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***REVISED**

Agenda

MEETING OF THE METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

September 8, 2011

Executive Conference Room
9:00 a.m.

ACTION RECOMMENDED

A. ROLL CALL

B. APPROVAL OF MINUTES - August 11, 2011

Approve

C. COMMITTEE DISCUSSION ITEMS

1. Airport Taxicab Trip Fee (Sharon Cooney)

Approve

Action would forward a recommendation to the Board of Directors to direct the Chief Executive Officer (CEO) to write a letter to the San Diego County Regional Airport Authority (SDCRAA) asking that it assess the airport taxicab trip fee on the newly established taxicab associations; or

- ALTERNATIVE RECOMMENDATION -

authorize the CEO to initiate changes to MTS Ordinance No. 11 to permit the placement of a decal and the collection of the airport trip fee by the driver contingent on SDCRAA's indemnification and defense of MTS and the cities of San Diego, Imperial Beach, Poway, El Cajon, La Mesa, Lemon Grove, and Santee for any legal challenges that may arise from this action.

2a. CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - EXISTING
LITIGATION PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION

Possible
Action

54956.9(a): The United States of America v. 1.31 Acres of Land (Case No. 11cv0949 JLS [POR]); and The United States of America v. 0.537 Acres of Land (Case No. 11cv0952 L [BGS])

Please SILENCE electronics
during the meeting

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

CLOSED SESSION ITEMS - CONTINUED

- | | | |
|-----|---|--------------------|
| 2b. | CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to California Government Code section 54956.8; <u>Property</u> : Rail Court and Traffic Circle at San Ysidro Intermodal Transit Center, San Diego, CA; <u>Agency Negotiators</u> : Karen Landers, General Counsel; Tim Allison, Manager of Real Estate Assets; and Paul Jablonski, Chief Executive Officer; <u>Negotiating Parties</u> : Greyhound Lines Inc.; <u>Under Negotiation</u> : Price and Terms of Payment | Possible
Action |
| 3. | CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to California Government Code section 54956.8; <u>Property</u> : San Diego and Arizona Eastern (SD&AE) Railway Company Desert Line (Campo to Plaster City); <u>Agency Negotiators</u> : Karen Landers, General Counsel; Tim Allison, Manager of Real Estate Assets; and Paul Jablonski, Chief Executive Officer; <u>Negotiating Parties</u> : Carrizo Gorge Railway Co. (CZRY), Pacific Imperial Industries, LLC (PII), and San Diego and Imperial Valley (SD&IV) Railway Co.; <u>Under Negotiation</u> : Assignment of Desert Line rights and obligations and negotiation of new operating agreement and lease. | Possible
Action |
| 4. | CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to California Government Code section 54956.8; <u>Properties</u> : Encanto/62nd Street Trolley Station, San Diego, California (Assessor Parcel Nos. 549-071-18, 21, 38, and 39); <u>Agency Negotiators</u> : Karen Landers, General Counsel; Tim Allison, Manager of Real Estate Assets; and Paul Jablonski, Chief Executive Officer; <u>Negotiating Parties</u> : AMCAL Multi-Housing, Inc.; <u>Under Negotiation</u> : Price and Terms of Payment | Possible
Action |
- D. REVIEW OF DRAFT AUGUST 15, 2011, JOINT BOARD AGENDA
- | | | |
|----|---|--------------------|
| E. | REVIEW OF SANDAG TRANSPORTATION COMMITTEE AGENDA
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.
*An update will also be given on the Trolley Rehabilitation Project progress and budget. | Possible
Action |
|----|---|--------------------|
- F. COMMITTEE MEMBER COMMUNICATIONS AND OTHER BUSINESS
- G. PUBLIC COMMENTS
- H. NEXT MEETING DATE: October 6, 2011
- I. ADJOURNMENT

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

August 11, 2011

DRAFT MINUTES

A. ROLL CALL

Chairman Mathis called the Executive Committee meeting to order at 9:37 a.m. A roll call sheet listing Executive Committee member attendance is attached.

B. APPROVAL OF MINUTES

Mr. Young moved for approval of the minutes of the July 7, 2011, MTS Executive Committee meeting. Mr. Minto seconded the motion, and the vote was 5 to 0 in favor.

C. COMMITTEE DISCUSSION ITEMS

1. Trolley Rehabilitation Project Update

Wayne Terry, Chief Operating Officer of Rail, and John Haggerty of the San Diego Association of Governments (SANDAG) gave an update on the trolley rehabilitation project. Mr. Haggerty talked about the schedule of construction for the various projects and the milestones associated with each project in relation to the arrival of the new vehicles. Mr. Roberts requested staff look at the income potential for other users of the fiber-optic cabling and keep the Committee informed. Mr. Young reiterated his desire to use Disadvantaged Business Enterprise (DBE) contractors when possible for the projects going out to bid.

Mr. Haggerty talked about the current budgetary status for the trolley renewal program. He explained that roughly \$80 million has been expended so far and that another \$557 million is needed to complete the renewal. He explained that a request for additional funding will be made to the SANDAG Transportation Committee and to the SANDAG Board of Directors in September. He also explained that the budget for the renewal program was established 4-5 years ago and gave a summary of increased cost items. He briefly discussed the expenditure plan and the project status for design elements, construction elements, and vehicle production.

Action Taken

Mr. Minto moved to receive a report for information and provide comments. Mr. Ovrom seconded the motion, and the vote was 5 to 0 in favor.

The Executive Committee convened to Closed Session at 10:27 a.m.

2. CLOSED SESSION - CONFERENCE WITH LABOR NEGOTIATORS Pursuant to California Government Code Section 54957.6
Agency-Designated Representative – Jeff Stumbo;
Employee Organization – Amalgamated Transit Union, Local 1309 (ATU)

The Executive Committee reconvened to open Session at 11:14 a.m.

Oral Report of Final Actions Taken in Closed Session

Karen Landers, MTS General Counsel, reported the following:

2. The Committee received a report and gave direction to staff.

D. REVIEW OF DRAFT AUGUST 18, 2011, JOINT BOARD AGENDA

Recommended Consent Items

6. Pay Phone Services Contract - Exercise Contract Option Year Two

Action would: (1) ratify MTS Doc. No. L5678.1-08 with Western Communication Systems, Inc. for continued pay phone services; and (2) authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. L5678.2-08 with Western Communication Systems, Inc. to exercise option year two for pay phone services.

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 meeting on July 19, 2011

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

8. Unallocated Transportation Development Act Funds for Transit-Related Projects

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

9. Transit System Safety, Security, Disaster Response Account (TSSSDRA) Grant Program

Action would approve Resolution No. 11-13 authorizing the CEO or designated representative to take any actions necessary to obtain funds provided by the California TSSSDRA Grant Program.

10. Investment Report - June 2011

Action would receive a report for information.

11. Drug and Alcohol Policy for all MTS Employees

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

12. Class B Paratransit Buses - Contract Award

Action would authorize the CEO to execute MTS Doc. No. B0565.0-12 with Creative Bus Sales to purchase 30 Class B Cutaway buses manufactured by Starcraft Bus with an option to purchase up to 5 additional Class B Cutaway buses for paratransit services.

13. SANDAG Fund Transfer Recommendation

Action would forward a request to the San Diego Association of Governments (SANDAG) to transfer funds from the Grantville Feeder Replacement Project (Capital Improvement Project [CIP] 1130200) to the Substation Standardization Program (CIP 1142100).

14. Job Order Contracts - Trolley Operations

Action would authorize the CEO to execute two Job Order Contracts (JOCs): (1) MTS Doc. No. PWL134.0-12 with Herzog Contracting Corporation; and (2) MTS Doc. No. PWL135.0-12 with ABC Construction Company, Inc. These two JOCs would piggyback on the San Diego Association of Governments' (SANDAG's) JOC contract to give MTS the ability to get any necessary work completed on the trolley operating system.

15. Greyhound Terminal Relocation

Action would adopt Resolution No. 11-15 approving the Greyhound Terminal Relocation Project and making related findings under the California Environmental Quality Act (CEQA).

Recommended Consent Items

There was no additional discussion of the recommended Consent Items.

E. REVIEW OF SANDAG TRANSPORTATION COMMITTEE AGENDA

There was no SANDAG Transportation Committee agenda discussion.

F. COMMITTEE MEMBER COMMUNICATIONS AND OTHER BUSINESS

Mr. Young commented that he would like a presentation regarding the possibility of having a public art project on the transit system much like one the Port of San Diego has adopted.

G. PUBLIC COMMENTS

Margo Tanguay – Ms. Tanguay commented that the Port of San Diego and the Airport Authority utilize a public art program, and it would be a wonderful program for MTS to adopt.

H. NEXT MEETING DATE

The next Executive Committee meeting is scheduled for September 8, 2011, at 9:00 a.m. in the Executive Committee Conference Room.

I. ADJOURNMENT

Chairman Mathis adjourned the meeting at 11:15 a.m.

Chairman

Attachment: A. Roll Call Sheet

**EXECUTIVE COMMITTEE
METROPOLITAN TRANSIT SYSTEM**

ROLL CALL

MEETING OF (DATE) August 11, 2011

CALL TO ORDER (TIME) 9:37 AM

RECESS _____

RECONVENE _____

CLOSED SESSION 10:27 AM

RECONVENE 11:14 AM

ADJOURN 11:15 AM

BOARD MEMBER (Alternate)	PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
YOUNG <input checked="" type="checkbox"/> (Lightner) <input type="checkbox"/>		
MATHIS <input checked="" type="checkbox"/>		
OVROM <input checked="" type="checkbox"/> (Janney) <input type="checkbox"/>		
ROBERTS <input checked="" type="checkbox"/> (Cox) <input type="checkbox"/>		
MINTO <input checked="" type="checkbox"/> (Cunningham) <input type="checkbox"/>		
Transportation Committee Rep Slot (Mathis)		

SIGNED BY OFFICE OF THE CLERK OF THE BOARD: Valerie Vizekoti

CONFIRMED BY OFFICE OF THE GENERAL COUNSEL: John Landis



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Agenda Item No. C1

MEETING OF THE METROPOLITAN TRANSIT SYSTEM EXECUTIVE COMMITTEE

September 8, 2011

SUBJECT:

AIRPORT TAXICAB TRIP FEE (SHARON COONEY)

RECOMMENDATION:

Action would forward a recommendation to the Board of Directors to direct the Chief Executive Officer (CEO) to write a letter to the San Diego County Regional Airport Authority (SDCRAA) asking that it assess the airport taxicab trip fee on the newly established taxicab associations; or

- ALTERNATIVE RECOMMENDATION -

authorize the CEO to initiate changes to MTS Ordinance No. 11 to permit the placement of a decal and the collection of the airport trip fee by the driver contingent on SDCRAA's indemnification and defense of MTS and the cities of San Diego, Imperial Beach, Poway, El Cajon, La Mesa, Lemon Grove, and Santee for any legal challenges that may arise from this action.

Budget Impact

None.

DISCUSSION:

Members of the MTS Board of Directors have expressed the desire to resolve driver concerns with the airport trip fee currently being borne by taxicab operators at the San Diego International Airport. In addition, SDCRAA has formally asked MTS to change the airport rates of fare to equal the flexibility of those taxicabs serving in MTS's Taxicab Administration jurisdiction in order to allow taxicab drivers to raise their rates and pass the airport trip fee on to their customers. MTS staff has analyzed the airport trip fee and the implications of various alternative approaches to addressing the issue.



MTS as Taxicab Administrator

MTS carries out the responsibilities of Taxicab Administrator for the cities of San Diego (since 1988), El Cajon (since 1990), Poway (since 1991), Lemon Grove (since 1990), La Mesa (since 1999), Imperial Beach (since 1990), and Santee (since 1990). Each city has delegated to MTS its authority to regulate the operation of taxicabs and other vehicles for hire through a separate agreement between MTS and the city. This authority includes the collection and administration of all fees, fines, and forfeitures related to taxicabs. Each of the agreements cites MTS Ordinance No. 11, "An Ordinance Providing for the Licensing and Regulating of Transportation Services within the City," as the basis for MTS's authority and responsibilities (Attachment A). All agreements expire in June 2013.

SDCRAA regulates, permits, and collects fees for taxicabs operating at the airport. However, MTS carries out inspections for those vehicles and, to work at the airport, the taxicab must have an MTS medallion.

Under the State of California Public Utilities Code Section 120266, MTS shall fully recover the cost of regulating the taxicab and other for-hire vehicle industry; therefore under MTS Ordinance No. 11, the CEO establishes a fee schedule to affect full cost-recovery and notify affected permit holders of changes in the fee schedule.

Rates of Fare Policy

Under MTS Ordinance No. 11, section 2.2 (a), MTS shall establish a maximum rate of fare for taxicab trips. Taxicab permit holders may set their rates at or below the maximum rate, but those rates must be filed with MTS, placed in the meter, and printed on the vehicle's rear doors. Ordinance No. 11 provides an exception for trips originating at the airport, which must have a uniform rate of fare. This exception was made at the request of SDCRAA.

Therefore, there are two sets of fares established for taxicabs administered by MTS (see below for rates of fares practice since cities' rates of fare are variable):

UNIFORM AIRPORT RATE:

Flag Drop: \$2.50 for the first 1/9 mile
Mileage Rate: \$2.70 per mile at the rate of \$0.30 per each additional 1/9 mile
Waiting Time*: \$22.00 per hour waiting time/traffic delay

*Waiting time includes time when a cab is stopped, such as at a traffic light.

MAXIMUM ALLOWABLE CITY RATES OF FARE:

Flag Drop: \$3.00 for the first 1/16 mile
Mileage Rate: \$3.20 per mile at the rate of \$0.20 for each additional 1/16 mile
Waiting Time: \$26.00 per hour waiting time/traffic delays

These fares are set based on MTS Board Policy No. 34. MTS Board Policy No. 34 provides guidelines and procedures for the implementation of Ordinance No. 11. The relevant provisions are as follows:

34.4 Maximum Fare Policy

Pursuant to MTS Ordinance No. 11, Section 2.2(a) and after a duly noticed and open public hearing, MTS determined that the maximum rate of fare for exclusive ride and group ride hire of taxicabs shall be that fare that does not exceed twenty percent (20%) more than the weighted average of fares as established in accordance with this policy.

34.4.1 Maximum Fare Determination

The weighted average of fares shall be computed by the Chief Executive Officer and duly promulgated in writing upon the passage of this policy and thereafter each year by averaging each segment of the fare structure of all MTS taxicab permit holders. The fare structure shall consist of the dollar amounts charged by said permit holders for the flag drop, the per-mile charge, waiting-time charge, first zone, and each additional zone charge. The weighted average of these charges shall be arrived at by adding each segment of each respective charge and dividing it by the total number of taxicabs holding effective permits.

34.4.2 The Chief Executive Officer will use his discretion when the maximum rates of fare and the uniform rates of fare for trips from Lindbergh Field Airport are incompatible. The Chief Executive Officer may adjust the maximum rates of fare so that the uniform rates of fare, based on the change in the Annual All Urban Western Transportation Consumer Price Index, do not exceed the maximum rates allowed in accordance with Section 34.4.1.

34.5 Airport Taxicab Fare Policy

Rates of fare for trips from Lindbergh Field Airport shall be uniform. In the event that an owner chooses a different rate for nonairport trips for taxicabs authorized to service the airport, two meters or a multirate meter shall be installed and identified. The meter(s) shall be activated according to the proper rate for the trip's origin, and it shall be clearly visible to the passenger which rate is being charged.

34.5.1 The uniform rates of fare for taxicab trips from Lindbergh Field Airport are initially established at \$1.40 flag drop, \$1.50 per mile, and \$12.00 per hour, effective June 1, 1990.

