

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

BOARD OF DIRECTORS REGULAR MEETING AGENDA  
DECEMBER 9, 2005 (Second Friday of Each Month)  
\*SCMTD ENCINAL CONFERENCE ROOM\*  
\*370 ENCINAL STREET, SUITE 100\*  
SANTA CRUZ, CALIFORNIA  
9:00 a.m. – 11:00 a.m.

THE BOARD AGENDA PACKET CAN BE FOUND ONLINE AT [WWW.SCMTD.COM](http://WWW.SCMTD.COM)

## **NOTE: THE BOARD CHAIR MAY TAKE ITEMS OUT OF ORDER**

### **SECTION I: OPEN SESSION - 9:00 a.m.**

1. ROLL CALL
2. ORAL AND WRITTEN COMMUNICATION
  - a. Dan Stevenson Re: Strike Communication
3. LABOR ORGANIZATION COMMUNICATIONS
4. ADDITIONAL DOCUMENTATION TO SUPPORT EXISTING AGENDA ITEMS

### **CONSENT AGENDA**

- 5-1. ACCEPT AND FILE PRELIMINARILY APPROVED CLAIMS FOR THE MONTH OF NOVEMBER 2005  
Report: Attached
- 5-2. ACCEPT AND FILE NOVEMBER 2005 RIDERSHIP REPORT  
Report: **PAGE 1 WILL BE INCLUDED IN THE DECEMBER 16, 2005 BOARD PACKET**
- 5-3. CONSIDERATION OF TORT CLAIMS: DENY THE CLAIM OF ANDREW CHINELLO, CLAIM #05-0025
- 5-4. ACCEPT AND FILE THE METRO ADVISORY COMMITTEE (MAC) AGENDA FOR DECEMBER 21, 2005  
Agenda: Attached
- 5-5. ACCEPT AND FILE MONTHLY BUDGET STATUS REPORT FOR AUGUST 2005 AND APPROVAL OF BUDGET TRANSFERS  
Staff Report: Attached

- 5-6. ACCEPT AND FILE HIGHWAY 17 STATUS REPORT FOR JULY AND AUGUST 2005  
Report: Attached
- 5-7. ACCEPT AND FILE PARACRUZ OPERATIONS STATUS REPORT FOR THE MONTH OF SEPTEMBER 2005  
Staff Report: Attached
- 5-8. ACCEPT AND FILE UNIVERSITY OF CALIFORNIA, SANTA CRUZ SERVICE UPDATE FOR THE MONTH OF SEPTEMBER 2005  
Staff Report: **WILL BE INCLUDED IN THE DECEMBER 16, 2005 BOARD PACKET**
- 5-9. ACCEPT AND FILE METROBASE STATUS REPORT  
Staff Report: Attached
- 5-10. ACCEPT AND FILE MINUTES REFLECTING VOTING RESULTS FROM APPOINTEES TO THE SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION FOR THE NOVEMBER 2005 MEETINGS  
Staff Report: Attached
- 5-11. CONSIDERATION OF FINANCIAL STATEMENTS AND REPORT OF INDEPENDENT AUDITOR FOR YEAR ENDING JUNE 30, 2005  
Staff Report: **WILL BE INCLUDED IN THE DECEMBER 16, 2005 BOARD PACKET**
- 5-12. CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO RENEW THE CONTRACT WITH FOLGER GRAPHICS FOR THE PRINTING OF *HEADWAYS*  
Staff Report: Attached
- 5-13. CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO RENEW THE CONTRACT WITH CLASSIC GRAPHICS FOR VEHICLE BODY REPAIR AND PAINTING SERVICES  
Staff Report: Attached
- 5-14. CONSIDERATION OF REPORT ON RESULTS FROM THE FREE FARE PROMOTION AFTER THE TRANSIT STRIKE  
Staff Report: Attached
- 5-15. ACCEPT AND FILE SANTA CRUZ METRO'S PROPERTY INVENTORIES OF LEASED AND OWNED PROPERTY FOR 2005 WHICH INCLUDES A DETERMINATION OF PROPERTIES THAT ARE IN EXCESS OF METRO'S FORSEEABLE NEEDS  
Staff Report: Attached

- 5-16. CONSIDERATION OF A **RESOLUTION** AUTHORIZING AN AMENDED TDA CLAIM FOR FY 2006

Staff Report: Attached

- 5-17. CONSIDERATION OF APPROVAL OF AN AMENDED AND RESTATED GREAT WEST ELIGIBLE DEFERRED COMPENSATION PLAN FOR GOVERNMENTAL EMPLOYERS AND AMENDED ADOPTION AGREEMENT

Staff Report: Attached

### REGULAR AGENDA

6. PRESENTATION OF EMPLOYEE LONGEVITY AWARDS

Presented By: Chair Keogh

Staff Report: Attached

**THIS PRESENTATION WILL TAKE PLACE AT THE DECEMBER 16, 2005 BOARD MEETING**

7. CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT TO MODIFY NINE BUS SHELTERS

Presented By: Tom Stickel, Maintenance Manager

Staff Report: **WILL BE INCLUDED IN THE DECEMBER 16, 2005 BOARD PACKET**

8. CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT FOR STATE LEGISLATIVE SERVICES

Presented By: Tom Stickel, Maintenance Manager

Staff Report: Attached

9. CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT FOR FEDERAL LEGISLATIVE SERVICES

Presented By: Tom Stickel, Maintenance Manager

Staff Report: **WILL BE INCLUDED IN THE DECEMBER 16, 2005 BOARD PACKET**

10. CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONSTRUCTION CONTRACT FOR METROBASE FUELING AND SERVICING FACILITY AND RELATED SITE WORK

Presented By: Tom Stickel, Maintenance Manager

Staff Report: **WILL BE INCLUDED IN THE DECEMBER 16, 2005 BOARD PACKET**

11. CONSIDERATION OF APPROVAL OF 2006 STATE LEGISLATIVE PROGRAM

Presented By: Leslie R. White, General Manager

Staff Report: **WILL BE INCLUDED IN THE DECEMBER 16, 2005 BOARD PACKET**

12. CONSIDERATION OF APPROVAL OF 2006 FEDERAL LEGISLATIVE PROGRAM

Presented By: Leslie R. White, General Manager  
Staff Report: **WILL BE INCLUDED IN THE DECEMBER 16, 2005 BOARD PACKET**

13. CONSIDERATION OF APPOINTMENT OF NOMINEES TO MEMBERSHIP OF THE METRO ADVISORY COMMITTEE (MAC)

Presented By: Leslie R. White, General Manager  
Staff Report: Attached

14. REVIEW NEW LEGISLATION (AB 1234) WHICH BECOMES EFFECTIVE JANUARY 1, 2006, REGARDING LOCAL PUBLIC AGENCIES' COMPENSATION AND EHTICS REQUIREMENTS INCLUDING TRAINING AND CONSIDERATION OF NECESSARY MODIFICATIONS TO METRO'S BYLAWS

Presented By: Margaret Gallagher, District Counsel  
Staff Report: Attached

15. REVIEW OF ITEMS TO BE DISCUSSED IN CLOSED SESSION: District Counsel

16. ORAL AND WRITTEN COMMUNICATIONS REGARDING CLOSED SESSION

**SECTION II: CLOSED SESSION**

1. CONFERENCE WITH LABOR NEGOTIATOR  
(Pursuant to Government Code Section 54957.6)

a. Agency Negotiator: Leslie R. White, General Manager

1. Employee Organization: Service Employees International Union (SEIU), Local 415

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
(Pursuant to Government Code Section 54956.9)

a. Name of Case: Carlos Carrera vs. Santa Cruz Metropolitan Transit District  
(Before the Workers' Compensation Appeals Board)

**SECTION III: RECONVENE TO OPEN SESSION**

17. REPORT OF CLOSED SESSION

**ADJOURN**

**NOTICE TO PUBLIC**



Members of the public may address the Board of Directors on a topic not on the agenda but within the jurisdiction of the Board of Directors or on the consent agenda by approaching the Board during consideration of Agenda Item #2 "Oral and Written Communications", under Section I. Presentations will be limited in time in accordance with District Resolution 69-2-1.

When addressing the Board, the individual may, but is not required to, provide his/her name and address in an audible tone for the record.

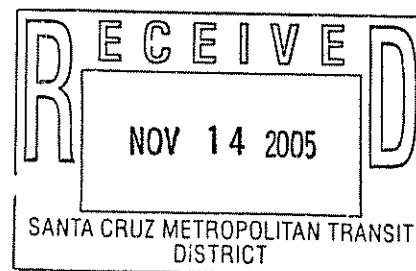
Members of the public may address the Board of Directors on a topic on the agenda by approaching the Board immediately after presentation of the staff report but before the Board of Directors' deliberation on the topic to be addressed. Presentations will be limited in time in accordance with District Resolution 69-2-1.

