	
Approved as to form:		By: _____	
By: _____ Office of General Counsel		Signature	
		Title: _____	
AMOUNT ENCUMBERED		BUDGET ITEM	FISCAL YEAR
Base years (1 and 2)		\$170,784.10	
<u>Option years (3, 4 and 5)</u>		<u>\$256,176.15</u>	
Total		\$426,960.25	
		711010/571160	FY 19 – FY 23

By: _____
Chief Financial Officer
(_____ total pages, each bearing contract number)

Date
SA-SERVICES (REV 2/22/2017)
DATE



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Agenda Item No. 14

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

DESIGN SERVICES FOR BEECH STREET DOUBLE CROSSOVER – TRACKWORK
AND SIGNALING - WORK ORDER

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute Work Order WOA1953-AE-30 for MTS Doc. No. G1953.0-17 (in substantially the same format as Attachment A), with Pacific Railway Enterprises, Inc. (PRE), for design services for Beech Street Double Crossover – Trackwork and Signaling.

Budget Impact

The value of this Engineering Design Work Order will not exceed \$160,525.10 and is allocated under FY18 TIRCP funded, capital project number 2005107901 (Beech Street Double Crossover Design/Construction).

DISCUSSION:

MTS has requested that PRE provide professional design services to upgrade the manual switches to power operated switches at the existing double crossover between Beech Street and Ash Street, and extend Centralized Train Control (CTC) signaling system from Cedar Street to Santa Fe Depot. Under this Work Order, the consultant shall design the concept to a 100% level of completion, and estimate funding required to complete these improvements. The proposed improvements will provide greater operational flexibility to accommodate special events, maintenance and unforeseen track outages and ensure service reliability.

On January 12, 2016, San Diego Association of Governments (SANDAG) and MTS issued a joint Request for Statement of Qualifications (RFSQ) for On-Call Architectural



and Engineering (A&E) Design Consulting services. The RFSQ resulted in the approval of 8 firms qualified to perform A&E services. Tasks are assigned to the firms through a work order process, and MTS selects the most qualified firm based on the scope of work to be performed.

MTS staff reviewed the approved A&E firms and, utilizing a direct order process, selected PRE to perform the requisite services. PRE is currently providing similar civil engineering services within this corridor for the Middletown Double Crossover Project. Utilizing PRE for this project will ensure design consistency of these tracks segments, create efficiencies and ultimately reduce design costs within this corridor.

PRE's proposed amount was \$65,000 less than MTS's Independent Cost Estimate.

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute Work Order WOA1953-AE-30 for MTS Doc. No. G1953.0-17 (in substantially the same format as Attachment A) with PRE. in the amount of \$160,525.10 for design services for Beech St Double Crossover – Trackwork and Signaling.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Draft Work Order WOA1953-AE-30 for MTS Doc. No. G1953.0-17

November 8, 2018

MTS Doc. No. G1953.0-17
Work Order No. WOA1953-AE-30

Pacific Railway Enterprises, Inc.
Jennifer Purcell
President/CEO
3560 University Ave, Suite F
Riverside, CA 92501

Dear Mrs. Purcell:

Subject: MTS DOC. NO. G1953.0-17, WORK ORDER WOA1953-AE-30, BEECH ST DOUBLE
CROSSOVER – TRACKWORK AND SIGNALING

This letter shall serve as our agreement for Work Order WOA1953-AE-11 to MTS Doc. No. G1953.0-30, for professional services under the General Engineering Consultant Agreement, as further described below.

SCOPE OF SERVICES

This Work order provides for design services to upgrade the manual switches to power operated switches at the existing double crossover between Beech Street and Ash Street, and extend Centralized Train Control (CTC) signaling system from Cedar Street to Santa Fe Depot. Work provided under this Work Order will be performed in accordance with the attached Scope of Services (Attachment A and B)

SCHEDULE

This Work Order will not change the original schedule. The Scope of Services, as described above, shall remain in effect for ten (10) months from the date of the Notice to Proceed.

PAYMENT

Payment shall be based on actual costs in the amount not to exceed without prior authorization of \$160,525.10.

Please sign below, and return the document 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

Jennifer Purcell
Pacific Rail Enterprises

Date: _____

Attachments: Attachment A, Scope of Services
Attachment B, Fee Proposal



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Agenda Item No. 15

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

MTS JOB ORDER CONTRACT WORK ORDER FOR TURNOUT S34 REPLACEMENT
– CHANGE ORDER

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute Change Order 1 to MTS Doc. No. PWL182.0-16, Work Order No. MTSJOC7501-27.01 (in substantially the same format as Attachment A, Construction Change Order 1) with Herzog Contracting Corporation (Herzog) for the replacement of Turnout S34 on the Blue Line.