The airport rates shall be reviewed annually, beginning in January 2009, by the Chief Executive Officer. Airport rates shall be adjusted based on the 1990 amounts in accordance with the change in the Annual All Urban Western Transportation Consumer Price Index/San Diego. Adjustments shall be rounded up or down, as appropriate, to the nearest even \$0.10 increment.

Rates of Fare in Practice

Not all taxicabs have adopted the maximum rate of fare. As of August 2011, MTS licenses 1,055 taxicabs (302 of which operate at the airport), of which:

- 640 taxicabs are not charging the airport rate of fare. Of those, 127 are charging below the airport rate.

- A total of 513 taxicabs, or 48.6 percent, are charging rates higher than the airport.
- 415 taxicabs are charging the airport rate of fare.
- 542 taxicabs, or 51.4 percent, are at or below the airport rate.
- 80 taxicabs charge the maximum allowable rate of fare.

CURRENT AVERAGE RATE OF FARE (used to calculate Maximum Rate of Fare):

Flag Drop:	\$2.61
Mileage Rate:	\$2.76
Waiting Time:	\$22.75

The Los Angeles Metropolitan Transportation Authority recently completed a study of taxicab rates of fare in major metropolitan areas, which calculated the average trip cost for a 5-mile trip without waiting time. For San Diego, a 5-mile trip based on the current average rate of fare being charged by taxicabs is \$16.07 (or 5th highest in the study) just above Los Angeles at \$16.05. The average 5-mile airport trip is \$15.70. A 5-mile trip at the maximum allowable city rate would be \$18.60—or second only to Honolulu at \$18.70. Based on this study of rates of fare, San Diego's rates are amongst the highest in the country.

Taxicabs in San Diego County serve a variety of mobility needs. According to the most recent Passenger Survey Data¹:

- 23.6% of trips are destined for the airport
- 20.5% for a hotel
- 13.7% to a residence
- 16.6% to recreational activities
- 7.4% to work
- 4.3% to shop
- 5.9% for errands or other personal business
- 5.4% for medical appointments
- 1.5% to public transportation; and
- .4% to a military base

Taxicabs are an important way for individuals without personal cars or access to transit to remain independent and, in some cases, employed.

Current average trip distance at the airport is 6.4 miles, while the average city trip is 4.6 miles in distance. Therefore, airport trips on average will be more impacted by increases in the mileage rate than increases in the flag drop due to the longer distances covered. Those airport trips destined further from the airport would be more greatly impacted by any increase in the mileage rate than those destined closer to the airport.

History of the Airport Trip Fee

On January 7, 2010, the Board of Directors for SDCRAA adopted a Comprehensive Ground Transportation Management Plan (the Plan). The Plan identified various users of ground transportation facilities at the airport and identified sources of revenue from these

¹ True North Research, Inc., 2009

users that would be used to fund the capital, operational, and maintenance costs of the airport.

The Plan called for the imposition of trip fees on taxicab operators leaving the airport. SDCRAA staff contacted MTS to discuss ways to impose the 50-cent-per-trip fee. They proposed placing decals inside of taxicabs serving the airport informing the passenger that the airport had instituted a trip fee of 50 cents, which would be in addition to any charge on the meter. In April, since the airport characterized the charge as a fee set by the airport, MTS staff replied, "As the decals do not interfere with the required MTS taxicab rates of fares marking and the proposed size and wording of the decals is specific, MTS Taxicab Administration has no objections to your request."²

On September 9, 2010, MTS received a formal complaint stating that the placement of the decal and the collection of the trip fee by the driver constituted a violation of MTS's Ordinance No. 11.³ The complainant requested that MTS prohibit permit holders from placing decals on taxicab dashboards and prohibit taxicab drivers from collecting the trip fee from passengers. Upon MTS legal review, the complaint was determined to be valid⁴, and MTS issued a memorandum to all permit holders to remove the decals and cease to charge the customer.

MTS also requested that SDCRAA suspend collection of the trip fee while awaiting approval by the San Diego City Council of inserting the fee as an "extra" on the taxicab meter.⁵ The agreement between the City of San Diego and MTS for administration of taxicabs within the city states that "MTS will not alter a fundamental policy or regulation in accordance with the Taxicab and Other For-Hire Vehicles Ordinance No. 11 without prior approval of the City." (MTS Doc. No. G0225.0-95 to G0225.7-95.) Without any clear definition of what constitutes a fundamental policy or regulation in the written agreement, MTS staff determined that changing the rate of fare for vehicles operating at the airport that also work in the city at the request of another governmental entity for that entity's sole financial gain rose to the level of significance to trigger gaining approval from the city. The SDCRAA declined MTS's request in October and continued to charge the taxicab drivers the 50 cent-per-trip fee to operate from the airport.⁶

MTS staff continued to consult with staff from SDCRAA and the City of San Diego regarding resolution of the trip-fee issue. Since SDCRAA permit holders chose this method for assessing the trip fee, SDCRAA staff declined the suggestion that they charge the permit holders rather than the drivers for the taxicab use of the airport facilities. City Council action was delayed pending legal analysis of the trip fee in relation to Proposition 26, which is an initiative that set restrictions on the imposition of government fees approved by the voters in November 2010. The City Attorney issued a legal opinion in May 2011 that while the fee might withstand scrutiny under Proposition 26, "Until the courts have an opportunity to interpret Proposition 26, the status of the Trip Fee will remain unclear."⁷

² John Scott to Jim Myhers, April 29, 2010

³ Kamran Hamidi to John Scott, September 9, 2010

⁴ Tiffany Lorenzen to Jim Myhers, September 17, 2010: "any action taken by taxicab drivers to collect the fee from passengers at the conclusion of their trip violates Ordinance No. 11, section 2.2 (h) and (i)."

⁵ Tiffany Lorenzen to Jim Myhers, September 17, 2010

⁶ Breton Lobner to Tiffany Lorenzen, October 5, 2010

⁷ Report to Honorable Mayor and City Council, May 16, 2011, from the Office of the City Attorney Jan I. Goldsmith.

On July 1, 2011, the airport trip fee increased to \$1.00, and the airport continues to collect the fee from the drivers. In June, MTS staff met with the City Attorney and SDCRAA General Counsel to discuss resolution of this matter. At that meeting, MTS General Counsel requested that MTS be indemnified by the City or SDCRAA prior to moving to add the trip fee to the meter due to the potential for court challenge under Proposition 26. Even if MTS were to successfully defend the fee in court, MTS would otherwise bear the burden of the cost associated with that defense. SDCRAA General Counsel indicated that the agency would not indemnify MTS or the City of San Diego.

Subsequent to this meeting, SDCRAA Chief Executive Officer Thella Bowens sent MTS a letter requesting that MTS ensure that the airport rate of fare be the same as the city maximum rate of fare as a way to counterbalance the cost of the fee to the driver.⁸ MTS General Counsel also received a letter from City Attorney Jan Goldsmith indicating that “our office does not fully embrace the legality of SDCRAA’s trip charge and would oppose actions that might draw the City of San Diego into a legal challenge of the charge.” This letter concludes with an expressed hope that SDCRAA would reconsider its approach and suspend the fee until the issue is resolved.⁹

MTS Staff Alternatives for Airport Trip Fee Resolution

MTS has analyzed several potential alternatives to resolving the airport trip fee issue:

1. *Contingent upon indemnification by SDCRAA, change Ordinance No. 11 to permit the placement of a decal and the collection of the trip fee by the driver.*

Currently the airport trip fee is \$1.00. The Comprehensive Ground Transportation Management Plan indicates that fees such as the one imposed on taxicab trips are meant to cover the cost of future improvements at the airport as well as operations and maintenance. This trip fee will likely increase over time. In the event that MTS chooses this alternative, staff recommends that it be a temporary solution with the final solution a comprehensive study and recalculation of all taxicab rates of fare to ensure fairness for the riding public. This would allow the MTS Board to control the cost of taxicab trips from the airport on behalf of the cities that have delegated that authority to MTS.

2. *Change Board Policy No. 34 to set all rates of fare at the same Maximum Rates of Fare, eliminating the uniform Airport Rates of Fare.*

This option was requested by SDCRAA. Elimination of the separate airport rate would mean that all taxicabs serving the airport could increase up to the maximum rates. It is expected that most will increase at least to some extent. MTS currently sets its maximum rates of fare at 20 percent over the weighted average of fares being charged in the cities. Without the uniform rate being used at the airport, there will be more volatility in rates being charged based on the discretion of the radio service organizations that are able to set fares up to the maximum. Since taxicabs serving the airport also serve non-airport customers, these new higher rates will apply for non-airport trips as well. Therefore, the cost recovery of the fee for using airport facilities may be borne by those who are not benefiting from the airport. In the event that MTS chooses this approach, staff recommends that it be contingent upon indemnification by SDCRAA. Staff also recommends

⁸ Thella Bowen to Paul Jablonski, June 30, 2011

⁹ Jan Goldsmith to Karen Landers, July 6, 2011

that a comprehensive fare study be conducted to determine the best approach for recalculating rates of fare so as to provide the MTS Board with more control over rates. Staff would also recommend freezing the basis for setting the maximum rate of fare at the current average rate so as to limit fare increases in the interim.

3. *Change Board Policy No. 34 to eliminate the uniform Airport Rates of Fare, and set new maximum rates as follows: \$3.00 flag drop, \$3.00 per mile, \$24.00 per hour wait time.*

This approach was submitted and unanimously supported by the Workshop on Regulatory Matters, which is a subcommittee of the MTS Taxicab Committee. These rates would be slightly lower than the current maximum allowable cities rates of fare but higher than the uniform airport rates of fare. As with approach No. 2 above, this could have the effect of increasing rates of fare throughout the cities thus assisting taxicab drivers to recover the airport fees at the expense of non-airport users. It could also create similar volatility in rate setting and, therefore, staff would recommend the freezing of the maximum rate of fare at the current rate while a fare study is conducted. Indemnification by SDCRAA is also recommended.

4. *Change Board Policy No. 34 to alter the basis on which the Uniform Airport Fee is created so that it provides reimbursement to the drivers for the airport trip fee.*

This approach could be accomplished by altering the flag drop or the mileage rate or a combination of the two. For instance, the flag drop rate could increase from \$2.50 to \$3.50 pending consultation with County Weights and Measures. (An alternative that could be offered by Weights and Measures would be to add the \$1.00 as an "extra" in the meter, which would require the driver to press to activate.) This would allow the radio-dispatch service to increase the flag drop rate on all cabs that serve the airport in order to provide the extra dollar to the drivers. Since the maximum allowable rate in the cities is below that rate, the taxicabs would need to show two rates, which is a situation that can be confusing for the customer. In addition, this would raise the average 5-mile airport trip from \$15.70 to \$16.70 thus bringing it higher than the current city average fare of \$16.07 and increasing the basis for calculating the maximum allowable rate in the cities under Policy No. 34. The flag drop would have to increase every year when SDCRAA adjusted the airport trip fee.

Another example of the way this could be accomplished is to change the per-mile rate for airport taxicabs. Due to the variability of trip length, not all drivers would receive the same reimbursement for the trip fee and others on a longer trip would receive more than the trip fee. An example of how this might work would be to use the average airport trip length of 6.4 miles, leave the flag drop at \$2.50, and raise the per mile rate by 20 cents to \$2.90. On an average airport trip, this would provide the driver with an additional \$1.28 per trip. For a trip to El Cajon City Hall, this would add \$4.50. For a trip to Euclid Avenue, it would add \$1.84. For a trip to San Diego State University, this would add \$1.60. This methodology would place a greater burden on passengers in need of a longer ride and provide the driver with more revenue than paid to the airport. The rate would also need to be recalculated whenever SDCRAA increased the trip fee.

As with approaches 2 and 3 above, if this approach is to be taken, staff recommends that MTS be indemnified and that the maximum cities' rates of fare be frozen at current levels.

5. *Recommend that the airport assess the trip fee on the newly established taxicab associations.*

SDCRAA has established agreements with newly formed consortiums of current taxicab permit holders to codify mutual expectations of performance and establish a successful working relationship. The business entities will be expected to implement and self-enforce SDCRAA-directed service levels and improvements. This program was implemented in lieu of contracting with concessionaires to offer taxicab services at the airport. These newly formed business entities or associations have a relationship with the airport (unlike taxicab drivers themselves) and, therefore, the airport could better manage the assessment of a facility use fee. Assessing the associations would also remove the requirement that the drivers pay the airport user fee directly and would remove the need for MTS to change fares to accommodate the airport user fee. This approach would not require indemnification of MTS by SDCRAA. This would allow MTS to continue to calculate both airport and city rates of fare using their current methodologies thus allowing for a smooth transition to a single rate of fare for all taxicabs operating in the MTS areas of jurisdiction. MTS would initiate a consultant study of fares and fare-calculation methodologies and return to the MTS Board.

Conclusion

In order to protect taxicab passengers from inflated rates of fare while at the same time providing relief to drivers, MTS staff recommends that the Board authorize Alternative 5 (above).



Paul C. Jablonski
Chief Executive Officer

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Attachment: A. MTS Ordinance No. 11 (EC Only Due to Volume)

SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT BOARD

CODIFIED ORDINANCE NO. 11
(as amended through October 16, 2003)

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

MTDB CODIFIED ORDINANCE NO. 11

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SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT BOARD

CODIFIED ORDINANCE NO. 11
(as amended through August 7, 2003)

An Ordinance Providing for the Licensing and the Regulating
of Transportation Services Within the City 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 Development Board.

(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.

(d) "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.

(e) "City" and "Cities" shall mean the incorporated areas of the Cities of El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, and Santee; and the unincorporated area of the county of San Diego within MTDB's area of jurisdiction.

(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) "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 MTDB offices are closed.

(i) "Doing business" shall mean accepting or soliciting passengers for hire in a City.

(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.

(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. Such for-hire vehicles shall include taxicabs, vehicles for charter, jitneys, nonemergency medical vehicles, sightseeing vehicles, and LSVs.

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

(t) "MTDB" shall mean the San Diego Metropolitan Transit Development Board, a public agency created pursuant to Public Utilities Code Section 120050 et seq.

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

(v) "Nonemergency medical vehicle" shall mean every vehicle which:

(1) Transports physically and/or mentally disabled persons who require supervision and/or specialized transportation equipment or assistance related to the disability, and such persons' attendants, over the public streets of the city.

(w) "Operate" or "Operating" shall refer to the solicitation or acceptance of a fare within City limits for compensation. 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.

(x) "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.

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

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

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

(bb) "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.

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

(dd) "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.

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

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

(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) Transports passengers or parcels or both over city public streets.

(2) Is made available for hire on call or demand through "cruising," at taxi stands or by telephone to destination(s) specified by the hiring passenger.

(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.

(ii) "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 8/7/03)

(Section 1.1 amended 11/14/02)

(Section 1.1 amended 6/24/99)

(Sections 1.1(d), 1.1(R)(1) amended 6/22/95)

(Section 1.1 amended 1/12/95)

(Section 1.1 amended 6/27/91; effective 7/27/91)

(Section 1.1 amended 5/23/91; effective 6/23/91)

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 without first having obtained an operating permit from the General manager or his 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 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 8/7/03)

(Section 1.2 amended 11/14/02)

(Section 1.2 amended 6/24/99)

Section 1.3 - Application for Permit

(a) All persons applying to the General Manager for permit(s) for the operation of one or more for-hire vehicles shall file with the General Manager a sworn application therefore on forms provided by the General Manager, stating as follows:

- (1) The individual and business name, address, and telephone number of the permit applicant;
- (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) The intended make, type, year of manufacture and passenger seating capacity of each vehicle for which application for permit is made;
- (8) The rates of fare which the applicant proposes to charge for vehicle-for-hire services;
- (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 General Manager may in his or her discretion require.