The Santa Cruz Metropolitan Transit District does not discriminate on the basis of disability. The Encinal Conference Room is located in an accessible facility. Any person who requires an accommodation or an auxiliary aid or service to participate in the meeting, please contact Cindi Thomas at 831-426-6080 as soon as possible in advance of the Board of Directors meeting. Hearing impaired individuals should call 711 for assistance in contacting METRO regarding special requirements to participate in the Board meeting.

November 13, 2005

Dan Stevenson  
Concerned Citizen

I believe it is appropriate to have a public hearing to allow for a more thorough conversation and public inquiry into the whole set of circumstances surrounding the bus strike. I think the Transit Board members could help heal the ongoing concerns of the public better by sponsoring such an event or series of events. To allow maximum participation I am suggesting two separate meetings of 3 hours each, one on a weeknight and the other on a weekend afternoon. Community T.V. could cover these events as well. I am suggesting that one take place in early January and the other take place in early February. They would be located at the Santa Cruz County Board of Supervisors chambers or the Santa Cruz City Council chambers. I am hoping that the Brown Act will not prohibit a question and answer format. If so, please feel free to amend this motion in whatever way is necessary to get around those limitations. While I am aware of the time constraints you face and the many challenges that lie ahead for the transit board, I strongly urge you to find a way to allow a more in depth discussion of those challenges than what is now possible in your regular meetings. The 30-minute (3 minute per person) system did not support a deeper understanding of the problems that drove the labor dispute and most of the public was left to rely on the sensationalism of the Santa Cruz Sentinel. I think the riding public deserves to know what kinds of things are going on inside the transit district so that they can better advocate for a transit system that serves them fully. Please adopt this proposal or something similar soon. Thanks for your consideration and efforts.



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SANTA CRUZ METROPOLITAN TRANSIT DISTRICT  
 CHECK JOURNAL DETAIL BY CHECK NUMBER  
 ALL CHECKS FOR COAST COMMERCIAL BANK

DATE: 11/01/05 THRU 11/30/05

CHECK NUMBER	CHECK DATE	CHECK AMOUNT	VENDOR	VENDOR NAME	VENDOR TYPE	TRANS. NUMBER	TRANSACTION DESCRIPTION	TRANSACTION AMOUNT	COMMENT
16322	11/10/05	4,060.00	001035	HARRIS & ASSOCIATES		6351	MB SEPT 05 PROF SVCS	4,060.00	
16323	11/10/05	7,346.86	001036	STANDARD INSURANCE COMPANY		6352	OCT LIFE/AD&D INS	3,497.93	
						6353	NOV LIFE/AD&D INS	3,848.93	
16324	11/10/05	11,160.62	001043	VISION SERVICE PLAN		6354	NOV VISION INS	11,160.62	
16325	11/10/05	3,091.68	001063	NEW FLYER INDUSTRIES LIMITED		6355	REV VEH PARTS	3,091.68	
16326	11/10/05	339.36	001315	WASTE MANAGEMENT		6356	OCT KINGS VILLAGE	152.89	
						6357	OCT HERMON/KINGS	44.10	
						6358	OCT RESEARCH PARK	142.37	
16327	11/10/05	2,409.64	001316	DEVCO OIL		6425	10/15-10/31 FUEL/FLT	2,409.64	
16328	11/10/05	4,280.37	001365	BORTNICK, ROBERT S. & ASSOC.	7	6359	CALL STOP SURVEY	4,280.37	
16329	11/10/05	1,056.00	001523	SANTA CRUZ MEDICAL CLINIC	7	6360	MEDICAL EXAMS/OPS	198.00	
						6361	MEDICAL EXAMS/OPS	858.00	
16330	11/10/05	12,913.57	001648	STEVE'S UNION SERVICE		6362	OCT FUEL PT	12,913.57	
16331	11/10/05	30.00	001944	SANTA CRUZ COUNTY LAW LIBRARY		6363	APRIL-JUNE COPIES	15.00	
						6364	JULY-SEPT COPIES	15.00	
16332	11/10/05	99.86	002063	COSTCO		6365	PHOTO PROCESS/OPS	2.93	
						6426	OFFICE SUPPLIES	96.93	
16333	11/10/05	2,000.00	002267	SHAW & YODER, INC.		6366	SEPT LEGISLATIVE SVC	2,000.00	
16334	11/10/05	1,228.00	002287	CALIFORNIA SERVICE EMPLOYEES		6367	NOV MEDICAL	1,228.00	
16335	11/10/05	40,362.45	002295	FIRST ALARM		6368	SEPT SECURITY	23,700.15	
						6369	SEPT STRIKE SECURITY	16,662.30	
16336	11/10/05	1,082.24	002459	SCOTTS VALLEY WATER DISTRICT		6370	8/8-10/6 KINGS VLG	1,053.48	
						6371	8/8-10/6 KINGS VLG	28.76	
16337	11/10/05	2,934.00	002495	CURIALE DELLAVERSON HIRSCHFELD	7	6372	LEGAL SVCS	2,934.00	
16338	11/10/05	384.00	002567	DEPARTMENT OF JUSTICE		6373	SEPT FINGERPRINTS	384.00	
16339	11/10/05	55,645.01	002569	COMERICA BANK		6374	WORK COMP FUND	55,645.01	
16340	11/10/05	601.51	002713	SANTA CRUZ AUTO TECH, INC.		6375	OUT RPR REV VEH/PT	601.51	
16341	11/10/05	800.01	002814	CREATIVE BUS SALES, INC.		6376	REV VEH PARTS	800.01	
16342	11/10/05	1,015.97	002830	BRADY COMPANY/CENTRAL CA INC		6427	MB BLUEPRINTS	1,015.97	
16343	11/10/05	713.01	004	NORTH BAY FORD LINC-MERCURY		6377	REV VEH PARTS/PT	713.01	
16344	11/10/05	8,340.04	009	PACIFIC GAS & ELECTRIC		6378	9/30-10/29 VERNON	2,291.97	
						6379	9/30-10/31 111 DUB	561.97	
						6380	10/1-10/29 111 DUB	559.54	
						6381	10/1-10/29 370 ENC	234.83	
						6382	9/30-10/29 GOLF CLUB	257.95	
						6383	9/30-10/29 GOLF CLUB	862.38	
						6384	9/30-10/29 1200 RVR	408.39	
						6385	9/30-10/28 1200 RVR	1,980.69	
						6386	9/29-10/28 RODRIGUEZ	38.55	
						6387	9/29-10/28 RODRIGUEZ	1,125.64	
						6388	9/27-10/25 SAKATA	7.84	
						6389	9/27-10/25 SAKATA	10.29	
16345	11/10/05	814.04	039	KINKO'S INC.		6390	FS OVSZ CL CT SQFT	814.04	
16346	11/10/05	4,512.84	079	SANTA CRUZ MUNICIPAL UTILITIES		6391	9/29-10/27 PACIFIC	67.04	
						6392	9/29-10/27 PACIFIC	1,394.93	
						6393	9/24-10/25 111 DUB	616.34	
						6394	9/24-10/25 370 ENC	67.73	
						6395	9/24-10/25 1200 RVR	1,504.69	
						6396	9/24-10/25 GOLF CLUB	862.11	
16347	11/10/05	610.34	135	SANTA CRUZ AUTO PARTS, INC.		6397	REV VEH PARTS/SUPPLY	610.34	