Budget Impact

The total value of this change order will not exceed \$217,324.78 inclusive of a direct cost of \$211,036.32 and the contractor's share of administrative fees totaling \$2,131.68. Total administrative fees are \$6,288.46 (contractor's share is \$2,131.68 and MTS's share is \$4,156.78). Including all amendments, the construction cost is as follows:

Work Order No.	Quoted Work Order Amt.	Direct Costs Paid to Contractor	Contractor Share of Administrative Fee	MTS Share of Administrative Fee	Total Administrative Fee	Total Work Order Cost
MTSJOC7501-27	\$111,539.48	\$110,424.09	\$1,115.39	\$2,175.02	\$3,290.41	\$113,714.50
MTSJOC7501-27.01	\$213,168.00	\$211,036.32	\$2,131.68	\$4,156.78	\$6,288.46	\$217,324.78
Totals	\$324,707.48	\$321,460.41	\$3,247.07	\$6,331.80	\$9,578.87	\$331,039.28

The funding for the Change Order is provided in the FY 2019 Capital Improvement Program (CIP) project number 2005107101 - Special Trackwork Replacement (S34 & S37).



DISCUSSION:

MTS staff has determined that it is necessary to replace turnouts S34 and S37. The existing turnouts and rail are at the end of useful service life. The turnouts are experiencing alignment issues, bent rails, and the crossties are beginning to rot. By installing new turnouts and rail at these segments of the track, maintenance can be reduced and safety will be improved. The project is scheduled to be completed as follows

- S37 – November 2018
- S34 – November 2019

On September 26, 2018, MTS issued an MTS Job Order Contract (JOC) MTSJOC7501-27 (MTS Doc. No. PWL182.0-16) to Herzog for the replacement of Turnout S37 on the Blue Line north of F Street in Chula Vista in the amount of \$110,424.09. Turnout S37 was the priority of the two turnouts and it was essential that this work get underway as soon as possible.

Now that the work for Turnout S37 is underway, staff has determined that it is now time to begin the process for Turnout S34. This Change Order is for replacing Turnout S34 on the Blue Line south of Miles of Cars Way in Chula Vista.

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute Change Order 1 to Work Order No. MTSJOC7501-27.01, (in substantially the same format as Attachment A, Construction Change Order 1), under MTS Doc. No. PWL182.0-16 with Herzog, for the replacement of Turnout S34 on the Blue Line.

/s/ Paul C. Jablonski

Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Construction Change Order MTSJOC7501-27 (CCO 1)



CONSTRUCTION CHANGE ORDER

Project Name: Special Trackwork Replacement (S34 & S37)Date: 11/8/18To: MTSContract Number: PWL182.0-16From (Contractor): Herzog Contracting CorpCCO Number: 01**Description of Work**

This project is for replacing turnout S34 on the Blue Line.

A. Contractor Cost Proposal, MTSJOC7501-27.01

CCO #01 - Replace Turnout S34

\$ 211,036.32 L.S.

L.S.

Subtotal A: \$ 211,036.32

B. Subcontractors Costs

Included in above.

\$ -

Subtotal B: \$ -

C. Contractor Credits

\$0.00

Subtotal C: 0.00

Total = (A + B + C)

Total: \$ 211,036.32

Original Contract value:

\$ 110,424.09

Adjustment by Change Order No. X through Change Order X (if applicable)

\$ -

Adjustment by this Change Order

\$ 211,036.32

New Contract Amount

Total:

\$ 321,460.41

The Contract Time due to this Change Order will be: ☒ Increased ☐ Decreased ☐ Unchanged by 180 days

Original Completion Date:

1/26/19

Adjustment by Change Order No. X through Change Order X (if applicable)

0

Adjustment by this Change Order

180

New Completion Date

7/25/19

Milestones Affected:

Contractor

Date:

MTS Chief Executive Officer

Date:

Follow all applicable procedures and provide all appropriate documentation as required by the Contract Documents.