(b) The applicant shall also submit, with the application, a nonrefundable filing fee to be determined by the General Manager in order to recover the cost of processing such applications.
(Section 1.3 amended 8/7/03)
(Section 1.3 amended 11/14/02)

Section 1.4 - Issuance of Permit

(a) The Board shall, in its discretion, determine the total number of for-hire vehicle permits to be granted.

(b) The General Manager shall, in accordance with Board policy, 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 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 General Manager.

(c) The General Manager 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.

(d) Permits shall be approved for a period of one (1) year and be renewable annually upon payment of a regulatory fee in an amount to be determined by the General Manager.

(e) No permit shall be approved or renewed for any person who has not fully complied with all of the requirements of this Ordinance and all other applicable laws and/or regulations necessary to be complied with before commencement of the operation of the proposed service.

(f) When the permit has been approved and upon determination by the General Manager that the color scheme and for-hire vehicle are sufficiently distinctive so as not to cause confusion with other for-hire vehicles already operating, and that the for-hire vehicle, after appropriate inspection, meets the requirements of this Ordinance, the General Manager will issue a numbered medallion(s) to be affixed to the for-hire vehicle.

(Section 1.4 amended 11/14/02)

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 General Manager. ~~City of San Diego taxicab permits represented by medallion numbers 0001 through 1199 may be transferred only after the passage of one (1) year from the date a permit was issued to the current permit holder. All other City of San Diego taxicab permits and LSV permits shall be transferable only after the passage of five (5) years from the date a permit was issued to the current permit holder.~~ All taxicab permits may be transferred upon the verifiable death or permanent disability of the current permit holder. The transferability of permits may be limited by policy of the Board established by resolution.

(b) In the event that the permit holder is a corporation, partnership or legal entity other than a natural person, prior approval of the General Manager shall be required for any transfer or acquisition of majority ownership or control of that corporation, partnership or legal entity to a person or group of persons acting in concert, none of whom already owns or controls a majority interest. Any such acquisition or transfer occurring without prior approval of the General Manager shall constitute a failure to comply with a provision of this section.

(c) The proposed transferee shall file with the General Manager 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 General Manager shall process the application for transfer in accordance with Section 1.4 of this Ordinance.

(d) The General Manager 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 General Manager 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 8/7/03)

(Section 1.5 amended 11/14/02)

Section 1.6 - Limited Permits

(a) ~~The General Manager may approve permits which are limited in duration of time and/or limited to a specific geographical area of the cities.~~ Applicants for limited permits must submit all relevant information as set forth in Section 1.3 (a), Subsections (1) through (11), and shall state specifically the appropriate time and/or the geographical limitations. In addition to the requirements set forth in this section, services operating pursuant to a limited permit shall:

(1) Commence operations at the specified date approved by the General Manager and cease operations at the ending date approved by the General Manager;

(2) Pick up passengers only in the specified geographical area of the City approved by the General Manager and shall not pick up passengers under any circumstances outside the specified geographical area;

(3) Be allowed to transport passengers from a specified geographical area to points within or outside the area;

(4) Prominently display on the vehicle the geographical area of the City in which the driver is authorized to pick up passengers; and

(5) Be subject to each and every provision relating to the operation of a for-hire vehicle as if granted a regular permit for the operation of a for-hire vehicle.

(Section 1.6 amended 11/14/02)

Section 1.7 - Blank

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

(Section 1.7 was deleted 9/24/98)

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 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. The permit holder shall, in the case of any change in his or her business address, mailing address, or business telephone, notify the General Manager 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 General Manager for inspection. MTDB 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 MTDB inspector or peace officer, after displaying proper identification, may make reasonable and periodic inspections of any for-hire vehicle operating under an MTDB 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 MTDB 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 rain conditions;
- (4) Meter is not working or the seal is broken;
- (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;

Code; (10) Seat belts, when required, fail to meet requirements of the California Vehicle

(11) Either side or rearview mirrors are missing or defective; and

(12) 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, the operator or permit holder, as appropriate, shall be issued a notice to correct said violation within seventy-two (72) hours.

(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 MTDB inspector.

(3) The medallion shall be reaffixed when the MTDB 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. 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 the approved color scheme and/or vehicle markings.

(3) Paint. The vehicle shall be painted and marked in accordance with the color scheme approved under Section 1.4 (f) of this Ordinance. Paint and markings may not be faded or deteriorated in such a manner as to preclude immediate recognition of the approved color scheme.

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

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

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

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

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

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

(10) 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.

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

(12) 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.

(13) 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.

(14) 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 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, the permit holder may utilize a spare for-hire vehicle which has been duly inspected by an MTDB inspector and approved prior to use. The permit holder must immediately inform an MTDB 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 sixty (60) days. 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 MTDB 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 General Manager. 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 "Univers" 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 MTDB Taxicab Administration and the permit holder and/or permit holder trade name shall be printed, 1/4-inch in height.

4) No other signs, markings, lettering, decals, or any type of information shall be displayed within 18 inches around the above sign.

5) No other signs, markings, lettering, decals or any type of information except the rates of fare and the tire size specifications required by San Diego County Weights and Measures shall be posted within the area 18 inches around the taxicab meter.

(m) There shall be carried either on the person of the driver or in each for-hire vehicle, a map of the City, published within the past two (2) years, which shall be displayed to any passenger upon request.

(n) The rates of fare charged for for-hire vehicle services shall be clearly displayed in the passenger compartment.

(o) Each for-hire vehicle licensed to operate in the City shall have located in a convenient place in the driver's compartment, in full view of the passengers, a container of type and design approved by the General Manager. The container shall contain a card provided by the Sheriff of the County of San Diego or by the General Manager. The card shall be visible to passengers and 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.

(p) 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.

(q) The driver shall offer each passenger a receipt upon payment of the fare. The receipt shall accurately show the date, the amount of the fare, the medallion number, the trade name, and the name and signature of the driver.

(r) All disputes to fare shall be determined by the peace officer or MTDB 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 MTDB inspector.

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

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

(u) 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.

(v) 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.

(w) The driver of a for-hire vehicle shall wear, in a manner clearly visible on their person, an identification card approved by the General Manager.

(x) 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.

(y) The color scheme of a for-hire vehicle may not be changed without the prior written permission of the General Manager.

(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.

(Section 1.8 amended 8/7/03)

(Section 1.8 amended 11/14/02)

(Section 1.8 amended 9/24/98)

(Section 1.8 amended 2/13/97)

(Section 1.8 amended 6/24/93)

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 in the State of California, the financial responsibility of which company has been approved by the General Manager. 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 General Manager.

(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 certificate 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 General Manager. This certificate shall provide that MTDB is a named certificate holder. It shall also provide that the insurer will notify MTDB 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 11/14/02)

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 General Manager shall maintain:

(1) Financial records 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 General Manager.

(b) Ownership and operating records shall be made available to the General Manager 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 MTDB 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 MTDB for-hire vehicle permit.

(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 radio 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 (p); and

(4) Any other similar records.

(e) Between January 1 and December 31 of each calendar year, every permit holder shall file with the General Manager 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 appear in person in the offices of MTDB to file the statement; if the permit holder is a partnership, one of the partners must appear in person in the offices of MTDB to file the statement; if the permit holder is an association or corporation, an officer of the association or corporation authorized to represent the company must appear in person in the offices of MTDB to file the statement.

(Section 1.10 amended 8/7/03)

(Section 1.10 amended 11/14/02)

(Section 1.10 amended 6/24/93)

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 General Manager in writing within forty-eight (48) hours.

(b) A replacement vehicle must be placed in service within sixty (60) days of the date the original vehicle is removed from service unless prior written permission has been obtained from the General Manager. It is the intent of this section that the General Manager, 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 sixty (60) 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 General Manager 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 sixty (60) 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 General Manager. 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 8/7/03)

(Section 1.11 amended 11/14/02)

(Section 1.11 amended 2/13/97)

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 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, except nonemergency medical, under the authority of a permit granted under this Ordinance unless such person has successfully completed an MTDB-approved driver training course concerning driver courtesy and professionalism 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 General Manager 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, 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.

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

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

(6) No person shall obtain or renew a driver's identification card unless such person has successfully completed a personal safety training course approved by the General Manager.

(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.

(1) The Sheriff or the General Manager shall establish nonrefundable filing fees to defray the costs of processing regular and temporary driver identification cards.

(Section 1.12 amended 8/7/03)

(Section 1.12 amended 11/14/02)

(Section 1.12 amended 9/24/98)

(Section 1.12 amended 10/30/97)

(Section 1.12 amended 11/9/95)

Section 1.13 - Suspension and Revocation of Permit

(a) Permits may be suspended or revoked by the General Manager at any time in case:

(1) The General Manager 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 General Manager'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 sixty (60) consecutive days without having obtained written permission for cessation of such operation from the General Manager. It is the intent of this section that the General Manager, 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 sixty (60) 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 General Manager.

(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 General Manager 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.

(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, any 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 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.

(a) A permit holder shall be notified in writing within 10 working days when a credible complaint has been filed with the General Manager by a member of the public where such complaint involves the permit holder, the driver of the permitted for-hire vehicle, or the radio 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 General Manager 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.

(b) In the event the General Manager finds a permit holder has failed to responsibly respond to notification of complaints or to initiate corrective action, the General Manager shall issue a notice of proposed adverse action to the permit holder. If the circumstances of the complaint or subsequent investigation so warrant, the General Manager 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 General Manager shall refer to the Administrative Penalty Guidelines in determining a proposed adverse action.

(c) 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 General Manager or his designated representative. Failure to appear will constitute waiver of the hearing. Following the hearing or waiver thereof, the General Manager shall issue the notice of adverse action if justified by the facts. If the General Manager 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.

(d) Upon a finding by the General Manager 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 General Manager may impose a fine or a fine and a period of suspension for any violation(s) of this Ordinance.

(Section 1.13 amended 8/7/03)

(Section 1.13 amended 11/14/02)

(Section 1.13 amended 6/24/99)

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

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

(1) The General Manager 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, any felony involving force and violence, or any crime reasonably and rationally 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 General Manager 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 General Manager shall send a notice of prohibition 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 8/7/03)

(Section 1.14 amended 11/14/02)

(Section 1.14 amended 6/24/99)

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 General Manager.

(Section 1.15 amended 11/14/02)

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 General Manager 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 General Manager'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 8/7/03)

(Section 1.16 amended 11/14/02)

Section 1.17 - Procedure Upon Administrative Appeal

(a) When an appeal is filed, the General Manager shall review the appeal, and based on additional information provided therein, may revise his 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 General Manager shall maintain a list of qualified Hearing Officers and shall regularly rotate assignments based on availability of the proposed Hearing Officers.

(2) The Hearing Officer shall be appointed by the General Manager, shall be a member of the California State Bar, and shall not be an MTDB employee.

(b) The appellant and the General Manager 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.

(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.

(c) The General Manager 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.

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

(e) 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 General Manager.

Section 1.18 - Exceptions to Provisions

(a) The provisions of this Ordinance do not apply to a vehicle properly licensed under the jurisdiction of the Public Utilities Commission of the State of California, or to public transit vehicles owned, operated, or contracted for by the Metropolitan Transit Development Board or to a vehicle properly licensed by the State or County as an ambulance.

(Section renumbered to 1.18 9/24/98)

(Section 1.17 amended 1/12/95)

(Section 1.17 amended 6/24/93)

Section 1.19 - General Manager's Authority to Adopt Rules and Promulgate a Schedule of Fines

(a) Except where Board action is specifically required in this Ordinance, the General Manager may adopt any rules and regulations reasonable and necessary to implement the provisions of this Ordinance. The General Manager 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 9/24/98)

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 MTDB 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 9/24/98)

(Section 1.19(a) was added 4/10/97)

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 8/7/03)

Section 2.2 - Rates of Fare

(a) After a notice and open public hearing of the Taxicab Committee, MTDB shall establish a maximum rate of fare for exclusive ride and group ride hire of taxicabs and/or LSVs except for trips from Lindbergh Field 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 Lindbergh Field International Airport shall be at a uniform rate of fare.

(c) Each permit holder shall file with the General Manager 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 set the taximeter for the rate that he/she will charge and have the taximeter sealed and inspected.

(2) Each taxicab permit holder shall prominently post rates in dollars-per-mile centered on the upper third part of both rear doors one (1) inch in height utilizing "Univers" or other MTDB pre-approved font in black or white lettering to produce maximum contrast adequately spaced for maximum readability.

(3) No other information shall be posted on rear doors.

(d) If a taxicab permit holder desires to change his/her rates of fare, he/she shall file with the General Manager 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, unless the vehicle is equipped with a taximeter that meets the requirements of the State of California.

(1) The taximeter shall be of a style and design approved by the General Manager.

(2) 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.

(3) 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.

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

(5) The taximeter shall be at all times subject to inspection by an MTDB inspector or any peace officer. The MTDB 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, and upon discovery of any inaccuracy in the taximeter, or if the 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 has been correctly adjusted and sealed. Before being returned to service, the vehicle and taximeter must be inspected and approved by the General Manager.

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

(7) It shall be the duty of the permit holder to ensure the proper device repair person's sticker is affixed to the 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 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 from operating. It shall be unlawful for any driver to throw the flag into a position which causes the taximeter to record when the vehicle is not actually employed, or to fail to throw the flag or other device into nonrecording position at the termination of each and every service.

(g) The 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, it 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 General Manager pursuant to Sections 2.1 (a), 2.2 (b), or 2.2 (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, except for trips commencing at the Lindbergh Field International Airport.

(Section 2.2 amended 8/7/03)

(Section 2.2 amended 5/8/03)

(Section 2.2 amended 11/14/02)

(Section 2.2 amended 6/24/99)

(Section 2.2 amended 9/24/98; Section 2.2c operative May 1, 1999)

(Section 2.2 amended 10/30/97)

(Section 2.2 amended 4/10/97)

Section 2.3 - Equipment and Specifications

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

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

(c) Exterior Markings

(1) 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 General Manager 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.

(2) 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

General Manager pre-approved font in black or white lettering to produce maximum contrast adequately spaced for maximum readability.

(3) 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 General Manager 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.

(4) No other information shall be permitted to be posted on front doors.

(5) **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 and are subject to the General Manager'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 three (3) 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 rear quarter 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 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.

(7) All other exterior vehicle markings are prohibited unless they are directly related to the permit holder's business and pre-approved by the General Manager.

(d) All taxicabs shall be equipped and operated so that they may be dispatched by two-way radio communication in response to a telephone or other request for service by a prospective passenger. This requirement may not be met by use of a mobile radio telephone service.

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

(e) 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 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 MTDB.

(2) Taxicab permit holder shall provide current proof the radio has passed inspection by an MTDB-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.

(f) Radio scanners are not allowed in taxicabs.

(Section 2.3 amended 6/27/02)

(Section 2.3 amended 9/24/98; Section 2.3c operative May 1, 1999)

(Section 2.3 amended 6/27/91; effective 7/27/91)

(Section 2.3 amended 4/10/97)

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.

(b) Any driver employed to transport passengers to a definite point shall take the most direct route possible that will carry the passenger to his 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 be reported immediately to a police officer or to an MTDB inspector.

(2) 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. 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."

(3) 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 the cities.

(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) All LSV operators will carry a current list of MTDB-approved radio services and refer the prospective or actual fare to that list of radio service organizations. All referrals shall be noted on the driver daily trip sheet.

(3) 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 a taxicab or LSV within fifteen (15) feet of any fire plug except as modified in Section 2.5 of this Ordinance.

(h) 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 10 feet.

(i) 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.