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16348	11/10/05	1,698.89	157	DELL MARKETING L.P.		6398	DELL PE830 SERVER	1,698.89	
16349	11/10/05	121.69	372	FEDERAL EXPRESS		6399	AUG MAIL/LGL	121.69	
16350	11/10/05	361.69	395	APPLIED GRAPHICS, INC.		6400	EMPLOYEE INCENT/OPS	146.76	
						6401	ENVELOPES/ADM	214.93	
16351	11/10/05	825.38	432	EXPRESS PERSONNEL SERVICES		6402	TEMP/FIN W/E 10/2	267.38	
						6403	TEMP/FIN W/E 10/16	279.00	
						6404	TEMP/FIN W/E 10/23	279.00	
16352	11/10/05	288.33	436	WEST PAYMENT CENTER		6405	CA PRAC GUIDE	113.66	
						6406	SEPT ACCESS CHGS	174.67	
16353	11/10/05	282.53	448	UNISOURCE		6407	COPY PAPER/OPS	282.53	
16354	11/10/05	212.54	534	REGENTS OF UNIVERSITY OF CALIF		6408	CVL WRT PR BK	212.54	
16355	11/10/05	190.24	580	BLOCK AND COMPANY, INC.		6409	CURRENCY STRAPS/OPS	190.24	
16356	11/10/05	1,945.60	733	CLAREMONT BEHAVIORAL SERVICES		6410	OCT EAP PREMIUM	972.80	
						6411	NOV EAP PREMIUM	972.80	
16357	11/10/05	2,000.00	804	ORTHOPAEDIC HOSPITAL	7	6412	SEPT PROF/TECH SVCS	2,000.00	
16358	11/10/05	1,586.15	852	LAW OFFICES OF MARIE F. SANG	7	6413	WORKER COMP CLAIMS	1,586.15	
16359	11/10/05	41,351.51	875	PACIFICARE DENTAL		6414	NOV DENTAL	41,351.51	
16360	11/10/05	53.77	876	ATCHISON, BARISON, CONDOTTI &		6415	PROF SVC THR 9/30 MB	53.77	
16361	11/10/05	3,840.00	878	KELLY SERVICES, INC.		6416	TEMP/ADM W/E 10/2	960.00	
						6417	TEMP/ADM W/E 10/9	960.00	
						6418	TEMP/ADM W/E 10/16	960.00	
						6419	TEMP/ADM W/E 10/23	960.00	
16362	11/10/05	2.50	880	SEISINT, INC.		6428	PROF/TECH SVCS/LGL	2.50	
16363	11/10/05	29,905.53	941	FORTIS BENEFITS INSURANCE CO.		6420	OCT LTD INSURANCE	14,954.89	
						6421	NOV LTD INSURANCE	14,950.64	
16364	11/10/05	65.00	E371	McINTYRE, WILLIAM		6422	DMV/VTT FEES	65.00	
16365	11/10/05	65.00	E374	OSORIO, EZEQUIEL		6423	DMV/VTT FEES	65.00	
16366	11/10/05	730.18	R043	COUNTY OF SANTA CRUZ		6424	SETTLEMENT CLAIM	730.18	
16367	11/14/05	100.00	B016	SKILLICORN, DALE	7	6521	OCT BOARD MTG	100.00	MANUAL
							OCT BOARD MTG		
16368	11/18/05	997.40	001048	CRUZ CAR WASH		6429	VEH WAS SVCS/PT	997.40	
16369	11/18/05	125.00	001062	ALLTERRA ENVIRONMENTAL INC.		6430	SEPT 05 PROF SVCS	125.00	
16370	11/18/05	363.86	001063	NEW FLYER INDUSTRIES LIMITED		6431	REV VEH PARTS 364	363.86	
16371	11/18/05	10,638.00	001071	QQUEST SOFTWARE SYSTEMS, INC.		6465	T/CLCK/CARDS	10,638.00	
16372	11/18/05	11,098.44	001075	SOQUEL III ASSOCIATES	7	9000447	RESEARCH PARK RENT	11,098.44	
16373	11/18/05	7,590.00	001076	BROUGHTON LAND, LLC		9000448	110 VERNON ST RENT	7,590.00	
16374	11/18/05	1,407.05	001119	MACERICH PARTNERSHIP LP	7	9000449	CAPITOLA MALL RENT	1,407.05	
16375	11/18/05	1,279.98	001346	CITY OF SANTA CRUZ		6432	STRM FLD/WATER	1,279.98	
16376	11/18/05	96.75	001454	MONTEREY BAY OFFICE PRODUCTS		6433	COPIER OVERAGE/FLT	96.75	
16377	11/18/05	82.63	001733	STOODLEY'S SMALL ENGINE SERVIC	7	6434	REPAIRS/MAINTENANCE	82.63	
16378	11/18/05	3,515.59	001A	SBC/MCI		6466	OCT PHONES	1,635.72	
						6467	OCT PHONES/IT	178.00	
						6468	OCT PHONES/IT	178.00	
						6469	OCT PHONES/IT	92.66	
						6470	OCT PHONES/IT	611.41	
						6471	OCT PHONES/PT	508.80	
						6472	OCT PHONES/PT	311.00	
						6473	PHOTO PROCESS/OPS	24.48	
16379	11/18/05	24.48	002063	COSTCO		6473	PHOTO PROCESS/OPS	24.48	
16380	11/18/05	25,509.83	002116	HINSHAW, EDWARD & BARBARA	7	9000450	370 ENCINAL RENT	25,509.83	
16381	11/18/05	13,888.00	002117	IULIANO, NICK	7	9000451	111 DUBOIS RENT	10,888.00	

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SANTA CRUZ METROPOLITAN TRANSIT DISTRICT  
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DATE: 11/01/05 THRU 11/30/05

CHECK NUMBER	CHECK DATE	CHECK AMOUNT	VENDOR	VENDOR NAME	VENDOR TRANS. TYPE	TRANS. NUMBER	TRANSACTION DESCRIPTION	TRANSACTION AMOUNT	COMMENT
					9000452	115	DUBOIS RENT	3,000.00	
16382	11/18/05	94.89	002189	BUS & EQUIPMENT	6435		REV VEH PARTS/PT	94.89	
16383	11/18/05	2,250.00	002238	CRANE CERTIFICATION CO.	6436		ANNUAL INSPECTIONS	2,250.00	
16384	11/18/05	220.00	002700	SANTA CRUZ COUNTY	6437		HEALTH PERMIT/PT	220.00	
16385	11/18/05	2,414.31	002713	SANTA CRUZ AUTO TECH, INC.	6522		OUT RPR REV VEH/PT	2,414.31	
16386	11/18/05	954.57	002721	NEXTEL COMMUNICATIONS	6438		10/4-11/3 PHONES/PT	954.57	
16387	11/18/05	93.72	002826	HOLIDAY MUFFLER SERVICE	6474		OUT RPR REV VEH/PT	93.72	
16388	11/18/05	1,905.53	002829	VALLEY POWER SYSTEMS, INC.	6475		REV VEH PARTS	1,905.53	
16389	11/18/05	486.06	004	NORTH BAY FORD LINC-MERCURY	6439		OUT REPAIR-OTHER	247.16	
					6440		OUT REPAIR-OTHER	238.90	
16390	11/18/05	92.47	007	UNITED PARCEL SERVICE	6441		OCT/NOV FREIGHT	92.47	
16391	11/18/05	2,032.62	009	PACIFIC GAS & ELECTRIC	6476		10/11-11/8 KINGS VLG	470.50	
					6477		10/11-11/8 KINGS VLG	14.14	
					6478		10/6-11/3 PACIFIC	111.99	
					6479		10/5-11/3 PACIFIC	480.86	
					6480		10/6-11/3 PACIFIC	802.56	
					6481		9/30-10/31 CNG/G RVR	13.48	
					6482		9/30-10/29 CNG/E RVR	139.09	
16392	11/18/05	8,060.26	018	SALINAS VALLEY FORD SALES	6442		REV VEH PARTS	7,701.62	
					6403		REV VEH PARTS	358.64	
16393	11/18/05	552.31	041	MISSION UNIFORM	6443		SEPT UNIF/LAUN FAC	449.36	
					6484		OCT UNIF/LAUN/PT	102.95	
16394	11/18/05	155.45	067	ROTO-ROOTER	6444		OUT RPR-BLD/GRDS	155.45	
16395	11/18/05	1,104.01	079	SANTA CRUZ MUNICIPAL UTILITIES	6485		9/24-10/25 370 ENC	1,104.01	
16396	11/18/05	658.71	085	DIXON & SON TIRE, INC.	6445		OUT RPR TIR/TUB/PT	658.71	
16397	11/18/05	3,839.35	110	JESSICA GROCERY STORE, INC.	9000453		CUSTODIAL SERVICES	3,839.35	
16398	11/18/05	2,823.94	117	GILLIG CORPORATION	6446		REV VEH PARTS	677.06	
					6447		REV VEH PARTS	2,146.88	
16399	11/18/05	98.55	130	CITY OF WATSONVILLE UTILITIES	6486		10/1-11/1 RODRIGUEZ	9.70	
					6487		10/1-11/1 SAKATA	13.73	
					6488		10/3-11/1 SAKATA	75.12	
16400	11/18/05	32.46	135	SANTA CRUZ AUTO PARTS, INC.	6489		SM TOOL/FLT	32.46	
16401	11/18/05	26.40	149	SANTA CRUZ SENTINEL	6490		SEPT ADVERTISING/FLT	26.40	
16402	11/18/05	980.59	161A	OCEAN CHEVROLET	6491		REV VEH PARTS/PT	980.59	
16403	11/18/05	109.69	172	CENTRAL WELDER'S SUPPLY, INC.	6492		PARTS & SUPPLY/FLT	109.69	
16404	11/18/05	25.00	188	PACIFIC BUS MUSEUM	6448		BUS NEWSLETTER	25.00	
16405	11/18/05	60.00	271	CARLSON, BRENT D., M.D., INC.	6493		NOV DRUG TESTING	60.00	
16406	11/18/05	243.33	282	GRAINGER	6449		REPAIRS/MAINTENANCE	243.33	
16407	11/18/05	13.74	294	ANDY'S AUTO SUPPLY	6494		REV VEH PARTS	13.74	
16408	11/18/05	40.00	347	HAMM, SCOTT	6451		BACKFLOW TEST	40.00	
16409	11/18/05	129.69	372	FEDERAL EXPRESS	6495		OCT MAIL/FLT	15.42	
					6496		SEP/OCT MAIL/ADM	94.49	
					6497		SEPT MAIL/LGL	19.78	
16410	11/18/05	111.76	395	APPLIED GRAPHICS, INC.	6452		PRINTING/FLT	111.76	
16411	11/18/05	163.71	434	VERIZON WIRELESS-PAGERS	6453		NOV PAGERS/FAC	131.91	
					6454		NOV PAGERS/FLEET	31.80	
16412	11/18/05	53.61	434B	VERIZON CALIFORNIA	6455		MT BIEWLASKI	53.61	
16413	11/18/05	180.00	481	PIED PIPER EXTERMINATORS, INC.	6456		NOV PEST CONTROL	180.00	
16414	11/18/05	13,475.90	504	CUMMINS WEST, INC.	6457		REV VEH PARTS	12.30	
					6458		REV VEH PARTS	13,463.60	