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Agenda Item No. 16

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

CNG FUELING FACILITY STATIONS OPERATION AND MAINTENANCE SERVICES FOR IMPERIAL AVENUE DIVISION (IAD), KEARNY MESA DIVISION (KMD), SOUTH BAY MAINTENANCE FACILITY (SBMF), AND EAST COUNTY BUS MAINTENANCE FACILITY (ECBMF) – SOLE SOURCE CONTRACT EXTENSION / EXERCISE OPTION YEARS

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to:

- 1) Extend the current contract for nineteen (19) months effective from 8/1/20 through 3/1/22 with Trillium USA Company, LLC (Trillium), MTS Doc. No. B0522.4-09 (in substantially the same format as Attachment A) for CNG fueling facility stations operation and maintenance services for IAD, KMD, and SBMF; and
- 2) Exercise all Option Years 1-3 for MTS Doc. No. B0594.5-13 (in substantially the same format as Attachment B) for CNG fueling facility station operation and maintenance services for ECBMF.

Budget Impact

Funding for both contracts would come from the San Diego Transit Corporation (SDTC) Maintenance and Contract Services operations cost centers 315014-542100, 801012-542100, 802012-542100 and 820012-542100, which are locally-funded

1. MTS Doc. No. B0522.0-09 - The new value of this agreement is estimated not to exceed **\$18,396,499.46** (\$16,522,967.00 current contract value plus \$1,873,532.46 for Amendment No. 4).
2. MTS Doc. No. B0594.0-13 - The new value of this agreement shall be reduced by \$137,882.10 (from current contract value of \$5,167,355.05 to a new total not to exceed amount \$5,029,472.95 per Amendment No. 5).



DISCUSSION:

The original contract (B0522.0-09) with Trillium was executed in July 2010 for capital improvement upgrades to MTS-owned CNG fueling facilities and to provide ten (10) years of operation and maintenance services, which will expire July 31, 2020.

In May 2013, another contract (B0594.0-13) was awarded to Trillium for the design and installation of a CNG fueling station at ECBMF, which also includes operation and maintenance services at this location. This contract is for a five (5) year period with three (3) 1-year options. The base period is effective until 3/1/19, and the option period (if exercised) shall be effective from 3/2/19 through 3/1/22.

As part of the discussion with Trillium regarding management of its contracts, MTS staff requested Trillium to assess the following:

- The overall rates in both contracts;
- The possibility to merge the two contracts into one;
- In merging both contracts, could an extension to the maximum option year period (available within the East County contract B0594.0-13) result in a reduction in the rate from the remainder of the base terms through the end of the extension.

Trillium initially submitted a proposal to MTS on September 11, 2018. After further discussions and clarifications, staff requested for a revised proposal which was received on October 5, 2018. As a result, Trillium's final pricing reflects a significant reduction on the overall rate per therm as shown below:

#	Description	B0522.0-09	B0594.0-13
1	Current Rate per Therm	\$0.165	\$0.202
2	New Proposed Rate per Therm	\$0.130	\$0.130
	Price difference	\$0.035	\$0.072

In addition to Trillium's proposal, they will be funding the upgrade of the controls system at all four stations, which is approximately a \$46,000 investment.

Staff performed a cost analysis and based on the new rate, Trillium's pricing is deemed to be fair and reasonable and based on the current service levels MTS will have an overall operational savings of approximately \$1,266,590. Also, by authorizing both contracts to terminate at the same time, staff will be able to conduct a new competitive procurement for all stations and award under one contract.

Therefore, staff is requesting that the Board of Directors authorize the Chief Executive Officer (CEO) to:

- 1) Extend the current contract for nineteen (19) months effective from 8/1/20 through 3/1/22 with Trillium USA Company, LLC (Trillium), MTS Doc. No. B0522.4-09 (in substantially the same format as Attachment A) for CNG fueling facility stations operation and maintenance services for IAD, KMD, and SBMF; and

- 2) Exercise all Option Years 1-3 for MTS Doc. No. B0594.5-13 (in substantially the same format as Attachment B) for CNG fueling facility station operation and maintenance services for ECBMF.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

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

Attachments: A. Draft MTS Doc. No. B0522.4-09
B. Draft MTS Doc. No. B0594.5-13

DRAFT

November 8, 2018

MTS Doc. No. B0522.4-09

Trillium USA Company, LLC
 Mr. Bill Cashmareck, Director
 2929 Allen Parkway, Suite 4100
 Houston, TX 77019

Subject: AMENDMENT NO. 4 TO MTS DOC. NO. B0522.0-09; OPERATIONS AND MAINTENANCE SERVICES FOR IAD, KMD, AND SBMF CNG FUELING STATIONS – CONTRACT EXTENSION

This shall serve as Amendment No. 4 to our agreement for the operations and maintenance services for Imperial Avenue Division (IAD), Kearny Mesa Division (KMD), and South Bay Maintenance Facility (SBMF) CNG fueling stations as further described below.