(j) 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.

(k) 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.

(l) No person shall solicit passengers for a taxicab or LSV other than the driver thereof; however, the General Manager 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.

(m) 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.

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

(o) 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.

(p) The taxicab or LSV driver shall maintain a daily trip log which shall be available for inspection upon request by any peace officer or MTDB 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.

(q) All operating regulations set forth in Section 1.8 apply.

(r) 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 will conform to that of the radio dispatch service organization.

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

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

(Section 2.4 amended 8/7/03)

(Section 2.4 amended 11/14/02)

(Section 2.4 amended 6/24/99)

(Section 2.4 amended 2/13/97)

(Section 2.4 amended 6/27/91; effective 7/27/91)

Section 2.5 - Stands

(a) The Board may, by resolution, 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 shall be in operation twenty-four (24) hours of every day, unless otherwise specified by the General Manager.

(c) Any individual, partnership, association, or other organization may petition MTDB 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 General Manager 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 MTDB 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 8/7/03)

Section 2.6 - Radio Services

(a) In order to provide taxicab or LSV radio 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) 10-code.
- (6) Lost and found for passengers' items.

(7) **Assignment of vehicle body numbers.**

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

(b) Taxicab and or LSV radio dispatch services shall, 24 hours a day, have dispatch staff on duty, answer telephone-request line(s), and provide radio response to all licensed radio frequencies/channels.

(c) Taxicab and or LSV radio 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 months, and made available to MTDB, upon request.

(d) Taxicab and/or LSV radio dispatch services shall maintain a listing in the major business telephone directory.

(e) 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.

(f) The General Manager 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 8/7/03)

(Section 2.6 amended 9/24/98)

(Section 2.6 added 6/27/91; effective 7/27/91)

Section 2.7 - Driver Safety Requirements

(a) No taxicab vehicle or LSV shall be operated unless such vehicle is equipped with an emergency signaling device approved by the General Manager.

(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.

(c) Taxicab/LSV radio 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 General Manager.

(Section 2.7 amended 8/7/03)

(Section 2.7 added 9/24/98)

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 General Manager, each permit holder shall file a document with the General Manager 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 General Manager 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 General Manager 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 4/10/97)

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 MTDB 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.

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

(Section 3.2 amended 11/14/02)

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 General Manager, each permit holder shall file a document with the General Manager 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, he shall first file a document with the General Manager 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 General Manager 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 4/10/97)

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 General Manager, each permit holder shall file a document with the General Manager 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 General Manager 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 General Manager as aforesaid, and duly displayed.
 - (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 4/10/97)**

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 6/22/95)

(Section 5.2 amended 6/24/93)

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 6/24/93)

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 General Manager, each permit holder shall file a document with the General Manager 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 General Manager 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 General Manager as aforesaid, and duly displayed.

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

(Section 6.1 amended 4/10/97)

Section 6.2 - Jitney Routes

(a) A permit holder who wishes to provide a fixed route service shall apply to the General Manager 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 General Manager 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 General Manager may, in his or her discretion, require.

(c) Upon approval of a fixed route by the General Manager, 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 General Manager 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 General Manager, submitting the information required in Section 6.2 (b).

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

(f) The General Manager may change a route that has been approved previously when the General Manager 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 General Manager. The General Manager shall notify in writing any permit holder whose route has been changed. The General Manager'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 11/14/02)

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 MTDB.

(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 MTDB 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 General Manager.

(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 11/14/02)

Section 6.4 - Jitney Holding Zones

(a) The Board 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 Board may, in its resolution, 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 General Manager. The General Manager 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 General Manager shall cause signs to be posted at or near the holding zone indicating the hours and days of operation.

(c) The Board may, on its own motion, or upon the recommendation of the General Manager, establish holding zones.

(d) Any individual, partnership, corporation, association or other organization may petition MTDB requesting that a new holding zone be established. The petition must be filed in writing with the General Manager 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 Board 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 Board. The Traffic Engineer's report shall include a statement of reasons supporting the recommendation to the Board.

(f) The Board 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 MTDB jitney permit to occupy a jitney holding zone.

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 General Manager. The General Manager 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 General Manager 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 General Manager.

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(c). LSVs may operate by zones and/or a prearranged basis as set forth in Section 1.1 (d) (1)-(5).

(Section 7.0 and 7.1 added 8/7/03)

Section 7.2 – Establishment of Zones

The General Manager shall establish and authorize the use of zones of operation.

(Section 7.2 added 8/7/03)

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 medallioned.

(b) Within thirty (30) calendar days following the issuance of a permit by the General Manager, each permit holder shall file a document with the General Manager 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 General Manager 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 General Manager 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 added 8/7/03)

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 MTDB 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 MTDB 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 MTDB-approved zone or zones. A permit holder shall not operate more spare vehicles than he/she has regular medallioned 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 10/16/03)

(Section 7.4 added 8/7/03)

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 8/7/03)

Section 7.6 - Equipment and Specifications

(a) Each LSV shall be equipped with a device which shall plainly indicate to a person outside the LSV whether the LSV is in operation or is not.

(b) Exterior Markings

(1) The permit holder's trade name shall be painted or permanently affixed in letters and numerals 2-1/2 inches high all on one line on the upper third part of both the front and rear of the vehicle utilizing "Univers" or other General Manager preapproved 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 2-1/2 inch lettering, the trade name lettering must be as large as possible, up to 2-1/2 inches in height, to enable the trade name to fit on one line.

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

(3) 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 General Manager'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.

(4) All other exterior vehicle markings are prohibited unless they are directly related to the permit holder's business and pre-approved by the General Manager.

(c) All LSVs shall be equipped and operated so that they may be dispatched by two-way radio communication in response to a telephone or other request for service by a prospective passenger. This requirement may not be met by use of a mobile radio telephone service.

(1) Radio must be turned on, and audible to driver, at all times the LSV is in service.

(d) 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 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 MTDB.

(2) LSV permit holder shall provide current proof the radio has passed inspection by an MTDB-approved inspector.

(3) LSV 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.

(e) Radio scanners are not allowed in LSVs.

(Section 7.6 added 8/7/03)

SECTION 8 - EFFECTIVE DATE OF ORDINANCE

This Ordinance shall be effective 30 days after the second reading, 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.

DDarro

CD-ORD11.JSCOTT/10/21/03

Amended: 10/16/03

Amended: 8/7/03

Amended: 5/8/03

Amended: 11/14/02

Amended: 6/27/02

Amended: 5/23/02

Amended: 6/24/99

Amended: 9/24/98

Amended: 10/30/97

Amended: 4/10/97

Amended: 2/13/97

Amended: 11/9/95

Amended: 6/22/95

Amended: 1/12/95

Amended: 6/24/93

Amended: 6/27/91

Amended: 5/23/91

Amended: 10/11/90

Repealed & Readopted: 8/9/90

Amended: 4/12/90

Amended: 4/27/89

Adopted: 8/11/88



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***REVISED DRAFT**

Agenda

MEETING OF THE METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

September 15, 2011
9:00 a.m.

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

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

ACTION RECOMMENDED

1. Roll Call
2. Approval of Minutes - August 18, 2011 Approve
3. Public Comments - Limited to five speakers with three minutes per speaker. Others will be heard after Board Discussion items. If you have a report to present, please give your copies to the Clerk of the Board.

**Please SILENCE electronics
during the meeting**

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



CONSENT ITEMS

- | | | |
|------|---|---------|
| 6. | <u>Proposed 2011/2012 Internal Audit Plan</u>
Action would approve the proposed 2011/2012 Internal Audit Plan. | Approve |
| 7. | <u>Compass Card Back-Office Implementation and Commissions on Fare Media</u>
Action would approve MTS Doc. No. G1248.2-09 for an interim agreement between the San Diego Association of Governments (SANDAG), North County Transit District (NCTD), and MTS for shared responsibilities regarding Compass Card back-office implementation and commissions on fare media. | Approve |
| 8. | <u>Handheld Readers and Software Development Services</u>
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G1406.0-12 with General Information Systems Limited (GIS) for handheld reader units (HHUs) and charging-station software development services. | Approve |
| 9. | <u>Investment Report - July 2011</u>
Action would receive a report for information. | Receive |
| 10. | <u>E-Procurement Services - Contract Amendment</u>
Action would authorize the CEO to: (1) execute MTS Doc. No. G1305.2-10 with Planet Bids, Inc. for e-procurement services; and (2) exercise option years 1 through 3 at his discretion. | Approve |
| 11. | <u>Bus Stop Maintenance - Contract Amendment</u>
Action would authorize the CEO to execute MTS Doc. No. B0453.2-06 with Veolia Transportation to provide additional transit center power-washing services effective October 1, 2011. | Approve |
| 12. | <u>Fare-Collection Software Upgrades - Sole-Source Contract Award</u>
Action would authorize the CEO to execute MTS Doc. No. G1408.0-12 with Cubic Transportation Systems, Inc. for fare-collection software upgrades to the trolley ticket vending machines (TVMs) and bus fareboxes. | Approve |
| *13. | <u>Janitorial Services for MTS Buildings and LRV Fleet</u>
Action would authorize the CEO to execute MTS Doc. No. G1387.0-11 with NMS Management, Inc. for janitorial services at MTS buildings and for the light rail vehicle (LRV) fleet. | Approve |

CLOSED SESSION

24. a. CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54956.9(a): The United States of America v. 1.31 Acres of Land (Case No. 11cv0949 JLS [POR]); and The United States of America v. 0.537 Acres of Land (Case No. 11cv0952 L [BGS]) Possible Action
- b. CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to California Government Code section 54956.8; Property: Rail Court and Traffic Circle at San Ysidro Intermodal Transit Center, San Diego, CA; Negotiators: Karen Landers, MTS General Counsel; Tim Allison, Manager of Real Estate Assets; and Paul Jablonski, Chief Executive Officer; Negotiating Parties: Greyhound Lines Inc.; Under Negotiation: Price and Terms of Payment Possible Action
- c. CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Pursuant to California Government Code section 54956.9(b)(3)(C): Noa Jackson v. Metropolitan Transit System (Claim No. TS23022) Possible Action
- and -
- CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL EXISTING - LITIGATION Pursuant to California Government Code section 54956.9(a): Jonathan Stacy v. MTS, et al. (San Diego Superior Court Case No. 37-2011-00085444-CU-PA-CTL) Possible Action
- d. CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to California Government Code Section 54956.9(a): Anna Krokee Representative for Decedent Tsilia Shuvaks v. MTS, et al. (San Diego Superior Court Case No. 37-2009-00082277-CU-PA-CTL) Possible Action
- e. CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to California Government Code section 54956.8; Property: San Diego and Arizona Eastern (SD&AE) Railway Company Desert Line (Campo to Plaster City); Agency Negotiators: Karen Landers, MTS General Counsel; Tim Allison, Manager of Real Estate Assets; and Paul Jablonski, Chief Executive Officer; Negotiating Parties: Carrizo Gorge Railway Co. (CZRY), Pacific Imperial Industries, LLC (PII), and San Diego and Imperial Valley (SD&IV) Railway Co.; Under Negotiation: Assignment of Desert Line rights and obligations and negotiation of new operating agreement and lease. Possible Action

Oral Report of Final Actions Taken in Closed Session

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS

30. Taxicab Committee Election (Sharon Cooney) Approve
Action would: (1) provide for a balloted election for all taxicab drivers holding an MTS Taxicab Driver Identification Card to elect five driver representatives from a duly nominated list before January 1, 2012; (2) provide for a balloted election for all permit holders holding an MTS taxicab permit to elect five permit holder representatives from a duly nominated list before January 1, 2012 (all newly elected driver and permit holder representatives would complete the three-year term beginning in 2012 and concluding in 2014); and (3) retain the representatives currently serving on the Taxicab Advisory Committee until the first meeting in 2012.
31. Airport Taxicab Trip Fee (Sharon Cooney) Approve
Action would direct the CEO to write a letter to the San Diego County Regional Airport Authority (SDCRAA) asking that it assess the airport taxicab trip fee on the newly established taxicab associations; or
- ALTERNATIVE RECOMMENDATION -
authorize the CEO to initiate changes to MTS Ordinance No. 11 to permit the placement of a decal and the collection of the airport trip fee by the driver contingent on SDCRAA's indemnification and defense of MTS and the cities of San Diego, Imperial Beach, Poway, El Cajon, La Mesa, Lemon Grove, and Santee for any legal challenges that may arise from this action.

REPORT ITEMS

45. 2011 Comic-Con Post Event Summary (Tom Doogan and Brian Riley) Receive
Action would receive a report for information.
46. Annual Investment Report (Cliff Telfer) Receive
Action would receive a report for information.
60. Chairman's Report Information
61. Audit Oversight Committee Chairman's Report Information
62. Chief Executive Officer's Report Information
63. Board Member Communications
64. Additional Public Comments Not on the Agenda
If the limit of 5 speakers is exceeded under No. 3 (Public Comments) on this agenda, additional speakers will be taken at this time. If you have a report to present, please furnish a copy to the Clerk of the Board. Subjects of previous hearings or agenda items may not again be addressed under Public Comments.
65. Next Meeting Date: October 13, 2011
66. Adjournment



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Agenda Item No. 6

MEETING OF THE METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

September 15, 2011

SUBJECT:

PROPOSED 2011/2012 INTERNAL AUDIT PLAN

**Draft for
Executive Committee
Review Date: 9/8/11**

RECOMMENDATION:

That the Board of Directors approve the proposed 2011/2012 Internal Audit Plan (Attachment A).

Budget Impact

None.

Audit Oversight Committee Recommendation

At its meeting on August 11, 2011, the Audit Oversight Committee recommended forwarding this item to the Board of Directors for approval.

DISCUSSION:

The MTS Internal Auditor has proposed a 2011/2012 work plan consisting of 9 internal audits, 3 consulting engagements, 320 hours of audit administration, and 270 hours for management-requested projects. The operations, business unit, type of audit, risk profile, and estimated time to complete are all shown within the audit plan.

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

Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Daniel Madzelan, 619.595.4920, daniel.madzelan@sdmts.com

SEPT15-11.6.PROPOSED AUDIT PLAN FY 12.DMADZELAN

Attachment: A. Proposed 2011/2012 Internal Audit Plan



Operation	Primary Business Unit	Audit Type	Risk Impact Profile	Risk Likelihood Profile	Estimated Hours
<u>Significant Changes in Operations/Change in Control Ownership</u>					
1) Payroll	HR/Finance	Financial, Operational	High	Possible	160.0
2) The Transit Store	Finance	Financial, Operational	Medium	Possible	120.0
3) Customer Service Operations	SDTC	Operational	Medium	Possible	80.0
<u>Previous Audit Follow-up Review</u>					
4) Compass Cards Risks Assessment - Control Evaluation	Finance/SANDAG	Operational	High	Possible	120.0
<u>Management Recommended (Assurance Reviews)</u>					
5) Procurement - Primary focus on FTA Compliance	Finance	Assurance/Compliance	High	Unlikely	160.0
6) CPUC Triennial Review (SDTI Safety)	SDTI/Security	Assurance/Compliance	High	Unlikely	120.0
<u>Farebox Controls - Revenues</u>					
7) Revenue Management	SDTI	Financial, Operational	High	Possible	120.0
8) Revenue Management	SDTC	Financial, Operational	High	Possible	80.0
<u>IT General Controls</u>					
9) System Access/Security Controls	IT (Finance)	IT, Operational	High	Possible	80.0
<u>Continuous Auditing/Consulting</u>					
Warranty - LRV Maintenance Operations	SDTI	Operational	High	Near Certainty	80.0
Storeroom Ops - Trolley	Finance	Operational	High	Probable	80.0
Fraud Hotline - Governance	HR/Legal	Operational	Medium	Possible	24.0
Total Estimated Hours - Scheduled Audits					1,224.0
Hours - Audit Administration					320.0
Unscheduled Projects/Management Requests					270.0
TOTAL AUDIT HOURS					1,814.0
<u>Other Audits (No Mgmt Requests and Time Available)</u>					
Workers' Compensation - Third-Party Contract Administration	Finance	Compliance, Financial	High	Possible	120.0
Ghost Rider Program (Process Change)	Plan/GA/Taxicab	Operational	Medium	Possible	80.0
AP - Duplicate Payment Analytical Review	Finance	Operational	Medium	Possible	80.0



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Agenda Item No. 7

MEETING OF THE METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

September 15, 2011

**Draft for
Executive Committee
Review Date: 9/8/11**

SUBJECT:

COMPASS CARD BACK-OFFICE IMPLEMENTATION AND COMMISSIONS ON FARE
MEDIA

RECOMMENDATION:

That the Board of Directors approve MTS Doc. No. G1248.2-09 (Attachment A) for an interim agreement between the San Diego Association of Governments (SANDAG), North County Transit District (NCTD), and MTS for shared responsibilities regarding Compass Card back-office implementation and commissions on fare media.