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SANTA CRUZ METROPOLITAN TRANSIT DISTRICT  
 CHECK JOURNAL DETAIL BY CHECK NUMBER  
 ALL CHECKS FOR COAST COMMERCIAL BANK

DATE: 11/01/05 THRU 11/30/05

CHECK NUMBER	CHECK DATE	CHECK AMOUNT	VENDOR NAME	VENDOR TYPE	TRANS. NUMBER	TRANSACTION DESCRIPTION	TRANSACTION AMOUNT	COMMENT
16415	11/18/05	59.98	669 COMPUTER BOOK DIRECT		6498	WIN 2003 NET BK	59.98	
16416	11/18/05	3,758.76	681 SCOTTS BODY SHOP	7	6459	ACCIDENT DAMAGE RPR	3,758.76	
16417	11/18/05	2,381.03	851 I.M.P.A.C. GOVERNMENT SERVICES		6499	4055019201230622	2,381.03	
16418	11/18/05	2,160.00	852 LAW OFFICES OF MARIE F. SANG	7	6500	WORKER COMP CLAIM	675.00	
					6501	WORKER COMP CLAIMS	795.00	
					6502	WORKER COMP CLAIMS	690.00	
16419	11/18/05	37.00	884 UNITED STATES POSTAL SERVICE		6503	POSTAGE/FLEET	37.00	
16420	11/18/05	792.00	914 CALTRONICS BUSINESS SYSTEMS		6460	7/05-6/06 COPY MAINT	792.00	
16421	11/18/05	450.00	916 DOCTORS ON DUTY		6504	AUG/SEP DRUG TESTING	450.00	
16422	11/18/05	2,795.00	943 CLEAN BUILDING MAINTENANCE		6461	OCT JANITORIAL SVCS	2,795.00	
16423	11/18/05	627.00	950 PARADISE LANDSCAPE	7	6462	NOV MAINTENANCE	627.00	
16424	11/18/05	21,924.11	977 SANTA CRUZ TRANSPORTATION, LLC		6505	OCT 05 PT SVCS	21,924.11	
16425	11/18/05	2,400.00	993 WORK PERFORMANCE CENTER		6463	EMPLOYMENT PHYSICALS	2,400.00	
16426	11/18/05	100.00	B003 BEAUTZ, JAN	7	6506	OCT BOARD MTG	100.00	
16427	11/18/05	50.00	B006 HINKLE, MICHELLE	7	6508	OCT BOARD MTG	50.00	
16428	11/18/05	100.00	B007 KEOGH, MICHAEL	7	6509	OCT BOARD MTG	100.00	
16429	11/18/05	100.00	B011 REILLY, EMILY	7	6511	OCT BOARD MTG	100.00	
16430	11/18/05	100.00	B012 SPENCE, PAT	7	6513	OCT BOARD MTG	100.00	
16431	11/18/05	100.00	B014 CITY OF WATSONVILLE		6515	OCT BOARD MTG	100.00	
16432	11/18/05	100.00	B015 ROTKIN, MIKE	7	6512	OCT BOARD MTG	100.00	
16433	11/18/05	100.00	B017 STONE, MARK	7	6514	OCT BOARD MTG	100.00	
16434	11/18/05	100.00	B018 BUSTICHI, DENE	7	6507	OCT BOARD MTG	100.00	
16435	11/18/05	100.00	B019 HARLAN, STEPHANIE	7	6510	OCT BOARD MTG	100.00	
16436	11/18/05	45.00	E015 ANDERSON, WILLIAM		6516	DMV/VTT FEES	45.00	
16437	11/18/05	35.00	E395 GARCIA, SAMUEL		6517	LICENSE RENEWAL	35.00	
16438	11/18/05	229.97	M003 WYANT, JUDI		9000454	RETIREE STIPEND	229.97	
16439	11/18/05	254.52	M005 ROSS, EMERY		9000455	RETIREE STIPEND	254.52	
16440	11/18/05	459.94	M006 VAN DER ZANDE, ED		9000456	RETIREE STIPEND	459.94	
16441	11/18/05	750.34	M007 BLAIR-ALWARD, GREGORY		9000457	RETIREE STIPEND	750.34	
16442	11/18/05	1,075.65	M009 FREEMAN, MARY		9000458	RETIREE STIPEND	1,075.65	
16443	11/18/05	364.49	M010 SHORT, SLOAN		9000459	RETIREE STIPEND	364.49	
16444	11/18/05	184.57	M016 HICKLIN, DONALD KENT		9000460	RETIREE STIPEND	184.57	
16445	11/18/05	179.92	M022 CAPELLA, KATHLEEN		9000461	RETIREE STIPEND	179.92	
16446	11/18/05	179.92	M024 DOBBS, GLENN		9000462	RETIREE STIPEND	179.92	
16447	11/18/05	75.17	M056 CRUISE, RICHARD		9000463	RETIREE STIPEND	75.17	
16448	11/18/05	19.93	M057 PARHAM, WALLACE		9000464	RETIREE STIPEND	19.93	
16449	11/18/05	19.93	M058 POTEETE, BEVERLY		9000465	RETIREE STIPEND	19.93	
16450	11/18/05	90.00	T100 ODEN, GREG		6518	OCT HWY 17 FLASH PAS	90.00	
16451	11/18/05	72.00	T101 WENTZEL, MARC		6519	OCT/NOV MNTHY PASS	72.00	
16452	11/18/05	2,000.00	T102 AZZUBAIDI, ABDO		6520	TENANT SECURITY DEP	2,000.00	
TOTAL		417,928.82	COAST COMMERCIAL BANK		TOTAL CHECKS	131	417,928.82	

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**Page 1 of the November Ridership  
Report will be included in the December  
16, 2005 Board Packet.**

5-2.1

BUS OPERATOR LIFT TEST \*PULL-OUT\*

VEHICLE CATEGORY	TOTAL BUSES	AVG # DEAD IN GARAGE	AVG # AVAIL. FOR SERVICE	AVG # IN SERVICE	AVG # SPARE BUSES	AVG # LIFTS OPERATING	% LIFTS WORKING ON PULL-OUT BUSES
FLYER/HIGHWAY 17 - 40'	7	0	7	0	7	0	100%
FLYER/LOW FLOOR - 40'	12	2	10	9	1	9	100%
FLYER/LOW FLOOR - 35'	18	2	16	12	4	12	100%
FLYER/HIGH FLOOR - 35'	15	1	14	7	7	7	100%
GILLIG/SAM TRANS - 40'	10	2	8	6	2	6	100%
DIESEL CONVERSION - 35'	15	3	12	11	1	11	100%
DIESEL CONVERSION - 40'	14	4	10	8	2	8	100%
ORION/HIGHWAY 17 - 40'	11	2	9	7	2	7	100%
GOSHEN	3	0	3	1	2	1	100%
TROLLEY	1	0	1	0	1	0	100%
CNG NEW FLYER - 40'	8	1	7	6	1	6	100%

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SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

PASSENGER LIFT PROBLEMS

MONTH OF NOVEMBER 2005

BUS #	DATE	DAY	REASON
8077F	21-Nov	Monday	Lift does not stow all the way. It gets stuck before it stows
8080F	17-Nov	Thursday	Kneel won't stay down
8080F	18-Nov	Friday	Air leak on kneel
8081C	8-Nov	Tuesday	Kneel does not stay down when you kneel it
8081F	23-Nov	Wednesday	Lift deploys and stows slowly
9801LF	18-Nov	Friday	Lift does not work
9817LF	18-Nov	Friday	Ramp ligh on door burnt out
9819LF	13-Nov	Sunday	Kneel keeps going after it is supposed to stop.
9836G	22-Nov	Tuesday	Lift will not stow

F New Flyer  
 G Gillig  
 C Champion  
 LF Low Floor Flyer  
 GM GMC  
 CG CNG  
 CN SR855 & SR854  
 OR Orion/Hwy 17

Note: Lift operating problems that cause delays of less than 30 minutes.