SCOPE OF SERVICES

Contractor shall continue to provide the CNG fueling station operations and maintenance services in accordance with the terms and conditions of the original agreement, MTS Doc. No. B0522.0-09.

SCHEDULE

This contract shall be extended for 19 months effective from 8/1/20 through 3/1/22.

PAYMENT

This contract amendment shall authorize additional costs not to exceed \$1,873,532.46. Payment shall be based on actual cost per the new reduced rate per therm as reflected below.

Description (CURRENT CONTRACT)	Base Year 9	Base Year 10
	8/1/18 – 7/31/19	8/1/19 – 7/31/20
Current rate per therm	\$0.165	\$0.165
Current Projected Volume (Annually)	6,972,000 (Monthly @ 581,000)	6,972,000 (Monthly @ 581,000)
Current Total Annual Cost	\$1,150,380	\$1,150,380
GRAND TOTAL	\$2,300,760	

Trillium USA Company, LLC
 Bill Cashmareck, Director
 November 8, 2018
 Page Two

Description (NEW REDUCED RATES)	Base Year 9 (remainder 9 mos)	Base Year 10	19-Month Extension
	11/1/18 – 7/31/19	8/1/19 – 7/31/20	8/1/20 – 3/1/22
New rate per therm	\$0.130	\$0.130	\$0.130
New Projected Volume (Annually)	6,826,637 (Monthly @ 758,515.20)	9,102,182 (Monthly @ 758,515.20)	14,411,788 (Monthly @ 758,515.20)
Total Annual Cost	\$887,462.75	\$1,183,283.66	\$1,873,532.46
GRAND TOTAL	\$3,944,278.87		

As a result of this Amendment, the total value of this contract shall be in the amount of \$18,396,499.46 (original contract amount of \$16,522,967.00 plus \$1,873,532.46 for the 19-month extension). This amount shall not be exceeded without prior written approval from MTS.

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

Sincerely,

Agreed:

 Paul C. Jablonski
 Chief Executive Officer

 Bill Cashmareck, Director
 Trillium USA Company, LLC

Date: _____

Cc: B. Spraul, M. Wygant, S. Elmer, C. Aquino, A. Monreal, Procurement File

DRAFT

November 8, 2018

MTS Doc. No. B0594.5-13

Trillium USA Company, LLC
 Mr. Bill Cashmareck, Director
 2929 Allen Parkway, Suite 4100
 Houston, TX 77019

Subject: AMENDMENT NO. 5 TO MTS DOC. NO. B0594.0-13; CNG FUELING FACILITY CAPITAL IMPROVEMENTS OPERATIONS AND MAINTENANCE SERVICES FOR THE MTS EAST COUNTY DIVISION – OPTION YEARS

This shall serve as Amendment No. 5 to our agreement for the CNG fueling facility capital improvements operations and maintenance services for MTS East County Bus Maintenance Facility (ECBMF) as further described below.

SCOPE OF SERVICES

MTS shall exercise all Option Years 1 through 3 pursuant to the contract. Contractor shall continue to provide the operation and maintenance services in accordance with the terms and conditions of the original agreement, MTS Doc. No. B0594.0-13.

SCHEDULE

The Option Year One coverage period shall be effective March 2, 2019 through March 1, 2020; Option Year Two coverage period shall be effective March 2, 2020 through March 1, 2021; and the Option Year Three coverage period shall be effective March 2, 2021 through March 1, 2022.

PAYMENT

Payment shall be based on actual cost per the new reduced rate per therm as reflected below:

Description (CURRENT CONTRACT)	Base Years (remaining 4 mos.)	Option Year I	Option Year II	Option Year III
	11/1/18 – 3/1/19	3/2/19 – 3/1/20	3/2/20 – 3/1/21	3/2/21 – 3/1/22
Current rate per therm	\$0.202	\$0.202	\$0.202	\$0.202
Current Projected Volume (Monthly @62,800)	251,200	753,600	753,600	753,600
Current Total Annual Cost	\$50,742.40	\$152,227.20	\$152,227.20	\$152,227.20
GRAND TOTAL	\$507,424			

Trillium USA Company, LLC
 Bill Cashmareck, Director
 November 8, 2018
 Page Two

Description (NEW REDUCED RATES)	Base Years (remaining 4 mos.)	Option Year I	Option Year II	Option Year III
	11/1/18 – 3/1/19	3/2/19 – 3/1/20	3/2/20 – 3/1/21	3/2/21 – 3/1/22
New Rate per therm	\$0.130	\$0.130	\$0.130	\$0.130
New Project Volume (Monthly @70,916)	284,263	852,789	852,789	852,789
New Total Annual Cost	\$36,954.19	\$110,862.57	\$110,862.57	\$110,862.57
GRAND TOTAL	\$369,541.90			

The total value of this contract, including this amendment, shall not exceed \$5,029,472.95 (reduced by \$137,882.10 from \$5,167,355.05 to \$5,029,472.95) without prior written approval from MTS.