Budget Impact

MTS's share of the FY 12 expense would be \$1,372,079; NCTD's share would be \$457,360.

DISCUSSION:

The Compass Card Program (under SANDAG's Capital Improvement Program [CIP] 1145700) is a fare-collection system that was implemented for the San Diego region's fixed-route bus and rail operations.

SANDAG, NCTD, and MTS entered into an interim agreement on June 23, 2009, for shared responsibilities of funding and operating the Compass Card Program. Amendment No. 1 was executed to extend the interim agreement to June 30, 2011.

The proposed Amendment No. 2 would supersede the terms or conditions that are in conflict in Amendment No. 1 and serve as an interim agreement until a long-term solution regarding the funding and operations of the Compass Card Program is determined by SANDAG, NCTD, and MTS. Amendment No. 2 would terminate on



June 30, 2012, or when the long-term Memorandum of Understanding (MOU) is executed—whichever occurred first.

Therefore, staff is requesting Board of Directors approval of MTS Doc. No. G1248.2-09 (Attachment A) for an interim agreement between the San Diego Association of Governments (SANDAG), North County Transit District (NCTD), and MTS for shared responsibilities regarding Compass Card back-office implementation and commissions on fare media.



Paul C. Jablonski
Chief Executive Officer

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

SEPT15-11.7.COMPASS CARD BACK OFFICE FARE MEDIA.KLANDERS

Attachment: A. MTS Doc. No. G1248.2-09

AMENDMENT 2 TO INTERIM AGREEMENT
BETWEEN THE SAN DIEGO ASSOCIATION OF GOVERNMENTS, THE
METROPOLITAN TRANSIT SYSTEM, AND THE NORTH COUNTY TRANSIT DISTRICT
REGARDING COMPASS CARD BACK OFFICE IMPLEMENTATION AND COMMISSIONS
ON FARE MEDIA (SANDAG Contract No. 5001230)

This Amendment 2 to Interim Agreement (Amendment 2) concerns the funding and operation of the Compass Card program and is intended to serve as an amendment to an interim form of agreement until a long-term solution is determined by the parties. The parties hereby agree to the following:

1. The parties will discuss the potential of entering into a Memorandum of Understanding (MOU) between the San Diego Association of Governments (SANDAG), the Metropolitan Transit System (MTS), and the North County Transit District (NCTD) concerning funding of the Compass Card program expenses. The Interim Agreement between the parties went into effect on June 23, 2009. Amendment 1 to the Interim Agreement was executed in 2010 to extend the Interim Agreement to June 30, 2011, and the disposition of the Compass Card back office program is still under discussion by the parties. Therefore, the parties have agreed to execute this Amendment 2 to the Interim Agreement to modify and extend the term of the Interim Agreement.
2. The parties intend for this Amendment 2 to supersede the terms of the Interim Agreement and Amendment 1 to the extent the terms or conditions are in conflict. In all other respects the Interim Agreement and Amendment 1 shall remain binding on the parties.
3. The following language shall be added to Section 4 of the Interim Agreement : The agreed Compass Program expenses for Fiscal Year 2012 (FY 12) are budgeted at \$1,829,439 for baseline operations. Based on the cost allocation formula in Section 3 of the Interim Agreement, MTS's share of the FY 12 expenses is \$1,372,079 and NCTD's share is \$457,360. SANDAG, MTS, and NCTD agree to review and establish metrics for the appropriate distribution of costs and potential revenues earned through the program.
4. The following language shall be added to Section 7 of the Interim Agreement: For FY 12, SANDAG shall deduct MTS' annual Transportation Development Act (TDA) contribution for the Pass Sales program, which is based on the FY 12 TDA claim amount approved by the SANDAG Board of Directors, from the amount owed by MTS. The MTS FY 12 TDA amount owed is \$643,698. SANDAG will divide the balance of \$728,381 ($\$1,372,079 - \$643,698 = \$728,381$), into twelve (12) equal monthly payments and deduct the amounts owed from the monthly distribution of MTS's revenue share of regional pass sales.
5. The following language shall be added to Section 11 of the Interim Agreement: Should SANDAG estimate actual costs to exceed the budgeted amounts for Fiscal Year 2012 during the course of the relevant fiscal year, the parties shall work together to mitigate the impacts or adjust the budget and billings/payments accordingly.

This Amendment 2, the Interim Agreement and Amendment 1 thereto shall terminate on June 30, 2012, or when the long-term MOU referenced herein is executed, whichever occurs first.

This document may be executed in any number of identical counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument when each party has signed one such counterpart. The Parties further agree that a facsimile copy of the executed counterparts shall have the same force and effect as an original.

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed and delivered as of the last date of the Parties signature.

METROPOLITAN
TRANSIT SYSTEM

SAN DIEGO ASSOCIATION
OF GOVERNMENTS

Paul Jablonski
Chief Executive Officer

Gary Gallegos
Executive Director

APPROVED AS TO FORM:

MTS Office of General Counsel

SANDAG Office of General Counsel

ORTH COUNTY TRANSIT DISTRICT

Richard Hannasch
Chief Financial and Administrative Officer

APPROVED AS TO FORM

Paula de Sousa, General Counsel
Best Best & Kreiger

Matthew O. Tucker
Executive Director



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Agenda Item No. 8

MEETING OF THE METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

September 15, 2011

**Draft for
Executive Committee
Review Date: 9/8/11**

SUBJECT:

HANDHELD READERS AND SOFTWARE DEVELOPMENT SERVICES

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G1406.0-12 (in substantially the same format as Attachment A) with General Information Systems Limited (GIS) for handheld reader units (HHUs) and charging-station software development services.

Budget Impact

The total cost would not exceed \$164,667.21 and would include HHUs, charging-station software development services, freight, and taxes. The expenditure would be funded by CIP 11200-0200.

DISCUSSION:

Background


MTS is seeking to replace existing HHUs currently being used by MTS Code Enforcement Officers as a Compass Card inspection device during field inspections. The current device provides MTS with the ability to inspect Compass Card holders to validate the presence of a current monthly, 30-Day, or other pass product. The current HHUs were delivered to MTS in 2008. Since 2008, MTS has experienced an alarming failure rate of nearly 75% in any given week. In early 2010, MTS began working with the San Diego Association of Governments (SANDAG) and Cubic to find a suitable replacement for the existing HHU fleet. Currently, Cubic does not offer an HHU that meets MTS's needs and, subsequently, MTS and SANDAG have researched an alternative solution from another vendor.



After an exhaustive search for suitable manufacturers as well as consulting with peer agencies, the team discovered that any HHU manufacturer would have to have the ability to interface with Cubic's propriety software. To date, the only manufacturer identified is General Information Systems (GIS) located in the United Kingdom.

Any HHU product must work as an integral component of MTS's overall Compass Card system and must be able to be adapted to existing and future business rules for the operation of the system. Currently, GIS is the only manufacturer that is capable of working with MTS's Compass Card system and adapting to business rules until such time as Cubic shares its intellectual property to a wider audience.

MTS must have a functioning fleet of HHUs that is reliable in order to continue to use the Compass Card system and ensure the integrity of revenue collection. Therefore, MTS staff recommends that the Board authorize the CEO to execute MTS Doc. No. G1406.0-12 (in substantially the same format as Attachment A) with GIS for HHUs and charging-station software development services. Pricing has been determined to be fair and reasonable. A cost analysis is attached (Attachment B).



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Marco Yniguez, 619.557.4576, marco.yniguez@sdmts.com

SEPT15-11.8.HANDHELD READERS & SOFTWARE DEV.MYNIGUEZ

Attachments: A. Draft MTS Doc. No. G1406.0-12
B. Price Analysis

STANDARD SERVICES AGREEMENT

G1406.0-12
 CONTRACT NUMBER
 CIP 11200-0200
 FILE NUMBER(S)

THIS AGREEMENT is entered into this ____ day of _____ 2012 in the State of California, by and between San Diego Metropolitan Transit System, a California public agency, and the following contractor, hereinafter referred to as "Contractor":

Name: General Information System Limited Address: Unit 2 The Woodlands

Form of Business: Corporation Barton Rd. Haslingfield, Cambridge

Cambridgeshire. CB23 ILW. UK
 (Corporation, partnership, sole proprietor, etc.)

Telephone: +44(0)1223 873333

Authorized person to sign contracts: Ron van Der Hoorn President
 Name Title

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

Provide handheld reader units (HHRs), multi-charging stations, software development integration testing, and commission as stipulated in the scope of work and in accordance with the Standard Services Agreement, the Standard Conditions Services, Federal Requirements, MTS Safety Department SOP (SAF 016-03), and General Information Systems Limited's (GIS's) Quotation dated August 16, 2011, attached hereto.

This contract is effective October 1, 2011. The total contract expenditure shall not exceed \$164,667.21. The price includes all materials, labor, freight, and sales tax. Payment terms shall be net 30 days from invoice approval date.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM		CONTRACTOR AUTHORIZATION
By: _____ Chief Executive Officer		Firm: _____
Approved as to form:		By: _____
By: _____ Office of General Counsel		Title: _____
AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
\$164,667.21	CIP 11200-0200	2012

By: _____
 Chief Financial Officer (____ total pages, each bearing contract number)



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Att. B, AI 8, 9/15/11

PRICE ANALYSIS

G1406.0-12

General Information System Handheld Units (HHU)

Initial Pricing	\$235,233.00
*Negotiated Price	\$164,667.21
In-House Engineers Estimate	\$209,035.00

*The negotiated price of \$164,667.21 represents saving of \$82,409.60



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Agenda Item No. 9

MEETING OF THE METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

September 15, 2011

**Draft for
Executive Committee
Review Date: 9/8/11**

SUBJECT:

INVESTMENT REPORT – JULY 2011

RECOMMENDATION:

That the Board of Directors receive a report for information.

Budget Impact

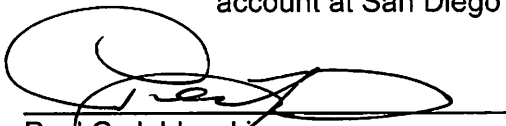
None.

DISCUSSION:

Attachment A comprises a report of MTS investments as of July 2011. The combined total of all investments has decreased by \$6.6 million in the current month largely due to delays in the receipt of Federal Transit Administration subsidy funds and \$1.9 million in disbursements for acquisition of capital assets.

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

During July, \$2 million was transferred from the temporary investment account at Local Agency Investment Fund and \$5 million was transferred from the temporary investment account at San Diego County Investment Pool to fund operating expenses.



Paul C. Jablonski
Chief Executive Officer

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

Attachment: A. Investment Report for March 2011

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

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



**San Diego Metropolitan Transit System
Investment Report
July 31, 2011**

	<u>Restricted</u>	<u>Unrestricted</u>	<u>Total</u>	Average rate of return
Cash and Cash Equivalents				
Bank of America - concentration sweep account	\$ 5,270,552	\$ 6,410,846	\$ 11,681,398	0.00%
Total Cash and Cash Equivalents	<u>5,270,552</u>	<u>6,410,846</u>	<u>11,681,398</u>	
Cash - Restricted for Capital Support				
US Bank - retention trust account	2,121,651	-	2,121,651	N/A *
Local Agency Investment Fund (LAIF) Proposition 1B TS GP grant funds	<u>5,552,773</u>	<u>-</u>	<u>5,552,773</u>	0.38%
Total Cash - Restricted for Capital Support	<u>7,674,424</u>	<u>-</u>	<u>7,674,424</u>	
Investments - Working Capital				
Local Agency Investment Fund (LAIF) San Diego County Investment Pool	<u>-</u>	<u>1,440,665</u>	<u>1,440,665</u>	0.38%
Total Investments - Working Capital	<u>-</u>	<u>7,127,005</u>	<u>7,127,005</u>	
Investments - Restricted for Debt Service				
US Bank - Treasury Strips - market value (Par value \$39,474,000)	38,003,163	-	38,003,163	
Rabobank - Payment Undertaking Agreement	<u>82,053,636</u>	<u>-</u>	<u>82,053,636</u>	7.69%
Total Investments Restricted for Debt Service	<u>120,056,799</u>	<u>-</u>	<u>120,056,799</u>	
Total cash and investments	<u>\$ 133,001,774</u>	<u>\$ 13,537,851</u>	<u>\$ 146,539,625</u>	

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



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Agenda Item No. 10

MEETING OF THE METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

September 15, 2011

**Draft for
Executive Committee
Review Date: 9/8/11**

SUBJECT:

E-PROCUREMENT SERVICES – CONTRACT AMENDMENT

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to:

1. execute MTS Doc. No. G1305.2-10 (in substantially the same format as Attachment A) with Planet Bids, Inc. for e-procurement services; and
2. exercise option years 1 through 3 at his discretion.

Budget Impact

The cost of \$13,000 for the two additional users for years 2 through 5 would be funded under Information Technology's (IT's) operating budget (661-53910).

The option year costs (if exercised at the CEO's discretion) would be increased by \$3,600 for option year 1 and by \$3,750 for option years 2 and 3.

The new contract amount would be increased from \$99,770 to \$112,770 for the five-year base period and from \$67,750 to \$78,850 for the three 1-year options. The new total contract amount would be \$191,620 (\$112,770 + \$78,850) for all eight years.

DISCUSSION:

Background

On October 19, 2009, MTS conducted a best-value procurement to select a contractor to provide vendor/contractor data management system and web-based electronic procurement for proposal and bid (e-procurement) services.



A contract award was made to Planet Bids, Inc. for e-procurement services (8 users), including a contract management module (unlimited users) in the amount of \$99,770.

On November 5, 2010, MTS went live and successfully implemented the BidsOnLine (BOL), which is a fully automated, web-based vendor and bid-management system. Planet Bids continues to proficiently perform all of the services within the scope of the agreement.

Some of the key features and benefits of BOL include:

- the ability to post solicitations online;
- electronic bidding;
- vendor self-registration;
- vendor profiles and automatic e-mail notifications for selected bid opportunities based on products or service categories; and
- downloading bids.


The MTS Procurement Department is anticipating an increase in staff and requires up to two additional users for the BOL system. The cost for additional licensing fees would total \$13,000, which would increase the total contract amount from \$99,770 to \$112,770.

The option year costs (if exercised at the CEO's discretion) would be increased by \$3,600 (option year 1) and \$3,750 (option years 2 and 3).

The new contract amount would be increased from \$99,770 to \$112,770 for the five-year base period and from \$67,750 to \$78,850 for the three 1-year options. The new total contract amount would be \$191,620 (\$112,770 + \$78,850) for all eight years.