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Dropped Service for FY 2006

Month	FY 2006		FY 2005	
	Dropped Hours	Dropped Miles	Dropped Hours	Dropped Miles
July	0	0	1.35	42.89
August	213.92	3,575.86	0.00	0.00
September	140.97	2,336.50	0.76	18.87
October	STRIKE	STRIKE	0.00	0.00
November	113.77	1,780.56	0.00	0.00
December			0.00	0.00
January			6.07	127.13
February			23.31	276.75
March			8.66	99.08
April			37.96	641.12
May			1.50	37.03
June			4.15	69.30
<b>TOTAL</b>	<b>468.66</b>	<b>7,692.92</b>	<b>83.76</b>	<b>1,312.17</b>

5-2.4

# GOVERNMENT TORT CLAIM

## RECOMMENDED ACTION

TO: Board of Directors

FROM: District Counsel

RE: Claim of: Chinello, Andrew Received: [date] Claim #: 05-0025  
Date of Incident: 07/12/05 Occurrence Report No.: SC 07-05-05 (a)

In regard to the above-referenced Claim, this is to recommend that the Board of Directors take the following action:

- 1. Reject the claim entirely.
- 2. Deny the application to file a late claim.
- 3. Grant the application to file a late claim.
- 4. Reject the claim as untimely filed.
- 5. Reject the claim as insufficient.
- 6. Allow the claim in full.
- 7. Allow the claim in part, in the amount of \$ \_\_\_\_\_ and reject the balance.

By Margaret Gallagher  
Margaret Gallagher  
DISTRICT COUNSEL

Date: 12/05/05

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I, Cindi Thomas, do hereby attest that the above Claim was duly presented to and the recommendations were approved by the Santa Cruz Metropolitan Transit District's Board of Directors at the meeting of December 16, 2005.

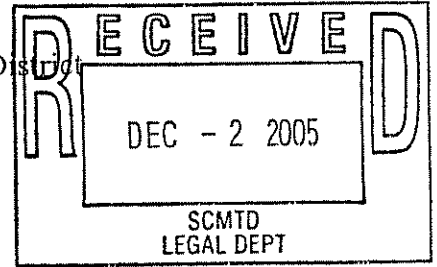
By \_\_\_\_\_  
Cindi Thomas  
RECORDING SECRETARY

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

MG/lg  
Attachment(s)

5-3.1

**CLAIM AGAINST THE SANTA CRUZ METROPOLITAN TRANSIT DISTRICT**  
(Pursuant to Section 910 et Seq., Government Code)  
Claim # 05-0025



TO: BOARD OF DIRECTORS, Santa Cruz Metropolitan Transit District  
ATTN: Secretary to the Board of Directors  
370 Encinal Street, Suite 100  
Santa Cruz, CA 95060

1. Claimant's Name: ANDREW CHINELLO
- Claimant's Address/Post Office Box: 215 FERN ST. SANTA CRUZ, CA 95060
- Claimant's Phone Number: 831-460-0320
2. Address to which notices are to be sent: 215 FERN ST. SANTA CRUZ, CA 95060
3. Occurrence: REAR END ACCIDENT / HIT BY CITY METRO BUS  
SANTA CRUZ POLICE TRAFFIC COLLISION REPORT # 055-07446  
Date: 7-12-05 Time: 2:57 Place: CATHCART AND FRONT ST.  
Circumstances of occurrence or transaction giving rise to claim:  
WHILE STOPPED AT TRAFFIC SIGNAL ON CATHCART, I WAS HIT BY A CITY METRO BUS FROM THE REAR. I WAS THE DRIVER OF THE VEHICLE HIT. BY THE BUS. I SUSTAINED SOME BACK INJURY AND RECEIVED MEDICAL CARE.
4. General description of indebtedness, obligation, injury, damage, or loss incurred so far as is known: MEDICAL BILLS - LOSS OF TIME - PAIN & SUFFERING
5. Name or names of public employees or employees causing injury, damage, or loss, if known: LUCERE WHITNEY - METRO BUS DRIVER
6. Amount claimed now ..... \$ SEE ATTACHMENT  
Estimated amount of future loss, if known ..... \$ \_\_\_\_\_  
TOTAL ..... \$ \_\_\_\_\_
7. Basis of above computations: MED BILLS - LOSS OF TIME - PAIN & SUFFERING  
THIS CLAIM WILL BE A LIMITED CIVIL CASE

Andrew Chinello  
CLAIMANT'S SIGNATURE (or Company Representative or Parent of Minor Claimant)

7-29-05  
DATE

Note: Claim must be presented to the Secretary to the Board of Directors, Santa Cruz Metropolitan Transit District

**5-3.2**

November 29, 2005

SANTA CRUZ METRO TRANSIT DISTRICT  
ATTN: Secretary to the Board of Directors  
370 Encinal Street Ste100  
Santa Cruz, CA 95060

RE: Metro Occurrence Report #SC07-05-05 Incident Date: 7/12/05

Dear Sir,

On the evening of 7/12/05 I was stopped at the traffic signal on Cathcart and Front Streets when I was struck from the rear by a city metro bus.

When I approached the driver of the bus she immediately stated that it was her fault and was very sorry for hitting me.

I am writing to submit my claim for the accident. I have needed medical care and have included all the information with this letter that I thought would be necessary to process my claim. I hope to deal with you in good faith and feel no need for this to go to court.

Enclosed is an itemized list of expenses to this date. I have also projected future medical costs as determined by my Doctor.

I feel I have suffered a loss as a result of this accident physically, emotionally and monetarily. I do not wish to exaggerate the losses, I would just like to be compensated for my losses and suffering due to someone else's mistake. Since I was at no fault in this accident, I would appreciate if the responsible party would take care of the losses I have sustained so that court action will not be necessary. I will be waiting for a timely response.

Sincerely,

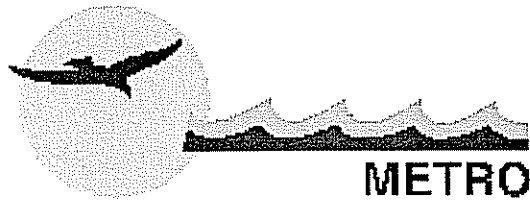
  
Andrew Chinello

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LIST OF EXPENSES DUE TO ACCIDENT

1. Medical Bills	\$1720.00
2. Time Lost	\$ 439.00
3. Future Medical Care	\$2500.00
4. Pain & Suffering	\$7,500.00

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**Agenda**  
**Metro Advisory Committee**

6:00 pm  
December 21, 2005  
920 Pacific Avenue  
Santa Cruz, California

- I. Roll Call
- II. Agenda Additions/Deletions
- III. Oral/Written Communication
- IV. Consideration of Minutes of November 16, 2005 MAC Meeting
- V. Receive Information Relative to Bus Operator Training
- VI. Discussion of Possible Grants for Holiday Service
- VII. Discussion of ParaTransit Coordination Task Force Recommendations
- VIII. Consideration of 2006 MAC Meeting Schedule
- IX. Communications to METRO General Manager
- X. Communications to METRO Board of Directors
- XI. Items for Next Meeting Agenda
- XII. Adjournment

Next Meeting: Wednesday January 18, 2005 @ 6:00 pm  
Santa Cruz Metro Conference Room

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**SANTA CRUZ METROPOLITAN TRANSIT DISTRICT**

**Minutes- METRO Advisory Committee (MAC)**

**November 16, 2005**

A Regular Meeting of the METRO Advisory Committee (MAC) met on Wednesday, November 16, 2005 at the METRO Center Conference Room, 920 Pacific Avenue, Santa Cruz, CA.

Chair Paul Marcelin-Sampson called the meeting to order at 6:10 p.m.

**1. ROLL CALL:**

**MEMBERS PRESENT**

Norm Hagen  
Paul Marcelin-Sampson, Chair  
Mara Murphy  
Dennis Papadopulo  
Stuart Rosenstein  
Lesley Wright  
Robert Yount, Vice-Chair

**MEMBERS ABSENT**

Dan Alper  
Dave Williams

**STAFF PRESENT**

Steve Paulson, ParaCruz Administrator  
Leslie White, General Manager

**2. AGENDA ADDITIONS/DELETIONS**

None

**3. ORAL/WRITTEN COMMUNICATIONS**

Oral: Robert Yount reported that cigarette smoke has been wafting through the lobby at METRO Center. He quoted a passage from a report by the California Environmental Protection Agency relative to environmental tobacco smoke.

Oral: Chair Marcelin-Sampson advised that MAC members Dave Williams and Dan Alper would not be in attendance at the meeting. He stated Dan Alper's absence would be excused due to illness; but Dave Williams' absence status would be decided later, when the reason for his absence became known. Chair Marcelin-Sampson advised MAC that a public meeting regarding Highway 1 auxiliary lanes would take place on November 17, 2005. He advised MAC that the next METRO Board meeting would take place in Watsonville. He distributed a copy of the METRO Board of Directors 2006 meeting schedule.

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Oral: Les White advised MAC of the pending METRO Board Resolution to declare December 1, 2005, as Rosa Parks Day. He stated that a ceremony would take place at METRO Center on that day, at 3:00 p.m. He said transit systems around the country would observe a one-minute pause in their schedule at noon, in honor of Ms. Parks. He went on to say that METRO solicited donations to fund the Rosa Parks Day celebration, which could include removal of the collection of cash fares on that day, if sufficient donations are received.