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

Sincerely,

Agreed:

 Paul C. Jablonski
 Chief Executive Officer

 Bill Cashmareck, Director
 Trillium USA Company, LLC

Date: _____

Cc: B. Spraul, M. Wygant, S. Elmer, C. Aquino, A. Monreal, Procurement File



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Agenda Item No. 17

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

REGIONAL TRANSIT MANAGEMENT SYSTEM (RTMS) RADIO TOWER AT MT.
SOLEDAD SIGNAL STATION, NAVAL BASE POINT LOMA – SITE LEASE
AMENDMENT

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. B0513.4-09, (in substantially the same format as Attachment A), with the Department of the Navy, to continue the lease of MTS's Mt. Soledad Signal Station site for five years.

Budget Impact

The total cost of this amendment would not exceed \$260,561.19 (as follows):

Administrative Cost	\$3,700.00
Year 11	\$48,380.99
Year 12	\$49,832.41
Year 13	\$51,327.38
Year 14	\$52,867.20
Year 15	\$54,453.21
Total	\$260,561.19

MTS and North County Transit District (NCTD) share the costs evenly at this site through a Memorandum of Understanding (MOU), MTS Doc. No. G0699.0-02. Therefore, MTS's portion will be \$130,280.62.

Funding would be covered in the Bus Operations annual budget under account number 202014-596100.



DISCUSSION:

MTS uses RTMS to track and communicate with its buses, maintenance vehicles, relief cars, and supervisor vehicles. As part of the RTMS system, MTS has a radio system which consists of five towers throughout San Diego County. The agency leases space on existing towers in order to house the radio transmitting and receiving equipment that provides effective radio coverage throughout its service area.

One of the towers is at Mt. Soledad Signal Station, which is under the control of the Department of the Navy, Naval Base Point Loma. MTS exercised its first 5 year option to lease space on the Mt. Soledad tower from January 15, 2014 through January 14, 2019. In order to continue operations with full radio coverage, this amendment extends the lease for an additional five years effective January 15, 2019. Based on prior procurement history, the price proposed for this extension is deemed fair and reasonable.

Therefore, staff recommends that the MTS Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. B0513.4-09, (in substantially the same format as Attachment A), with the Department of the Navy, to continue the lease of MTS's Mt. Soledad Signal Station site for five years.

/s/ Paul C. Jablonski
Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Department of the Navy Contract ID N6247309RP00005 (MTS Doc. No. B0513.4-09)

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. CONTRACT ID CODE	PAGE OF PAGES 1
2. AMENDMENT/MODIFICATION NO.		3. EFFECTIVE DATE		4. REQUISITION/PURCHASE REQ. NO.	
				5. PROJECT NO. (if applicable)	
6. ISSUED BY SOUTHWEST DIVISION NAVAL FACILITIES ENGINEERING COMMAND CONTRACTS DEPARTMENT 1220 PACIFIC HIGHWAY SAN DIEGO, CA 92132-5187		CODE		7. ADMINISTERED BY (If other than Item 6) CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county State and ZIP Code)				9A. AMENDMENT OF SOLICITATION NO.	
				9B. DATED (SEE ITEM 11)	
				10A. MODIFICATION OF CONTRACT/ORDER NO.	
				10B. DATED (SEE ITEM 13)	
CODE		FACILITY CODE			
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS					
<input type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference of the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.					
12. ACCOUNTING AND APPROPRIATION DATA (If required)					
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIED THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.					
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.					
B. THE ABOVE NUMBERED CONTRACT/ORDERED IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).					
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:					
D. OTHER (Specify type of modification and authority)					
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return ____ copies to the issuing office.					
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible)					
15A. NAME AND TITLE OF SIGNER (Type or print)			16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)		
15B. CONTRACTOR/OFFEROR BY _____ (Signature of Person Authorized to Sign)			15C. DATE SIGNED		16B. UNITED STATES OF AMERICA BY _____ (Signature of Contracting Officer)
					16C. DATE SIGNED

Except as provided herein, all terms and conditions of the document referenced in Item 19A or 10A, as heretofore changed, remains unchanged and in full force and effect

INSTRUCTIONS

Instructions for items other than those that are self-explanatory, are as follows:

(a) Item 1 (Contract ID Code). Insert the contract type identification code that appears in the title block of the contract being modified.