Therefore, staff is requesting that the Board authorize the CEO to:

1. execute MTS Doc. No. G1305.2-10 (in substantially the same format as Attachment A) with Planet Bids, Inc. for e-procurement services; and
2. exercise option years 1 through 3 at his discretion.



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Stevan White, 619.238.0100, Ext. 6412, stevan.white@sdmts.com

SEPT15-11.10.E-PROCUREMENT SVCS.CAQUINO

Attachment: A. MTS Doc. No. G1305.2-10

DRAFT

Att. A, AI 10, 9/15/11

September 15, 2011

MTS Doc. No. G1305.2-10
50661-53910

Mr. Alan Zavian
CEO/President
Planet Bids, Inc.
20929 Ventura Blvd., Suite 210
Woodland Hills, CA 91364

Dear Mr. Zavian:

Subject: AMENDMENT NO. 2 TO MTS DOC. NO. G1305.0-10; E-PROCUREMENT SERVICES

This shall serve as Amendment No. 2 to our agreement for the E-Procurement Services as further described below.

STATEMENT OF WORK

Pursuant to the RFQ specifications and MTS Doc. No. G1305.0-10, the San Diego Metropolitan Transit System (MTS) shall add two (2) additional users, which shall increase the original total number of users for the BidsOnLine (BOL) web-based procurement system from eight (8) to ten (10).

Planet Bids, Inc. agrees to add the two (2) additional users for the remainder of the contract term per the agreed "additional user licensing fee" rates below. MTS shall be billed for the following years in accordance with the terms and conditions based on the number of users at that time as stated on MTS Doc. No. G1305.0-10:

		<u>Cost per User</u>	<u>Qty. (Additional User)</u>	<u>Extended Cost</u>
2010/11	Year One (1)	\$0 (\$1,575 – Waived)	1	No cost
2011/12	Year Two (2):	\$1,575	2	\$ 3,150
2012/13	Year Three (3):	\$1,575	2	\$ 3,150
2013/14	Year Four (4):	\$1,650	2	\$ 3,300
2014/14	Year Five (5):	\$1,700	2	\$ 3,400
			Total:	\$13,000
11/5/15-11/4/16	Option Year 1	\$1,800	2	\$ 3,600
11/5/16-11/4/17	Option Year 2	\$1,875	2	\$ 3,750
11/5/17-11/4/18	Option Year 3	\$1,875	2	\$ 3,750
			Total:	\$11,100

The new contract amount will be increased from \$99,770 to \$112,770 for the five-year base period and from \$67,750 to \$78,850 for the three 1-year options. The new total contract amount is \$191,620 (\$112,770 + \$78,850) for all eight years.

SCHEDULE

The five-year contract base period shall be effective from November 5, 2010, through November 4, 2015. The option for up to three 1-year renewal periods shall be effective November 5, 2015, through November 4, 2018, exercisable at MTS's sole discretion.

PAYMENT

The additional licensing fee for years 2 through 5 shall not exceed \$13,000 without prior written approval from MTS. The total value of this contract, including this amendment, shall be \$112,770 for the five years (\$99,770 + \$13,000). All previous conditions remain in effect. If you agree with the above, please sign and return the copy marked "original" to the Contracts Specialist at MTS. The remaining copy is for your records.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

Alan Zavian
Planet Bids, Inc.

SEPT15-11.10.Atta.PLANET BIDS G1305.2-10.CAQUINCO

Date: _____

Enclosures: Revised Contract Pricing Sheet (Amendment No. 2)
 Procurement Contact Information – Revised Module Users

CONTRACT PRICING SHEET
(PER PLANET BIDS' "REVISED" COST PROPOSAL)
E-Procurement Services
MTS DOC. NO. G1305.0-10

PLANET BIDS												
#	DESCRIPTION	"REVISED" COST PER YEAR (INCLUDING ADDITIONAL LICENSING FEES / MODULES)										GRAND TOTAL COST (8 Yrs)
		11/5/10 - 11/4/11 (Year 1)	11/5/11 - 11/4/12 (Year 2)	11/5/12 - 11/4/13 (Year 3)	11/5/13 - 11/4/14 (Year 4)	11/5/14 - 11/4/15 (Year 5)	TOTAL (5 Yrs)	11/5/15 - 11/4/16 (Option Yr I)	11/5/16 - 11/4/17 (Option Yr II)	11/5/17 - 11/4/18 (Option Yr III)	TOTAL (3 Option Yrs)	
1	One-time Set-up fee: Detailed design, system implementation, project management, on-site training, and launch - ("REVISED")	\$ 6,500.00					\$ 6,500.00				\$ -	\$ 6,500.00
2	BOL Licensing fee for 8 users - ("REVISED"):	\$ 12,400.00	\$ 12,400.00	\$ 13,020.00	\$ 13,400.00	\$ 14,050.00	\$ 65,270.00	\$ 16,500.00	\$ 16,500.00	\$ 17,000.00	\$ 50,000.00	\$ 115,270.00
3	Contract management Module without Compliance Reporting (unlimited users) - "REVISED":	\$ 5,500.00	\$ 5,500.00	\$ 5,500.00	\$ 5,750.00	\$ 5,750.00	\$ 28,000.00	\$ 5,750.00	\$ 6,000.00	\$ 6,000.00	\$ 17,750.00	\$ 45,750.00
(**)	One-time Set-up fee: Contract Management Module w/o Compliance Reporting - ("REVISED"): **\$1,575 fee WAIVED	\$ -					\$ -				\$ -	\$ -
TOTAL PER YEAR (#s 1-4)		\$ 24,400.00	\$ 17,900.00	\$ 18,520.00	\$ 19,150.00	\$ 19,800.00	\$ 99,770.00	\$ 22,250.00	\$ 22,500.00	\$ 23,000.00	\$ 67,750.00	\$ 167,520.00

Additional Licensing fee per user (BOL):	\$1,575.00 *	\$ 1,575.00	\$ 1,575.00	\$ 1,650.00	\$ 1,700.00	\$ 6,500.00	\$ 1,800.00	\$ 1,875.00	\$ 1,875.00	\$ 5,550.00	\$ 12,050.00
Additional Number of Users:	1	2	2	2	2	N/A	2	2	2	N/A	
Subtotal:	\$ -	\$ 3,150.00	\$ 3,150.00	\$ 3,300.00	\$ 3,400.00	\$ 13,000.00	\$ 3,600.00	\$ 3,750.00	\$ 3,750.00	\$ 11,100.00	\$ 24,100.00
"REVISED" TOTAL (PER YEAR):	\$ 24,400.00	\$ 21,050.00	\$ 21,670.00	\$ 22,450.00	\$ 23,200.00	\$112,770.00	\$ 25,850.00	\$ 26,250.00	\$ 26,750.00	\$ 78,850.00	\$191,620.00

* Fee is waived per Amendment No. 1

ORIGINAL CONTRACT AMOUNT:	\$ 99,770.00	(Based on 8 users)
"REVISED" TOTAL CONTRACT AMOUNT:	\$ 112,770.00	5 Yrs. * Two additional users at the above rates per Amendment No. 2 -total of 10 users
Revised Grand Total Contract Amount	\$ 191,620.00	8 Yrs. (including Options)

All BOL Modules are offered as an Application Service provider (ASP) which are web-based, hosted, and maintained by Planet Bids.

STANDARD SCHEDULE FEES		Cost/Hr (\$)
1	Consulting Fees (Includes Project Definition, Project Planning, Project Management, Product Research, Streamlining and Production)	\$ 125.00
2	Custom Application Programming	\$ 115.00
3	Database Design/Integration	\$ 115.00
4	Additional Training Fees Up to 8 Users (max. 4 hrs.)	(per day) \$ 1,875.00
5	Content Management	\$ 65.00
6	Graphic Design	\$ 65.00
7	Data Conversion and Loading Services	\$ 65.00



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Agenda Item No. 11

MEETING OF THE METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

September 15, 2011

Draft for

Executive Committee

Review Date: 9/8/11

SUBJECT:

BUS STOP MAINTENANCE – CONTRACT AMENDMENT

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. B0453.2-06 (in substantially the same form as Attachment A) with Veolia Transportation to provide additional transit center power-washing services effective October 1, 2011.

Budget Impact

The total costs for transit center power-washing services would not exceed the following amounts:

\$ 92,100.32	Base Year 5	FY 12
\$104,709.70	Option Year 1	FY 13
\$107,849.25	Option Year 2	FY 14
\$111,085.10	Option Year 3	FY 15

The total amount of the MTS Doc. No. B0453.2-06 (including the three option years) would not exceed \$415,744.37.

DISCUSSION:

MTS contracts with vendors for scheduled power-washing maintenance services to clean bus parking (bus pads) and surrounding areas. Transit centers are power washed based on passenger activity and/or the need to be cleaned. Power washing is intended to remove grease, oils, gum, bird droppings, and other items to maintain a clean and sanitary appearance for customers. A self-contained steam cleaner and an environmental recovery water system are required to comply with city and state regulations for discharge and reclamation of contaminated water. These services are currently performed by Aztec Janitorial—the contract expires on September 30, 2011.

MTS recommends that effective October 1, 2011, these services be added to the existing Veolia contract.



Currently, Veolia Transportation's (Veolia's) contract for fixed-route bus services (through June 30, 2015, including available option years) includes provisions to provide various cleaning services at MTS transit centers. These services include graffiti removal, signage cleaning and/or replacement, curb painting, and other miscellaneous site cleaning as needed. The addition of the above-mentioned power-washing services to Veolia's existing scope of work would be beneficial for the following reasons:

1. Economies of Scale

- Reduction in contract management hours by MTS Contract Services Department staff.
- Veolia maintenance personnel already perform similar services at the transit centers.

2. Service Performance Cost Savings to MTS

Anticipated Contract Period	Est. Annual Savings vs. current contract	Percentage Savings
10-1-11 – 6-30-12	\$27,725	23.14%
7-1-12 – 6-30-13	\$18,710	15.16%
7-1-13 – 6-30-14	\$19,273	15.16%
7-1-14 – 6-30-15	\$19,851	15.16%
Total Estimated Savings	\$85,559	

3. MTS Ownership of all Necessary Power-Washing Equipment

- The costs for Veolia's service would include approximately \$19,000 for the necessary equipment. All of this equipment would be maintained by Veolia as part of the contract and would be the property of MTS after June 2015.

As stated in MTS's Best Practices Procurement Manual, Section 9.2 *Changes*, this addition of work would allow MTS to " ... *order additional work which is 'within the general scope of the contract, and thereby avoid having to procure this work as a 'new procurement' with all of the time and expense associated with another solicitation.*"

Therefore, MTS staff recommends that the Board approve MTS Doc. No. B0453.2-06 with Veolia in the amount of \$92,100.32 for the purchase of power-washing equipment and performance of power-washing services and grant the CEO the authority to exercise the three option years (in the amounts of \$104,709.70, \$107,849.25, and \$111,085.10, respectively).



Paul C. Jablonski
Chief Executive Officer

Key Staff Contact: Mike Daney, 619.595.7035, mike.daney@sdmts.com

Attachments: A. Draft MTS Doc. No. B0453.2-06
B. Veolia Proposal Dated 8/29/11
C. Fair and Reasonable Cost Justification Memo Dated 8/30/11

DRAFT

MTS Doc. No. B0453.2-06

September 15, 2011

Mr. Duane Eskierka
Regional Vice President
Veolia Transportation
3650A Main Street
Chula Vista, CA 91911

Dear Mr. Eskierka:

Subject: AMENDMENT NO. 2 TO THE METROPOLITAN TRANSIT SYSTEM (MTS)
DOC.NO. B0453.0-06; MTS FIXED-ROUTE BUS SERVICE – BUS STOP
MAINTENANCE SPECIFICATIONS

This document shall serve as Amendment No. 2 to the MTS Fixed-Route Bus Service Contract. The changes on the following pages will apply. In the event there is a conflict of language between the contract and amendment item, the amendment item will prevail. All other terms and conditions of the contract remain unchanged. The amended agreement is described below.

CHANGES TO ATTACHMENT #5 – BUS STOP MAINTENANCE SPECIFICATION - SECTION OF CONTRACT B0453.0-06

Introduction. Paragraph 1.

Contract Language:

Contractor is responsible for bus stop maintenance for all Metropolitan Transit System (MTS) bus stops in the region at the direction of MTS staff.

Contractor shall employ two (2) bus stop maintenance technicians to conduct the work. MTS shall supply fully equipped sign capable trucks.

Amended Language:

Contractor is responsible for bus stop and transit center maintenance for all Metropolitan Transit System (MTS) bus stops in the region at the direction of MTS staff.

Contractor shall employ three (3) bus stop and transit center maintenance technicians to conduct the work. MTS shall supply fully equipped sign and steam/pressure and washing-capable trucks.

Section 1 - Work Orders:

Contract Language:

1. Work Orders

Amended Language:

1. Bus Stop Work Orders

Section 2 – Work Order Response Time:

Contract Language:

MTS to provide Contractor, on a routine basis, written work orders directing Contractor's work activity. Responsible staff members from each organization will meet at least weekly, at a minimum, to exchange work orders and reconcile work to be performed and completed. Contractor to be available at all times for conducting emergency work orders (to be completed within 24 hours of receipt). The process for conveying these work orders to Contractor shall be by fax, electronic mail, or delivered in person.

Amended Language:

Contractor shall complete all work in a timely manner. From the time of work order assignment, installations or clean up shall be completed within seven (7) calendar days. Mechanical repair work shall be completed within three calendar days, unless deemed emergency work, which shall be completed within 24 hours. Curb painting and miscellaneous (non-scheduled) bus stop pressure washing shall be completed within 14 calendar days. All mechanical repair work shall be completed during normal working hours, Monday through Friday. However, on occasion it may be necessary for bus stop mechanical repair and/or maintenance work to be conducted on Saturday and Sunday. Contractor is to adjust hours to accommodate work when necessary. Transit center maintenance and steam/pressure washing shall be completed between the hours of 12:00 a.m. and 5:00 a.m. per the agreed upon work schedule set by MTS.

Section 3 –Training:

Contract Language:

MTS to provide to Contractor staff bus stop maintenance training on an as-needed basis. Training will entail safety requirements, quality control, and installation procedures.

Amended Language:

MTS is to provide Contractor staff bus stop maintenance training on an as-needed basis. Training will entail safety requirements, regulatory requirements, quality control, and installation procedures. Contractor is responsible for ensuring that contract staff using steam and pressure washing equipment are familiar with and abide by all regulatory laws.

Section 4 – Installation:

Contract Language:

4. Installations

Amended Language:

4. Bus Stop Installations

Section 5 – Repairs:

Contract Language:

5. Repairs

Amended Language:

5. Bus Stop Repairs

Section 6. – Improvements:

Contract Language:

6. Improvements

Amended Language:

6. Bus Stop Improvements

Section 7. – Removals:

Contract Language:

7. Removals

Amended Language:

7. Bus Stop Removals

Section 8. – (Added Section per Contract Amendment):

Contract Language:

None

Amended Language:

8. Transit Center Maintenance

Contractor will perform the duties of steam cleaning/pressure washing various MTS Transit Centers and miscellaneous independent stop locations.

Routine maintenance consists of steam cleaning/pressure washing and scrubbing with hot water, at a minimum temperature of 180 degrees and no less than 3,000 pounds per square inch (psi),

designated bus parking areas (concrete bus pads) and access areas for each for each bus stop in all transit centers (see locations in attachment A). Each cleaning should consist of the following:

- Stains are to be pretreated with biodegradable chemicals to remove all motor oil, chewing gum, food, and debris.
- The area will be hot pressure-washed and scrubbed with the appropriate equipment, and all water should be contained to prevent excess runoff.
- A filtration/vacuum system is used to collect and separate solids and all water.
- The wastewater shall be contained in a holding tank for removal.
- All wastewater shall be removed and transported from the premises to be disposed of elsewhere in accordance with the provisions of the State of California Water Resource Control Board.