**ACTION: MOTION: CHAIR MARCELIN-SAMPSON SECOND: LESLEY WRIGHT**

**MAKE THE NECESSARY FINDINGS TO ADD DISCUSSION OF THE ROSA PARKS DAY CELEBRATION TO TODAY'S AGENDA AS AN EMERGENCY ITEM SINCE IT CAME TO MAC'S ATTENTION AFTER THE POSTING OF TODAY'S MAC AGENDA AND THERE IS A NEED TO TAKE ACTION BEFORE THE NEXT MAC MEETING.**

**Motion passed unanimously with Dan Alper and Dave Williams being absent.**

Oral: Les White detailed the Rosa Parks Day celebration on December 1, 2005. He also detailed the Board's presentation of a Resolution of Appreciation that will be presented to Representative Sam Farr by the Board of Directors on December 2, 2005.

**4. CONSIDERATION OF MINUTES OF SEPTEMBER 21, 2005 MAC MEETING (OCTOBER MEETING CANCELLED DUE TO THE STRIKE)**

**ACTION: MOTION: ROBERT YOUNT SECOND: LESLEY WRIGHT**

**ACCEPT AND FILE MINUTES OF THE SEPTEMBER 21, 2005, MAC MEETING.**

**Motion passed unanimously with Dan Alper and Dave Williams being absent.**

**5. DISCUSSION OF ROUTE 54**

Dennis Papadopulo detailed his unsettling experience as a bus rider from early September. He said he waited for a bus that normally stopped on Route 54. He waited a long time for the bus to arrive until he was told the bus didn't stop there anymore. He stated that several times in the recent past he waited for regularly scheduled buses to arrive, only to learn that the bus service he'd been expecting had been cancelled. Les White detailed the provisions of Industrial Wage Order Number 9. He stated that Mr. Papadopulo's recent experience of lack of reliable bus service could possibly be due to implementation of the Order. He explained that the District, in anticipation of bus operator staffing shortages that would inevitably occur as a result of the Order, prepared new bus operators for training. He said that at the time of the strike, new bus operators were

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ready and available for their training. He said the training was halted by both UTU and SEIU due to the strike. He said that even though the strike is resolved, bus riders are suffering from its residual effects and the strike's aftermath has created an unfortunate situation for bus riders. He said unreliable bus service is the norm until the new bus operators have completed their training.

**ACTION: MOTION: STUART ROSENSTEIN SECOND: NORM HAGEN**

**MAKE THE NECESSARY FINDINGS TO ADD DISCUSSION OF THE LACK OF RELIABLE BUS SERVICE TO TODAY'S AGENDA AS AN EMERGENCY ITEM SINCE IT CAME TO MAC'S ATTENTION AFTER THE POSTING OF TODAY'S MAC AGENDA AND THERE IS A NEED TO TAKE ACTION BEFORE THE NEXT MAC MEETING**

**Motion passed unanimously with Dan Alper and Dave Williams being absent.**

**6. REVIEW AND DISCUSSION OF "ZEN AND THE ART OF BUS RIDING"**

MAC reviewed, discussed, and revised the Zen document.

**ACTION: MOTION: PAUL MARCELIN-SAMPSON SECOND: DENNIS PAPADOPULO**

**MAC RECOMMENDS THAT "THE ART OF BUS RIDING" BE RELEASED AT THE BEGINNING OF THE NEW YEAR, AND THAT IT BE FORMATTED SO THAT IT IS LEGIBLE FROM A SEATED POSITION, AND THAT IT BE TRANSLATED INTO SPANISH, AND THAT THE CAPITALIZATION BE FIXED AS WELL**

**Motion passed unanimously with Dan Alper and Dave Williams being absent.**

**7. DISCUSSION OF FACILITATING INFORMATION EXCHANGE BETWEEN BUS OPERATORS AND BUS PASSENGERS.**

MAC members detailed their experience as bus riders relative to the level of service they've received from bus operators when they've asked for help with directions. Les detailed the District's history of providing bus operators with sensitivity training. He suggested that the District's Training Coordinator be invited to attend the next MAC meeting to hear MAC's concerns. Lesley Wright stated that the District could improve the current level of service provided to disabled passengers. She stated that it's been her observation and experience that bus operators are providing inadequate securement of wheelchairs. Discussion ensued as to how to facilitate conversation between bus operators and passengers without compromising safety.

5-4.4

**8. DISCUSSION OF POSSIBLE GRANTS FOR HOLIDAY SERVICE**

Discussion of this topic was deferred.

**9. DISCUSSION OF PLACING SIGNS FOR MAC IN BUSES**

Stuart stated he would touch base with Les.

**10. DISCUSSION OF PARATRANSIT COORDINATION TASK FORCE RECOMMENDATIONS**

MAC sub-committee members calendared future meetings.

**10b. DISCUSSION OF ROSA PARKS DAY CELEBRATION**

**MOTION: ROBERT YOUNT SECOND: NORM HAGEN**

**MAC RECOMMENDS THAT THE METRO BOARD COMMEMORATE DECEMBER 1, 2005, AS ROSA PARKS DAY**

Motion passed unanimously with Dan Alper and Dave Williams being absent.

**10c. DISCUSSION OF DROPPED BUS SERVICE AND BUS TRIPS**

**MOTION: STUART ROSENSTEIN SECOND: LESLEY WRIGHT**

**MAC STRONGLY RECOMMENDS THAT THE METRO BOARD URGE METRO DRIVERS TO MINIMIZE THE USE OF ANNUAL LEAVE AND SICK LEAVE TO THE DEGREE POSSIBLE TO REDUCE TO THE EXTENT POSSIBLE THE NUMBER OF MISSED TRIPS FOR SERVICE**

MAC expressed their strong feelings of displeasure relative to the recent labor action and its residual effects.

Motion passed unanimously with Dan Alper and Dave Williams being absent.

**11 COMMUNICATIONS TO GENERAL MANAGER**

Norm Hagen advised that he would be making a statement at the next Board of Director's meeting relative to Watsonville bus service.

**12. COMMUNICATION TO THE METRO BOARD OF DIRECTORS**

None.

5-4.5

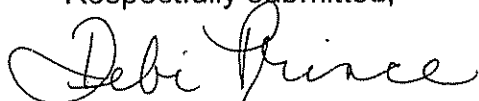
**13. ITEMS FOR NEXT MEETING AGENDA**

- Receive Information Relative to Bus Operator Training
- Discussion of Possible Grants for Holiday Service
- Discussion of ParaTransit Coordination Task Force Recommendations

**ADJOURN**

There being no further business, Chair Marcelin-Sampson thanked everyone for participating, and he adjourned the meeting at 7:58 p.m.

Respectfully submitted,



DEBI PRINCE  
ADMINISTRATIVE SECRETARY

DRAFT

5-4.6

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Elisabeth Ross, Finance Manager  
**SUBJECT:** MONTHLY BUDGET STATUS REPORT FOR AUGUST 2005 AND APPROVAL OF BUDGET TRANSFERS

## I. RECOMMENDED ACTION

**Staff recommends that the Board of Directors approve the budget transfers for the period of September 1 – October 31, 2005.**

## II. SUMMARY OF ISSUES

- Operating revenue for the year to date totals \$3,709,471 or \$36,813 over the amount of revenue expected to be received during the first two months of the fiscal year.
- Total operating expenses for the year to date in the amount of \$4,980,577 are at 14.6% of the budget.
- A total of \$130,466 has been expended through August 31<sup>st</sup> for the FY 05-06 Capital Improvement Program.

## III. DISCUSSION

An analysis of the District's budget status is prepared monthly in order to apprise the Board of Directors of the District's actual revenues and expenses in relation to the adopted operating and capital budgets for the fiscal year. The attached monthly revenue and expense report represents the status of the District's FY 05-06 budget as of August 31, 2005. The fiscal year is 16.7% elapsed.

### A. Operating Revenues

Revenues are \$36,813 over the amount to be received for the period. Variances are explained in the notes following the report.

### B. Operating Expenses

Operating expenses for the year to date total \$4,980,577 or 14.6% of the budget, with 16.7% of the year elapsed. Variances are explained in the notes following the report.

### C. Capital Improvement Program

For the year to date, a total of \$130,466 has been expended on the Capital Improvement Program. Of this, \$47,837 has been spent on MetroBase.

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**IV. FINANCIAL CONSIDERATIONS**

Approval of the budget transfers will increase some line item expenses and decrease others. Overall, the changes are expense-neutral.