(b) Item 3 (Effective Date).

(1) For a solicitation amendment, change order, or administrative change, the effective date shall be the issue date of the amendment, change order, or administrative change.

(2) For a supplemental agreement, the effective date shall be in the date agreed to by the contracting parties.

(3) For a modification issued as an initial or confirming notice of termination for the convenience of the Government, the effective date and the modification number of the confirming notice shall be the same as the effective date and modification number of the initial notice.

(4) For a modification converting a termination for default to a termination for the convenience of the Government, the effective date shall be the same as the effective date of the termination for default.

(5) For a modification confirming the contracting officer's determination of the amount due in settlement of a contract termination, the effective date shall be the same as the effective date of the initial decision.

(c) Item 6 (Issued By). Insert the name and address of the issuing office. If applicable, insert the appropriate issuing office code in the code block.

(d) Item 8 (Name and Address of Contractor). For modifications to a contract or order, enter the contractor's name, address, and code as shown in the original contract or order, unless changed by this or a previous modification.

(e) Items 9, (Amendment of Solicitation No. -- Dated, and 10, (Modification of Contract/Order No. -- Dated). Check the appropriate box and in the corresponding blanks insert the number and date of the original solicitation, contract, or order.

(f) Item 12 (Accounting and Appropriation Data). When appropriate, indicate the impact of the modification on each affected accounting classification by inserting one of the following entries:

(1) Accounting classification
Net increase \$.....

(2) Accounting Classification
Net decrease \$.....

NOTE: If there are changes to multiple accounting classifications that cannot be placed in block 12, insert an asterisk and the words "See continuation sheet."

(g) Item 13. Check the appropriate box to indicate the type of modification. Insert in the corresponding blank the authority under which the modification is issued. Check whether or not contractor must sign this document. (See FAR 43.103.)

(h) Item 14 (Description of Amendment/Modification).

(1) Organize amendments or modifications under the appropriate Uniform Contract Format (UCF) section headings from the applicable solicitation or contract. The UCF table of contents, however, shall not be set forth in this document.

(2) Indicate the impact of the modification on the overall total contract price by inserting one of the following entries:

(i) Total contract price increased by \$.....

(ii) Total contract price decreased by \$.....

(iii) Total contract price unchanged.

(3) State reason for modification.

(4) When removing, reinstating, or adding funds, identify the contract items and accounting classifications.

(5) When the SF30 is used to reflect a determination by the contracting officer of the amount due in settlement of a contract terminated for the convenience of the Government, the entry in Item 14 of the modification may be limited to —

(i) A reference to the letter determination; and

(ii) A statement of the net amount determined to be due in settlement of the contract.

(6) Include subject matter or short title of solicitation/contract where feasible.

(i) Item 16B. The contracting officer's signature not required on solicitation amendments. The contracting officer's signature is normally affixed last on supplemental agreements.



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Agenda Item No. 18

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

THIRD PARTY COMPASS CARD AND TRANSIT PASS SALES – AMENDED
AGREEMENT WITH BRICEHOUSE STATION, LLC

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to execute Amendment No. 2 to MTS Doc. No. G1767.0-15, (in substantially the same format as Attachment A) with BriceHouse Station, LLC for the sale of MTS and North County Transit District (NCTD) Compass Card passes at three locations operated by BriceHouse Station, LLC for three (3) additional years.

Budget Impact

The aggregate expense will increase by \$49,500, from the previous contract total of \$66,000 to a new total of \$115,500. This project will be funded through the Compass Card Regional Budget (530010-571140).

Based on historical data, it is expected that this contract will generate approximately \$495,695.23 in annual revenue at an expense of \$16,500 per year.

DISCUSSION:

MTS and NCTD utilize grocery stores and other businesses as its primary third-party outlets for monthly pass sales. These stores include Albertsons and Vons locations, and additional third-party outlets that provide convenience to public transit riders and/or satisfy Title VI requirements. Three of these locations are overseen by BriceHouse Station, LLC at convenience stores located at the El Cajon, Old Town and San Ysidro transit centers.



Compass Card products are sold at each of these locations to provide customers additional convenience. MTS has contracted with BriceHouse Station, LLC to manage the sales at these locations. This contract expires on November 15, 2018 and MTS recommends issuing an extension for continued service.

This contract extension allows BriceHouse Station, LLC to continue to manage the sale of Compass Card products until the next generation fare collection system is implemented throughout the MTS service territory.