Routine and frequency of transit center steam cleaning and pressure washing service shall vary depending upon the site (attachment X). Cleaning is to be conducted between the hours of 12:00 a.m. and 5:00 a.m. 5 days per week as schedule between MTS and Veolia. Veolia and MTS shall agree upon the date of the month each site will be cleaned. A schedule for each site must be established and agreed upon by MTS in writing. Any changes to the schedule must be approved by MTS in writing.

Section 8. – Contractor Supplied Materials

Contract Language:

- Graffiti removers, cleaners, and solvents
- Concrete material
- Fill dirt and/or patching material

Amended Language:

9. Contractor-Supplied Materials

- Graffiti removers, cleaners, and solvents
- Concrete material
- Fill dirt and/or patching material
- Pressure washing equipment, supplies and materials
- Waste water collection equipment, supplies and materials

Sections 9, 10 and 11 will be re-numbered to the following:

Section 9-Supplied Materials > Section 10-MTS-Supplied Materials

Section 10-Quality Control of Work > Section 11-Quality Control of Work

Section 11-Miscellaneous > Section 12-Miscellaneous

SERVICE OVERSIGHT AND STAFFING

The two new Service Work B employees will report to the on-duty South Bay Division Forman. The Forman will be responsible for ensuring that Service Work B employees are arriving on-time and complete all specified work as details as agreed upon with MTS Contract Management Staff. The on-duty Forman will be the point of contact for any problems or situations that may arise in the event that Service Work B's are not fulfilling their obligation or are not complying with Federal, State or Local laws. The Forman will be accessible during all hours for which Service Work B's are in the field.

BILLING RATES

Service Worker B:

The following hourly rates will apply to Service Worker B for steam cleaning, pressure washing and cleaning bus stops, bus stop areas, passenger platforms and bus bays.

Service Worker B Billing Rate

Agreement Year	Operating Cost per Bus Stop Maint. Rev. Hour
10/1/2011 through 6/30/2012	\$ 21.888
7/1/2012 through 6/30/2013	\$ 22.544
7/1/2013 through 6/30/2014	\$ 23.220
7/1/2014 through 6/30/2015	\$ 23.917

Veolia will be paid for Service Worker B service hours specifically requested and required to complete the details outlined in the attached SOW and not to exceed the billable hours below.

(Service Worker B Estimated Hours)

Agreement Year	Total Hours
10/1/2011 through 6/30/2012	3120
*7/1/2011 through 6/30/2013	4160
*7/1/2013 through 6/30/2014	4160
*7/1/2013 through 6/30/2015	4160
Total:	15,600

Estimated hours are based on two (2) full-time service workers

* Original Veolia Contract Option Terms

Staff Equipment and Uniforms

To perform steam cleaning and pressure washing duties, Service Work B employees will require specialized work equipment and uniforms. The use of this equipment and uniforms will be billed to MTS based on an hourly rate per the number of hours worked by Service Work B(s) and consistent with the outlined number of hours detailed above (Service Worker B Estimated Hours). The fee for equipment and uniforms will be billed to MTS at the following rates:

Equipment and Uniforms	Cost Per Hour/ Per Worker B
10/1/2011 through 6/30/2012	\$ 0.230
7/1/2012 through 6/30/2013	\$ 0.237
7/1/2013 through 6/30/2014	\$ 0.244
7/1/2014 through 6/30/2015	\$ 0.251

Cleaning Supplies and Equipment Maintenance

Cleaning supplies and equipment maintenance will be billed to MTS based on the hourly rate of time spent cleaning and will not exceed the number of hours spelled out below. Veolia will assume all responsibility for the equipment, including following all manufactures schedule maintenance specifications as outlined in corresponding owner's manuals. Replacement parts, scheduled maintenance or equipment rental fees in the event that the equipment fails will be the sole responsibility of Veolia.

Cleaning Supplies and Equipment Maint.

Agreement Year	Total Hours
10/1/2011 through 6/30/2012	1040
7/1/2011 through 6/30/2013	2080
7/1/2013 through 6/30/2014	2080
7/1/2013 through 6/30/2015	2080
Total:	7,280

Estimated hours are based on hours of operation

The hourly rate for cleaning supplies and equipment maintenance is as follows.

Cleaning Supplies	Cost Per Operating Hour
10/1/2011 through 6/30/2012	\$ 2.8800
7/1/2011 through 6/30/2013	\$ 2.9664
7/1/2013 through 6/30/2014	\$ 3.0554
7/1/2013 through 6/30/2015	\$ 3.1471

Equipment Maintenance and Part Replacement Fees	Cost Per Operating Hour
10/1/2011 through 6/30/2012	\$ 1.7600
7/1/2011 through 6/30/2013	\$ 1.8128
7/1/2013 through 6/30/2014	\$ 1.8672
7/1/2013 through 6/30/2015	\$ 1.9232

EQUIPMENT PURCHASE

Veolia will purchase all required steam cleaning, pressure washing, water collection equipment and the trailer required to provide the services outline in the scope of work. The purchase of this equipment, with MTS's approval will be billed directly to MTS as one time pass through expense, not to exceed \$18,266.56 (inclusive of 7.75% sales tax). Details and the cost estimate of this equipment are provided in Attachment B.

Veolia understands that all equipment will remain in good working condition. Veolia will follow the manufacturer's routine maintenance suggestions and part replacement schedule. All costs associated with maintenance and part replacement will be the sole responsibility of Veolia and are included in the rates outlined above under Equipment Maintenance and Part Replacement Fees. No additional cost will be applied to MTS for the upkeep of this equipment. If it is determined at a later date that additional equipment is needed to improve station and bus stop cleaning efforts, Veolia must obtain formal written authorization from MTS.

Service Worker	Equip. & Uniforms	Annual Hours	Subtotal	Power Wash Equipment	Cleaning Supplies	Maint. & Parts	Annual Hours	Subtotal	Grand Total	Fiscal Year
\$21.8880	\$0.2300	3120	\$69,008.16	\$18,266.56	\$2.8800	\$1.7600	1040	\$4,825.60	\$92,100.32	FY12
\$22.5440	\$0.2370	4160	\$94,768.96		\$2.9664	\$1.8128	2080	\$9,940.74	\$104,709.70	FY13
\$23.2200	\$0.2440	4160	\$97,610.24		\$3.0554	\$1.8672	2080	\$10,239.01	\$107,849.25	FY14
\$23.9170	\$0.2510	4160	\$100,538.88		\$3.1471	\$1.9232	2080	\$10,546.22	\$111,085.10	FY15
Grand Total									\$415,744.37	

FUEL BILLING

Veolia will bill MTS for all fuel consumed and purchased for the use of steam cleaning, pressure washing, and generator devices to provide services outline in the SOW. Veolia will keep and will provide MTS on a monthly basis supporting documentation of fuel use and purchases. MTS is not responsible for fuel consumed by the vehicle transporting steam cleaning or power washing equipment or any other equipment. Vehicle fuel will be the responsibility of Veolia.

PERMITS/LICENSES/VEHICLE REGISTRATION

- California EPA Identification Number – Veolia currently holds a California EPA Identification Number and is required to maintain it through the life of the contract.
- Storm Water - Veolia will comply with all Storm Water Rules and Regulations. It is Veolia's understanding that SDTI currently has an all-encompassing Storm Water permit to conduct steam cleaning and pressure washing at all MTS transit centers, including all transit centers within the attached SOW. Veolia will partner with SDTI to ensure that service workers and management staff are aware of all binding laws related to Storm Water.
- The trailer purchased to carry steam cleaning and pressure washing equipment will need to be registered with the California Department of Motor Vehicles. It is undecided at this time if the plate needs to be California Exempt or not. If the plate needs to be California Exempt, it will require a title transfer of the trailer to MTS. MTS and Veolia will discuss these options and agree to the terms at a later date.
- Veolia is assuming that all waste water collected during the cleaning of transit centers (bus stops and bus bays), will be discharged at the South Bay Maintenance facility in the existing water clarifier. Veolia will follow up to make sure this is in accordance with current regulatory laws. Should this not be acceptable, Veolia will notify MTS in writing and work with MTS to ensure compliance with waste water discharge.

EMERGENCY SERVICES

MTS, at its discretion, may notify Veolia of the need to respond to flooding conditions at Fashion Valley Transit Center. Contractor is required to remove mud and debris, pressure wash, and scrub all bus parking areas, including passenger loading areas, within three (3) hours, or MTS may engage another service provider for such purposes at Veolia's expense.

TERM

Veolia will assume steam cleaning and pressure washing responsibilities effective October 1, 2011 and continue through June 30, 2013 as part of the base period of the contract, or upon termination of the Veolia Contract. The option years of the contract remain unchanged.

Letter Mr. Duane Eskierka
September 15, 2011
Page 9 of 9

As a result of this Amendment, the total contract price has increased by \$92,100.32 from \$234,551,353.00 to \$234,643,453.32 (not including options).

Should option years be exercised, this Amendment will increase the options years as follows:

Option Year one will increase by \$104,709.70

Option Year two will increase by \$107,849.25

Option Year three will increase by \$111,085.10

All other terms and conditions remain unchanged. Please sign and return all copies to the Contracts Specialist at MTS and a fully executed copy will be returned to you after final signature.

Sincerely,

Agreed:

Paul C. Jablonski
Chief Executive Officer

Duane Eskierka
Veolia Transportation, Inc.

Date: _____

Veolia Transportation
3650 A. Main Street
Chula Vista, CA 91911
Tel: 619-427-5660
Fax: 619-427-6437



Att. B, AI 11, 9/15/11

August 29, 2011

Mr. Mike Daney, Senior Transit Operations Specialist
Metropolitan Transit System
100 16th Street
San Diego,, CA 92112

Subject: Veolia Service Worker B – Steam Cleaning and Pressure Washing Proposal

Dear Mr. Daney

This letter acts as an official proposal from Veolia Transportation Inc., to the Metropolitan Transit System (MTS), to add the responsibility of steam cleaning and pressure washing to the existing bus stop service worker's scope of work per Contract No. B0453.2-06, Attachment # 5 – Bus Stop Maintenance Specification. As part of this proposal, Veolia will add two addition bus stop service workers (Referenced as Service Worker B from here now on). In addition, Veolia will purchase and maintain necessary steam cleaning and pressure washing equipment. The details of this proposal are outlined below.

SCOPE OF WORK

Veolia will be responsible for steam cleaning and pressure washing all designated bus transit centers (bus bays and passenger platforms) on an agreed upon routine basis as outlined in the attached scope of work (Attachment A).

Veolia will not steam clean or pressure wash designated San Diego Trolley Inc. (SDTI) facilities or passenger platforms, which are currently the responsibility of SDTI maintenance division. All designated work will be completed in a timely manner while abiding by all federal, state and local laws. Knowledge of these laws is the sole responsibility of Veolia Transportation. All and any fines, penalties resulting from a lack of compliance with these laws, will be the sole responsibility of Veolia. In addition to this, any and all missed work will be rescheduled and communicated with MTS's contract management staff within 24hrs of the missed work assignment.

SERVICE OVERSIGHT AND STAFFING

The two new Service Work B employees will report to the on-duty South Bay Division Forman/Supervisor. The Forman will be responsible for ensuring that Service Work B employees are arriving on-time and complete all work as detailed in the SOW as agreed upon with MTS Contract Management Staff. The on-duty Forman will be the point of contact for any problems or situations that may arise in the event that Service Work Bs are not fulfilling their obligation or are not complying with Federal, State or Local laws. The Forman will be accessible during all hours for which Service Work Bs are in the field.

Mr. Mike Daney
August 29, 2011
Page 2

BILLING RATES

Service Worker B:

The following hourly rates will apply to Service Worker B for time spent steam cleaning, pressure washing and cleaning bus stops, bus stop areas, passenger platforms and bus bays.

Service Worker B Billing Rate

Agreement Year	Operating Cost per Bus Stop Maint. Rev. Hour
10/1/2011 through 6/30/2012	\$ 21.888
7/1/2012 through 6/30/2013	\$ 22.544
7/1/2013 through 6/30/2014	\$ 23.220
7/1/2014 through 6/30/2015	\$ 23.917

Veolia will be paid for Service Worker B service hours specifically requested and required to complete the details outlined in the attached SOW and not to exceed the billable hours below.

(Service Worker B Estimated Hours)

Agreement Year	Total Hours
10/1/2011 through 6/30/2012	3120
*7/1/2011 through 6/30/2013	4160
*7/1/2013 through 6/30/2014	4160
*7/1/2013 through 6/30/2015	4160
Total:	15,600

Estimated hours are based on two (2) full-time service workers

* Original Veolia Contract Option Terms

Staff Equipment and Uniforms

To perform steam cleaning and pressure washing duties, Service Work B employees will require specialized work equipment and uniforms. The use of this equipment and uniforms will be billed to MTS based on an hourly rate per the number of hours worked by Service Work B(s) and consistent with the outlined number of hour detailed above (Service Worker B Estimated Hours). The fee for equipment and uniforms will be billed to MTS at following rates:

Equipment and Uniforms	Cost Per Hour/ Per Worker B
10/1/2011 through 6/30/2012	\$ 0.230
7/1/2012 through 6/30/2013	\$ 0.237
7/1/2013 through 6/30/2014	\$ 0.244
7/1/2014 through 6/30/2015	\$ 0.251

Mr. Mike Daney
 August 29, 2011
 Page 3

Cleaning Supplies and Equipment Maintenance

Cleaning supplies and equipment maintenance will be billed to MTS based on the hourly rate of time spent cleaning and will not exceed the number of hours spelled out below. Veolia will assume all responsibility for the equipment, including following all manufactures schedule maintenance specifications as outlined in corresponding owner's manuals. Replacement parts, scheduled maintenance or equipment rental fees in the event that the equipment fails will be Veolia's financial obligation.

Cleaning Supplies and Equipment Maint.

Agreement Year	Total Hours
10/1/2011 through 6/30/2012	1040
7/1/2011 through 6/30/2013	2080
7/1/2013 through 6/30/2014	2080
7/1/2013 through 6/30/2015	2080
Total:	7,280

Estimated hours are based on hours of operation

The hourly rate for cleaning supplies and equipment maintenance is as follows.

Cleaning Supplies	Cost Per Hour/ Per Worker B
10/1/2011 through 6/30/2012	\$ 2.8800
7/1/2011 through 6/30/2013	\$ 2.9664
7/1/2013 through 6/30/2014	\$ 3.0554
7/1/2013 through 6/30/2015	\$ 3.1471

Equipment Maintenance and Part Replacement Fees	Cost Per Hour/ Per Operating Hour
10/1/2011 through 6/30/2012	\$ 1.7600
7/1/2011 through 6/30/2013	\$ 1.8128
7/1/2013 through 6/30/2014	\$ 1.8672
7/1/2013 through 6/30/2015	\$ 1.9232

EQUIPMENT PURCHASE

Veolia will purchase steam cleaning, pressure washing, water collection equipment and tow-trailer required to provide the services outline in the scope of work. The purchase of this equipment, with MTS's approval will be billed directly to MTS as one time pass through expense not to exceed a one-time expense of \$25,000.00. Details and the cost estimate of this equipment is provided in Attachment B.