**V. ATTACHMENTS**

**Attachment A:** Revenue and Expense Report for August 2005, and Budget Transfers

5-5.2

MONTHLY REVENUE AND EXPENSE REPORT  
OPERATING REVENUE - AUGUST 2005

Attachment **A**

Operating Revenue	FY 05-06 Budgeted for Month	FY 05-06 Actual for Month	FY 05-06 Budgeted YTD	FY 04-05 Actual YTD	FY 05-06 Actual YTD	YTD Variance from Budgeted	
Passenger Fares	\$ 311,897	\$ 307,876	\$ 623,617	\$ 611,379	\$ 604,882	\$ (18,735)	
Paratransit Fares	\$ 24,717	\$ 17,914	\$ 50,461	\$ 24,304	\$ 35,556	\$ (14,905)	
Special Transit Fares	\$ 53,915	\$ 50,019	\$ 109,704	\$ 106,415	\$ 113,477	\$ 3,773	
Highway 17 Revenue	\$ 86,859	\$ 93,873	\$ 169,261	\$ 169,260	\$ 177,532	\$ 8,271	
<i>Subtotal Passenger Rev</i>	\$ 476,788	\$ 469,682	\$ 953,043	\$ 911,358	\$ 931,447	\$ (21,596)	See Note 1
Advertising Income	\$ 4,167	\$ 7,435	\$ 8,333	\$ 7,000	\$ 9,460	\$ 1,127	See Note 2
Commissions	\$ 500	\$ 545	\$ 1,000	\$ 1,539	\$ 1,070	\$ 70	
Rent Income	\$ 13,478	\$ -	\$ 25,287	\$ 44,282	\$ 32,824	\$ 7,537	See Note 3
Interest - General Fund	\$ 33,971	\$ 61,652	\$ 70,445	\$ 51,650	\$ 120,139	\$ 49,694	See Note 4
Non-Transportation Rev	\$ 375	\$ 68	\$ 750	\$ 602	\$ 731	\$ (19)	
Sales Tax Income	\$ 1,493,600	\$ 1,493,600	\$ 2,613,800	\$ 2,452,100	\$ 2,613,800	\$ -	
TDA Funds	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
FTA Op Asst - Sec 5307	\$ -	\$ -	\$ -	\$ 2,565,561	\$ -	\$ -	
FTA Op Asst - Sec 5311	\$ -	\$ -	\$ -	\$ 92,928	\$ -	\$ -	
FTA Op Asst Advance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
FY 03-04 Carryover	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Transfer from Reserves	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Transfer from Insurance Reserves	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Transfer - Proj Mgr	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
<b>Total Operating Revenue</b>	<b>\$ 2,022,879</b>	<b>\$ 2,032,982</b>	<b>\$ 3,672,658</b>	<b>\$ 6,127,020</b>	<b>\$ 3,709,471</b>	<b>\$ 36,813</b>	

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**MONTHLY REVENUE AND EXPENSE REPORT  
OPERATING EXPENSE SUMMARY - AUGUST 2005**

	FY 05-06 Final Budget	FY 05-06 Revised Budget	FY 04-05 Expended YTD	FY 05-06 Expended YTD	Percent Expended of Budget	
<b>PERSONNEL ACCOUNTS</b>						
Administration	\$ 913,581	\$ 888,581	\$ 149,440	\$ 128,544	14.5%	
Finance	\$ 616,075	\$ 604,075	\$ 87,390	\$ 82,690	13.7%	
Customer Service	\$ 469,041	\$ 469,041	\$ 74,044	\$ 61,437	13.1%	
Human Resources	\$ 403,818	\$ 403,818	\$ 24,278	\$ 54,923	13.6%	
Information Technology	\$ 438,387	\$ 438,387	\$ 70,551	\$ 67,073	15.3%	
District Counsel	\$ 396,870	\$ 390,194	\$ 59,770	\$ 64,506	16.5%	
Facilities Maintenance	\$ 958,977	\$ 958,977	\$ 163,822	\$ 150,530	15.7%	
Paratransit Program	\$ 2,710,777	\$ 2,710,777	\$ 45,578	\$ 467,176	17.2%	See Note 5
Operations	\$ 1,905,376	\$ 1,905,376	\$ 332,532	\$ 254,883	13.4%	
Bus Operators	\$ 12,759,002	\$ 12,759,002	\$ 2,089,594	\$ 1,958,021	15.3%	
Fleet Maintenance	\$ 4,073,806	\$ 4,073,806	\$ 577,484	\$ 576,136	14.1%	
Retired Employees/COBRA	\$ 1,155,813	\$ 1,155,813	\$ 130,544	\$ 166,012	14.4%	
Total Personnel	\$ 26,801,523	\$ 26,757,847	\$ 3,805,027	\$ 4,031,929	15.1%	
<b>NON-PERSONNEL ACCOUNTS</b>						
Administration	\$ 655,301	\$ 680,301	\$ 84,201	\$ 130,554	19.2%	See Note 6
Finance	\$ 813,517	\$ 825,517	\$ 112,471	\$ 94,328	11.4%	
Customer Service	\$ 96,006	\$ 96,006	\$ 5,589	\$ 14,660	15.3%	
Human Resources	\$ 45,706	\$ 45,706	\$ 3,223	\$ 1,923	4.2%	
Information Technology	\$ 133,035	\$ 133,035	\$ 12,324	\$ 33,055	24.8%	See Note 7
District Counsel	\$ 11,463	\$ 18,139	\$ 214	\$ 13,864	76.4%	See Note 8
Risk Management	\$ 259,015	\$ 259,015	\$ 17,475	\$ 4,547	1.8%	
Facilities Maintenance	\$ 444,250	\$ 444,250	\$ 46,772	\$ 46,134	10.4%	
Paratransit Program	\$ 867,761	\$ 867,761	\$ 229,116	\$ 78,145	9.0%	
Operations	\$ 617,418	\$ 617,418	\$ 60,796	\$ 58,118	9.4%	
Bus Operators	\$ 7,120	\$ 7,120	\$ -	\$ -	0.0%	
Fleet Maintenance	\$ 3,330,435	\$ 3,330,435	\$ 437,374	\$ 473,320	14.2%	
Op Prog/SCCIC	\$ 450	\$ 450	\$ 20	\$ -	0.0%	
Prepaid Expense	\$ -	\$ -	\$ -	\$ -	0.0%	
Total Non-Personnel	\$ 7,281,477	\$ 7,325,153	\$ 1,009,575	\$ 948,648	13.0%	
Total Operating Expense	\$ 34,083,000	\$ 34,083,000	\$ 4,814,602	\$ 4,980,577	14.6%	
YTD Operating Revenue Over YTD Expense				\$ (1,271,106)		

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**CONSOLIDATED OPERATING EXPENSE  
AUGUST 2005**

	FY 05-06 Final Budget	FY 05-06 Revised Budget	FY 04-05 Expended YTD	FY 05-06 Expended YTD	% Exp YTD of Budget	
<b>LABOR</b>						
Operators Wages	\$ 7,897,147	\$ 7,897,147	\$ 1,030,310	\$ 1,136,007	14.4%	
Operators Overtime	\$ 1,154,109	\$ 1,154,109	\$ 133,873	\$ 181,222	15.7%	
Other Salaries & Wages	\$ 6,223,417	\$ 6,179,741	\$ 945,148	\$ 860,323	13.9%	
Other Overtime	\$ 166,200	\$ 166,200	\$ 22,115	\$ 17,003	10.2%	
	\$ 15,440,873	\$ 15,397,197	\$ 2,131,447	\$ 2,194,555	14.3%	
<b>FRINGE BENEFITS</b>						
Medicare/Soc Sec	\$ 226,164	\$ 226,164	\$ 24,319	\$ 27,172	12.0%	
PERS Retirement	\$ 1,728,898	\$ 1,728,898	\$ 234,922	\$ 334,011	19.3%	See Note 9
Medical Insurance	\$ 3,724,628	\$ 3,674,628	\$ 460,039	\$ 552,928	15.0%	
Dental Plan	\$ 534,944	\$ 534,944	\$ 76,772	\$ 80,735	15.1%	
Vision Insurance	\$ 144,360	\$ 144,360	\$ 20,154	\$ 21,824	15.1%	
Life Insurance	\$ 48,768	\$ 48,768	\$ 8,962	\$ 7,124	14.6%	
State Disability Ins	\$ 333,050	\$ 333,050	\$ 31,869	\$ 29,571	8.9%	
Long Term Disability Ins	\$ 191,434	\$ 191,434	\$ 35,408	\$ 30,263	15.8%	
Unemployment Insurance	\$ 85,251	\$ 85,251	\$ 729	\$ 204	0.2%	
Workers Comp	\$ 1,396,680	\$ 1,396,680	\$ 264,335	\$ 224,118	16.0%	
Absence w/ Pay	\$ 2,908,020	\$ 2,908,020	\$ 511,017	\$ 518,232	17.8%	See Note 10
Other Fringe Benefits	\$ 38,454	\$ 88,454	\$ 5,053	\$ 11,193	12.7%	
	\$ 11,360,650	\$ 11,360,650	\$ 1,673,581	\$ 1,837,375	16.2%	
<b>SERVICES</b>						
Acctng/Admin/Bank Fees	\$ 315,959	\$ 315,959	\$ 18,338	\$ 1,589	0.5%	
Prof/Legis/Legal Services	\$ 467,919	\$ 467,804	\$ 33,451	\$ 47,743	10.2%	
Temporary Help	\$ -	\$ 43,676	\$ -	\$ 25,206	57.7%	See Note 11
Custodial Services	\$ 107,800	\$ 107,800	\$ 10,238	\$ 9,249	8.6%	
Uniforms & Laundry	\$ 57,223	\$ 57,223	\$ 5,201	\$ 6,271	11.0%	
Security Services	\$ 424,699	\$ 424,699	\$ 27,503	\$ 28,715	6.8%	
Outside Repair - Bldgs/Eqmt	\$ 211,578	\$ 211,693	\$ 19,109	\$ 16,902	8.0%	
Outside Repair - Vehicles	\$ 347,800	\$ 347,800	\$ 37,979	\$ 14,482	4.2%	
Waste Disp/Ads/Other	\$ 75,019	\$ 75,019	\$ 9,885	\$ 9,203	12.3%	
	\$ 2,007,997	\$ 2,051,673	\$ 161,703	\$ 159,360	7.8%	
<b>CONTRACT TRANSPORTATION</b>						
Contract Transportation	\$ -	\$ -	\$ -	\$ -	0.0%	
Paratransit Service	\$ 309,600	\$ 309,600	\$ 202,290	\$ 13,333	4.3%	
	\$ 309,600	\$ 309,600	\$ 202,290	\$ 13,333	4.3%	
<b>MOBILE MATERIALS</b>						
Fuels & Lubricants	\$ 2,094,447	\$ 2,094,447	\$ 244,318	\$ 312,311	14.9%	
Tires & Tubes	\$ 178,560	\$ 178,560	\$ 32,023	\$ 43,760	24.5%	See Note 12
Other Mobile Supplies	\$ 7,740	\$ 7,740	\$ 2,469	\$ 5,156	66.6%	See Note 13
Revenue Vehicle Parts	\$ 407,510	\$ 407,510	\$ 55,071	\$ 65,449	16.1%	
	\$ 2,688,257	\$ 2,688,257	\$ 333,881	\$ 426,676	15.9%	