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute MTS Doc. No. G1767.2-15, (in substantially the same format as Attachment A) with BriceHouse Station, LLC for the provision of selling MTS and NCTD Compass Card passes at three locations operated by BriceHouse Station, LLC for three (3) additional years.

/s/ Paul C. Jablonski

Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Draft MTS Doc. No. G1767.2-15



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

November 8, 2018

MTS DOC NO. G1767.2-15

Mr. George Saunders
BriceHouse Station, LLC
P.O. Box 6738
San Diego, CA 92166

Subject: AMENDMENT NO. 2 TO MTS DOC. NO. G1767.0-15; COMPASS CARD OUTLET

This shall serve as Amendment No. 2 to our Agreement for Compass Card sales as further described below.

SCOPE OF SERVICES

There shall be no changes to scope of work of this Agreement.

SCHEDULE

Exercise the option to extend the contract for three (3) years from November 15, 2018 through November 14, 2021.

PAYMENT

As a result of this amendment, the contract amount is increased by \$49,500 (\$1,375 monthly commission per month for 36 months). The new contract total is amended from \$66,000 to \$115,500.

All other conditions remain unchanged. If you agree with the above, please sign below, and return the document marked "Original" to the Contract Specialist at MTS. The other copy is for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

George Saunders
President

Date:

Date:

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. and San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations). 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. 19

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

November 8, 2018

**Draft for
Executive Committee
Review Date: 11/1/18**

SUBJECT:

AS NEEDED TOWING SERVICES FOR BUSES AND NON-REVENUE VEHICLES
(SDTC AND SDTI) – CONTRACT AWARD

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Board of Directors authorize the Chief Executive Officer (CEO) to:

- 1) Execute MTS Doc. No. B0691.0-18 (in substantially the same format as Attachment A) with A to Z Enterprises, Inc.; dba: RoadOne ("RoadOne") for the provision of towing services for buses and non-revenue vehicles for a three (3) year base period with three (3) 1-year options, exercisable at MTS's sole discretion (total of six years); and
- 2) Exercise each option year at the CEO's discretion.

Budget Impact

The total cost shall not exceed \$694,700 (base and option periods). The amount for the base years is \$343,850 (from January 1, 2019 to December 31, 2021) and the optional years is \$350,850 (from January 1, 2022 to December 31, 2024), exercisable at MTS's sole discretion. The detailed breakdown on the pricing is included in Attachment B. The project will be funded as follows:

Contract Term	SDTC Towing (funding source: 331014-571250)		SDTI Towing (funding sources: 650010/370016/360016- 571210)		Total Amount
	A	B	C	D	ALL GROUPS
Base Year 1	\$91,500	\$13,500	\$4,500	\$450	\$109,950
Base Year 2	\$97,600	\$14,400	\$4,500	\$450	\$116,950
Base Year 3	\$97,600	\$14,400	\$4,500	\$450	\$116,950
Subtotal (Base)	\$286,700	\$42,300	\$13,500	\$1,350	\$343,850



Option Year I (Year 4)	\$97,600	\$14,400	\$4,500	\$450	\$116,950
Option Year II (Year 5)	\$97,600	\$14,400	\$4,500	\$450	\$116,950
Option Year III (Year 6)	\$97,600	\$14,400	\$4,500	\$450	\$116,950
Subtotal (Options)	\$292,800	\$43,200	\$13,500	\$1,350	\$350,850
Total (SDTC/SDTI)	\$665,000		\$29,700		
Grand Total (Base + Options)	\$694,700				

DISCUSSION:

MTS operates a large number of vehicles throughout our service area and, on occasion, these vehicles require towing service. In order to perform this function in a cost effective manner, MTS has determined that it is in the best interest of the agency to contract this service.

On June 15, 2018, staff released a Request for Proposals (RFP) MTS Doc. No. B0691.0-18 to solicit offers from qualified firms for Towing Services for buses and non-revenue vehicles, for both Bus and Rail divisions. A Single proposal was received from RoadOne by the due date of August 8, 2018.

The initial review of the technical proposal showed RoadOne's proposal to be responsive and responsible to the requirements of the solicitation. In compliance with the Federal Transit Administration (FTA) requirements for single proposal, staff conducted a post-proposal survey of potential proposers that chose not to submit a proposal. Based on the responses received, it was determined that the reason for other potential proposers choosing not to submit a proposal was caused by conditions beyond MTS's control.

An evaluation panel was comprised of representatives from Bus Maintenance and Finance departments. The proposal was evaluated based on the following (technical and cost) factors based on the following criterion:

1. Qualifications and Experience of Firm or Individual
2. Equipment and Facilities
3. Proposed Methodology and Work Plan
4. Cost/Price

MTS used an evaluation scale system for rating the contractor proposal against the evaluation factors identified above.