Veolia understands that all equipment will remain in good working condition. Veolia will follow the manufacturer's routine maintenance suggestions and part replacement schedule. All cost associated with maintenance and part replacement will the sole responsibility of Veolia and paid through by the rates outline above under Equipment Maintenance and Part Replacement Fees. No additional cost will be applied to MTS

for the upkeep of this equipment. If it is determined at a later date that additional equipment is needed to improve station and bus stop cleaning efforts, Veolia must obtain formal written authorization from MTS.

FUEL BILLING

Veolia will bill MTS for all fuel consumed and purchased for the use of steam cleaning, pressure washing, and generator devises to provide services outline in the SOW. Veolia will keep and will provide MTS on a monthly basis supporting documentation of fuel use and purchases. MTS is not responsible for fuel consumed by the vehicle transporting steam cleaning or power washing equipment or any other equipment. Vehicle fuel will be the responsibility of Veolia.

PERMITS/LICENSES/VEHICLE REGISTRATION

- California EPA Identification Number – Veolia currently holds a California EPA Identification Number.
- Storm Water - Veolia will comply with all Storm Water Rules and Regulations. It is Veolia's understanding that SDTI currently has an all-encompassing Storm Water permit to conduct steam cleaning and pressure washing at all MTS transit centers, including all transit centers within the attached SOW. Veolia will partner with SDTI to ensure that service workers and management staff are aware of all binding laws related to Storm Water.
- The trailer purchased to carry steam cleaning and pressure washing equipment will need to be registered with the department of motor vehicles. It is undecided at this time if the plate needs to be California Exempt or not. If the plate needs to be California Exempt, it will require a title transfer of the trailer to MTS. MTS and Veolia will discuss these options and agree to the terms at a later date.
- Veolia is assuming that all waste water collected during the cleaning of transit centers (bus stops and bus bays), will be discharged at the South Bay Maintenance facility in the existing water clarifier. Veolia will follow up to make sure this is in accordance with current regulatory laws. Should this not be acceptable, Veolia will work with MTS to ensure compliance with waste water discharge.

Sincerely,


Jeanne Snyder,
General Manager
Veolia Transportation Service Inc.

Power Washing Locations

BUS PARKING AREAS

Semiannually:

1. San Diego/47th Street Transit Center bus bay areas – attachment A

Quarterly:

2. Lemon Grove/Massachusetts Avenue Transit Center bus bay areas – attachment B
3. La Mesa/Spring Street Transit Center bus bay areas – attachment C
4. San Diego/College Grove Center –attachment D
5. San Diego/70th Street Trolley Station bus bay areas – attachment E
6. San Diego/Grantville Trolley Station bus bay areas – attachment F

Bimonthly:

7. National City/8th Street Transit Center bus bay areas – attachment G
8. National City/24th Street Transit Center bus bay areas – attachment H
9. Chula Vista/Palomar Street Transit Center bus bay areas – attachment I
10. Santee/Santee Town Center Transit Center bus bay areas – attachment J
11. San Diego/SDSU Transit Center (Bus Plaza) bus bay areas – attachment K

Monthly:

12. San Diego (Nestor)/Palm Avenue Transit Center bus bay areas – attachment L
13. Chula Vista/E Street Transit Center bus bay areas – attachment M
14. Chula Vista/H Street Transit Center bus bay areas – attachment N
15. El Cajon/El Cajon Transit Center bus bay areas – attachment O
16. San Diego/12th and Imperial Transit Center – attachment P
17. San Diego/Kearny Mesa Transit Center bus bay areas – attachment Q

Biweekly:

18. Fashion Valley Transit Center bus bay areas (plus platforms) – attachment R
19. Old Town Transit Center bus bay areas (plus platforms) – attachment S
20. Iris Avenue Trolley Station bus bay areas (plus platforms) – attachment T
21. Euclid Avenue Trolley Station bus bay areas (plus platforms) – attachment U

Weekly:

22. San Ysidro Transit Center (plus platforms) – attachment V

Power Washing Locations

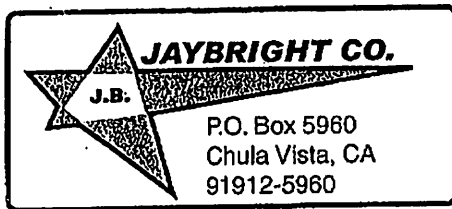
PASSENGER PLATFORM AREAS

Biweekly:

- 18. Fashion Valley Transit Center bus bay areas (plus platforms) – attachment R
- 19. Old Town Transit Center bus bay areas (plus platforms) – attachment S
- 20. Iris Avenue Trolley Station bus bay areas (plus platforms) – attachment T
- 21. Euclid Avenue Trolley Station bus bay areas (plus platforms) – attachment U

Weekly:

- 22. San Ysidro Transit Center (plus platforms) – attachment V



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Fax: (619) 427-8576

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Att. B, AI 11, 9/15/11

Invoice

DATE	INVOICE#
------	----------

8/25/2011 201013041

BILL TO:

VEOLIA TRANSPORTATION
CC#327
3650 A MAIN STREET
CHULA VISTA, CA 91911

SHIP TO:

VEOLIA TRANSPORTATION
3650 A MAIN STREET
CHULA VISTA, CA 91911

P.O NUMBER	TERMS	F/M	SVS DATE	ROUTE	W.O.#	EPA ID #
V17268	Net 30	KS		San Diego		CAL000163156
QUANTITY	ITEM CODE	DESCRIPTION			PRICE EACH	AMOUNT

VEOLIA TRANSPORTATION SPECIAL PROJECT

1	VEOLIACV/...	STEAM CLNR 4000 PSI @ 5.5 GPM	5,329.00	5,329.00
1	VEOLIACV/...	STEAM HOSE 3/8 X 150 FT	522.50	522.50
1	VEOLIACV/...	INDUSTRIAL RED FEED HOSE 3/4 X 150 FT	261.29	261.29
1	VEOLIACV/...	HIGH PRESSURE WATER GUN WITH 3 FT LANCE AND TIPS	129.00	129.00
1	VEOLIACV/...	LIGHT SYSTEM FOR NIGHT WORK	186.12	186.12
1	VEOLIACV/...	ENVIRONMENTAL DRAIN COVER MAT	522.30	522.30
3	VEOLIACV/...	DYKE AND BEAM SYSTEM	428.67	1,286.01
1	VEOLIACV/...	VAC AND PUMP SYSTEM	2,575.12	2,575.12
1	VEOLIACV/...	VAC HOSE 75 FT	165.00	165.00
1	VEOLIACV/...	TANDOM AXLE TRAILER WITH TAIL GATE	2,150.15	2,150.15
10	VEOLIACV/...	SAND BAGS	3.75	37.50
10	VEOLIACV/...	ORANGE SAFETY CONES 3 FT HIGH	19.58	195.80
2	VEOLIACV/...	RECOVERY TANKS	374.98	749.96
2	VEOLIACV/...	DOUBLE HOSE REELS (SINGLE FRAME)	697.59	1,395.18
1	LABOR	LABOR FOR ASSYEMBLY AND INSTALLATION @ \$65.00 PER HR	1,560.00	1,560.00
		FREIGHT CHARGES INCLUDED		0.00

SUBTOTAL 17,065.02
TAXABLE SUBTOTAL 15,505.02

TAX TAX 7.75% 1,201.63 1,201.63

THANK YOU FOR USING JAYBRIGHT SERVICES

TOTAL

\$18,266.56

B-7

ATTACHMENT B

TO: Procurement File

From: Sean Reed

Date: August 30, 2011

Subject: Fair and Reasonable Cost Justification – Amendment Recommendation, Fixed Route Bus Services – Attachment #5 (Bus Stop Maintenance Specifications); MTS Doc. No. B0453.2-06

Upon the basis of findings and determinations pursuant to United States Code Title 49, the Federal Transit Administration (FTA) Circular 4220.1F, the Best Practices Procurement Manual (BPPM) and the terms and conditions set forth in MTS Doc. No. B0453.0-06; MTS Staff hereby recommends a contract amendment to Veolia Transportation (Veolia) in the amount of \$92,100.32 for the one-time purchase of power washing equipment and monthly performance of power washing services from October 1, 2011 through June 30, 2012, with options for three additional years at a price of \$104,709.70, \$107,849.25, and \$111,085.10 respectively.

The following rationale was used to develop the award recommendation.

PROCUREMENT BACKGROUND

Fixed Route Bus Services – Attachment #5 (Bus Stop Maintenance Specifications); MTS Doc. No. B0453.0-06.

As part of the various activities to maintain MTS bus stops that include MTS transit centers, MTS contracts for scheduled power washing services to clean bus parking areas (bus pads), and surrounding areas that are the maintenance responsibility of MTS. Transit centers are power washed on a frequency based on their passenger activity and/or need to be cleaned. Power washing is intended to remove grease, oils, gum, bird droppings, and other items to maintain a clean and sanitary appearance for customers. Equipment required to perform these services must include a self-contained steam cleaning and environmental recovery water system as performing these services must comply with City and State regulations concerning the discharge and reclaiming of contaminated water. These services are currently performed by Aztec Janitorial, with a contract expiration date of September 30, 2011.

Currently, Veolia Transportation's (Veolia) contract for fixed route bus services (through June 30, 2015 including available option years) includes provisions to provide various cleaning services at MTS transit centers such as graffiti removal, signage cleaning and/or replacement, curb painting, and other miscellaneous site cleaning related services as needed. It is requested that the Board approve the addition of these power washing services to Veolia's existing scope of work for the following reasons:

- Economies of Scale
 - o Reduction of time in contract management by MTS Contract Services Dept.
 - o Veolia maintenance personnel already perform similar services at the Transit Centers
- Service performance cost savings to MTS

Anticipated Contract Period	Est. Annual Savings vs. current contract	Percentage Savings
10-1-11 – 6-30-12	\$27,725	23.14%
7-1-12 – 6-30-13	\$18,710	15.16%
7-1-13 – 6-30-14	\$19,273	15.16%
7-1-14 – 6-30-15	\$19,851	15.16%
Total Est. Savings	\$85,559	

- MTS Ownership of all necessary power-washing equipment
 - o Cost of services with Veolia includes approximately \$19,000.00 of all the necessary equipment to perform these services. All of this equipment will be maintained by Veolia as part of the contract and will be the property of MTS after June 2015

As stated in the Best Practices Procurement Manual, 9.2 Changes, of Chapter 9 , this addition of work will allow MTS to "...order additional work which is 'within the general scope of the contract, and thereby avoid having to procure this work as a 'new procurement' with all of the time and expense associated with another solicitation."

Recommendation

MTS staff has determined that First Transit, Inc. submitted a proposed approach that represents the most advantageous methods and best value of fulfilling MTS's needs as required in the RFP. Based on the Independent Cost Estimate, and current costs for the existing service, the total price (including all options) of \$415,744.37 is determined to be fair and reasonable and in the best interest of MTS.

It is recommended to approve an award of \$92,100.32 for year 5 of the base contract with options for \$104,709.70, \$107,849.25, and \$111,085.10 respectively.

Sean J. Reed

Contract Officer



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

Agenda Item No. 12

MEETING OF THE METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

September 15, 2011

**Draft for
Executive Committee
Review Date: 9/8/11**

SUBJECT:

FARE-COLLECTION SOFTWARE UPGRADES – SOLE-SOURCE CONTRACT AWARD

RECOMMENDATION:

That the Board of Directors authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G1408.0-12 (in substantially the same format as Attachment A) with Cubic Transportation Systems, Inc. for fare-collection software upgrades to the trolley ticket vending machines (TVMs) and bus fareboxes.

Budget Impact

The total for fare-collection software upgrades to the trolley TVMs and bus fareboxes would be \$634,775 funded by MTS Capital Improvement Project (CIP) 11320 (Compass Card Software) with an additional \$304,837 to be transferred from CIP 11200 (Miscellaneous).

DISCUSSION:

The Compass Card Program has delivered a smart card transit payment system to the San Diego region. The Compass Card is a contactless smart card that stores patrons' monthly or 30-day pass and is read on validators at MTS Trolley stations and onboard MTS's fleet of buses. MTS has been using the Compass Card since 2009 for monthly and 30-day passes and has successfully converted approximately 70,000 pass holders from a paper-based system to a smart card.

MTS now is focusing on Day Pass users and desires to convert the approximate 500,000 monthly users to the Compass Card. Earlier this year, MTS and the San Diego Association of Governments (SANDAG) launched a pilot program at the San Ysidro Transit Center where the agencies offered only Compass Cards for patrons who purchase day passes. The pilot has been a success and has given both agencies "lessons learned" for moving from a pilot program to full system-wide deployment. The first lesson learned is in how patrons purchase Compass Cards at TVMs. During the pilot, MTS has staffed the San Ysidro Transit Center with ambassadors who assisted




patrons in the purchase and reload of day passes on Compass Cards. For this program to be a success throughout the system, TVMs will need to be updated to make the purchase and reload of Compass Cards for day passes more intuitive and user-friendly in order to reduce the need for ongoing customer education.

In addition to a solution for rail patrons, MTS and SANDAG need to develop a comparable Compass Card solution for bus patrons. Currently, bus patrons purchase a paper day pass that is issued from the farebox. The current system does not have the capability to load or reload Compass Cards. The buses currently only validate a pass on Compass Cards and will need to have software updated to support the new desired functionality.

MTS and SANDAG have been working with the Cubic Transportation Systems, Inc. (the system developer) to scope and plan for the necessary updates to support the conversion of day pass users to Compass Card. The two agencies have been working with Cubic since February 2011 on scope, schedule, and cost and have come to a common understanding of what is necessary to support the next phase in the program.

The project consists of two proposals for software modifications. The first proposal will update the TVMs to streamline the purchase and reload of day passes on Compass Cards. The second proposal will update the bus farebox system to allow for the same functionality onboard MTS's fleet of buses. Both efforts will take approximately six months from contract to delivery. During that development period, MTS will develop the necessary customer education program to successfully move this effort from a pilot program to full operation.

Therefore, staff recommends that the Board authorize the CEO to execute MTS Doc. No. G1408.0-12 (in substantially the same format as Attachment A) with Cubic Transportation Systems, Inc. for fare-collection software upgrades to the trolley ticket vending machines (TVM) and bus fareboxes.


Paul C. Jablonski
Chief Executive Officer

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

SEPT15-11.12.TVM UPGRADES.MLAWRENCE

Attachment: A. Draft MTS Doc. No. G1408.0-12

DRAFT

STANDARD SERVICES AGREEMENT

G1408.0-12
 CONTRACT NUMBER
 CIP 11320
 FILE NUMBER(S)

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

Name: Cubic Transportation Systems, Inc. Address: 5650 Kearney Mesa Road

Form of Business: Corporation San Diego, CA 92111
 (Corporation, partnership, sole proprietor, etc.)

Telephone: 858.268.3100

Authorized person to sign contracts: Mike Margo Contract Manager
 Name Title

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

Provide fare collection software modifications and upgrades to the trolley ticket machines (TVMs) and bus fareboxes as described in Cubic Transportation, Inc.'s revised proposals. Compensation for these services will be per the negotiated sums of \$316,825 for the Driver Control Unit (DCU) bus farebox modifications and \$317,950 for the TVM modifications for a total project cost of \$634,775.

The term of the contract will be for a one-year period from October 1, 2011, through September 30, 2012. Tasks will be completed in accordance with the schedule agreed upon by MTS and the contractor.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM**CONTRACTOR AUTHORIZATION**

By: _____
 Chief Executive Officer

Approved as to form:

By: _____
 Office of General Counsel

Firm: _____

By: _____
 Signature

Title: _____

AMOUNT ENCUMBERED	BUDGET ITEM	FISCAL YEAR
\$634,775		2012

By: _____
 Chief Financial Officer Date

(____ total pages, each bearing contract number)