Based on the panel's evaluation of the technical proposal, negotiations and assessment of price, MTS staff has determined that RoadOne provided a very competitive proposal that meets MTS's requirements as outlined in the RFP. A cost analysis was performed by comparing RoadOne's proposed pricing with other agencies and MTS's past purchase history, which was the basis for determining that RoadOne's pricing is fair and reasonable. Staff was also able to reduce the cost by \$47,500 from the original price of \$742,500 to a revised price of \$694,700.

Therefore, staff recommends that the MTS Board of Directors authorize the CEO to execute MTS Doc. No. B0691.0-18 (in substantially the same format as Attachment A) with A to Z Enterprises, Inc., dba: RoadOne for the provision of towing services for buses and non-revenue vehicles for a three (3) year base period with three (3) 1-year options, exercisable at MTS's sole discretion; and exercise each option year at the CEO's discretion.

/s/ Paul C. Jablonski

Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Draft MTS Doc. No. B0691.0-18
B. Price Breakdown

DRAFT
STANDARD SERVICES AGREEMENT
FOR
TOWING SERVICES FOR BUSES
& NON-REVENUE VEHICLES

B0691.0-18
 CONTRACT NUMBER

THIS AGREEMENT is entered into this _____ day of _____, 2018, in the State of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following, hereinafter referred to as "Contractor":

Name: A to Z Enterprises, Inc. dba: RoadOne Address: 9150 Chesapeake Dr. Suite 240

Form of Business: Corporation San Diego, CA 92123

(Corporation, partnership, sole proprietor, etc.)

Telephone: 858-573-1606 Email Address: _____
brad.ramsey@roadonewest.com

Authorized person to sign contracts: Brad Ramsey Vice President
 Name Title

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

Towing Services for Buses & Non-Revenue Vehicles as specified in the Scopes of Work - Groups A and B: SDTC and Groups C and D: SDTI (attached as Exhibit A), in accordance with the Standard Conditions Services (attached as Exhibit B), Federal Requirements (attached as Exhibit C), A to Z Enterprises, Inc. dba: RoadOne's Proposal (attached as Exhibit D), and Signed MTS forms – A to Z Enterprises, Inc., dba: Roadone (attached as Exhibit E).

The contract term is for up to a six (6) year period (3-year base with three 1-year options, exercisable at MTS' sole discretion. The Base period shall be effective January 1, 2019 through December 31, 2021, and the Option period shall be effective January 1, 2022 through December 31, 2024. Payment terms shall be net 30 days from invoice date.

The total cost of the Base period shall be in the amount of \$343,850, and the total cost for the Option period shall be in the amount of \$350,850. The total contract value shall not to exceed \$694,700 without the express written consent of MTS as reflected below:

Contract Term	SDTC Towing (funding source: 331014-571250)		SDTI Towing (funding sources: 650010/370016/360016- 571210)		Total Amount
GROUPS:	A	B	C	D	ALL GROUPS
Base Year 1	\$91,500	\$13,500	\$4,500	\$450	\$109,950
Base Year 2	\$97,600	\$14,400	\$4,500	\$450	\$116,950
Base Year 3	\$97,600	\$14,400	\$4,500	\$450	\$116,950
Subtotal (Base)	\$286,700	\$42,300	\$13,500	\$1,350	\$343,850
Option Year I (Year 4)	\$97,600	\$14,400	\$4,500	\$450	\$116,950
Option Year II (Year 5)	\$97,600	\$14,400	\$4,500	\$450	\$116,950
Option Year III (Year 6)	\$97,600	\$14,400	\$4,500	\$450	\$116,950
Subtotal (Options)	\$292,800	\$43,200	\$13,500	\$1,350	\$350,850
Total (SDTC/SDTI)	\$665,000		\$29,700		
Grand Total (Base + Options)	\$694,700				

SAN DIEGO METROPOLITAN TRANSIT SYSTEM	CONTRACTOR AUTHORIZATION
By: _____ Chief Executive Officer	Firm: _____
Approved as to form:	By: _____ Signature
By: _____ Office of General Counsel	Title: _____
AMOUNT ENCUMBERED	BUDGET ITEM
\$ 343,850 - Base	
\$ 350,850 - Options	
\$ 694,700 - Total	SDTC: 331014-571250 / SDTI: 650010/370016/360016-571210
	FY19-24

By: _____
 Chief Financial Officer

Date _____

(____ total pages, each bearing contract number)

SA-SERVICES (REV 2/22/2017)