**CONSOLIDATED OPERATING EXPENSE  
AUGUST 2005**

	FY 05-06 Final Budget	FY 05-06 Revised Budget	FY 04-05 Expended YTD	FY 05-06 Expended YTD	% Exp YTD of Budget	
<b>OTHER MATERIALS</b>						
Postage & Mailing/Freight	\$ 24,358	\$ 23,758	\$ 5,435	\$ 2,559	10.8%	
Printing	\$ 65,088	\$ 65,088	\$ 1,680	\$ 14,516	22.3%	See Note 14
Office/Computer Supplies	\$ 70,948	\$ 70,948	\$ 9,673	\$ 23,501	33.1%	See Note 15
Safety Supplies	\$ 21,875	\$ 21,875	\$ 656	\$ 1,328	6.1%	
Cleaning Supplies	\$ 58,730	\$ 58,730	\$ 3,778	\$ 4,849	8.3%	
Repair/Maint Supplies	\$ 55,000	\$ 55,000	\$ 7,230	\$ 3,586	6.5%	
Parts, Non-Inventory	\$ 40,500	\$ 40,500	\$ 5,651	\$ 944	2.3%	
Tools/Tool Allowance	\$ 10,600	\$ 10,600	\$ 1,392	\$ 647	6.1%	
Promo/Photo Supplies	\$ 13,041	\$ 13,041	\$ 894	\$ 123	0.9%	
	\$ 360,140	\$ 359,540	\$ 36,390	\$ 52,053	14.5%	
<b>UTILITIES</b>	\$ 340,882	\$ 340,882	\$ 41,718	\$ 48,354	14.2%	
<b>CASUALTY &amp; LIABILITY</b>						
Insurance - Prop/PL & PD	\$ 491,100	\$ 491,100	\$ 93,681	\$ 85,277	17.4%	See Note 16
Settlement Costs	\$ 150,000	\$ 150,000	\$ 15,815	\$ 72	0.0%	
Repairs to Prop	\$ -	\$ -	\$ (8,765)	\$ (4,694)	0.0%	See Note 17
	\$ 641,100	\$ 641,100	\$ 100,731	\$ 80,655	12.6%	
<b>TAXES</b>	\$ 47,743	\$ 47,743	\$ 5,318	\$ 6,702	14.0%	
<b>MISC EXPENSES</b>						
Dues & Subscriptions	\$ 54,159	\$ 54,159	\$ 6,917	\$ 39,256	72.5%	See Note 18
Advertising - Revenue Prod.	\$ 15,000	\$ 15,000	\$ -	\$ 1,262	8.4%	
Employee Incentive Program	\$ 7,547	\$ 7,547	\$ 964	\$ 437	5.8%	
Training	\$ 8,800	\$ 8,800	\$ -	\$ 1,007	11.4%	
Travel	\$ 21,870	\$ 21,870	\$ 393	\$ 1,373	6.3%	
Other Misc Expenses	\$ 20,328	\$ 20,328	\$ 2,474	\$ 1,662	8.2%	
	\$ 127,704	\$ 127,704	\$ 10,748	\$ 44,997	35.2%	
<b>OTHER EXPENSES</b>						
Leases & Rentals	\$ 758,054	\$ 758,654	\$ 116,796	\$ 116,518	15.4%	
	\$ 758,054	\$ 758,654	\$ 116,796	\$ 116,518	15.4%	
<b>Total Operating Expense</b>	\$ 34,083,000	\$ 34,083,000	\$ 4,814,602	\$ 4,980,577	14.6%	

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**MONTHLY REVENUE AND EXPENSE REPORT  
FY 05-06 CAPITAL IMPROVEMENT PROGRAM**

<b>CAPITAL PROJECTS</b>	<b>Final Program Budget</b>	<b>Expended in August</b>	<b>YTD Expended</b>
<b>Grant Funded Projects</b>			
MetroBase	\$ 29,622,709	\$ 17,758	\$ 47,837
Revenue Vehicle Replacement	\$ 920,000		
Short Range Transit Plan	\$ 100,000		
	\$ 30,642,709		
<b>District Funded Projects</b>			
Bus Stop Imprvmts/Bus Shelter Projects	\$ 10,000		
Revenue Vehicle Replacement	\$ 90,000	\$ 10,593	\$ 10,593
IT Projects	\$ 30,200		\$ 9,430
Facilities Repairs & Improvements	\$ 29,500		
Non-Revenue Vehicle Replacement	\$ 229,000	\$ 29,288	\$ 55,831
Office Equipment	\$ 22,100		\$ 6,775
PM Filters for Fleet (4)	\$ 33,320		
Mt. Biewlaski Repeater	\$ 15,000		
Transfer to Operating Budget	\$ 335,000		
	\$ 794,120		
<b>TOTAL CAPITAL PROJECTS</b>	\$ 31,436,829	\$ 57,639	\$ 130,466
<b>CAPITAL FUNDING SOURCES</b>			
	<b>Budget</b>	<b>Received in August</b>	<b>YTD Received</b>
Federal Capital Grants	\$ 9,230,246	\$ -	\$ -
State/Local Capital Grants	\$ 7,500,000	\$ -	\$ -
STA Funding	\$ 1,101,716	\$ -	\$ -
Transfer from Operating Budget	\$ -	\$ -	\$ -
Bus Stop Improvement Reserves	\$ 10,000	\$ -	\$ -
District Reserves	\$ 13,594,867	\$ 57,639	\$ 130,466
<b>TOTAL CAPITAL FUNDING</b>	\$ 31,436,829	\$ 57,639	\$ 130,466

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**SANTA CRUZ METROPOLITAN TRANSIT DISTRICT  
NOTES TO REVENUE AND EXPENSE REPORT**

1. Passenger fares (farebox and pass sales) are \$18,735 or 3% under the final budget amount for the year to date. Paratransit fares are \$14,905 or 30% under the budgeted amount. Special transit fares (contracts) are \$3,773 or 3.4% over the budgeted amount. Highway 17 Express revenue is \$8,271 or 4.9% over the year to date budgeted amount. Together, all four passenger revenue accounts are under the budgeted amount for the first two months of the fiscal year by a net \$21,596 or 2.3%.
2. Advertising income is \$1,127 over the budgeted amount for the year to date based on current advertising levels on the exterior of District buses. A formal program to sell ads has not yet been implemented.
3. Rent income is \$7,537 over budget for the year to date due to receipt of the final payment by Storti's Pizzeria.
4. Interest income is \$49,694 over budget for the year to date due to higher interest rates than projected in the County investment pool. The August interest rate was 3.4% while the budget projected 2.0%.
5. Paratransit personnel expense is at 17.2% of the budget due to workers' comp expenses.
6. Administration non-personnel expense is at 19.2% of the budget due to the annual payment of APTA dues.
7. Information Technology non-personnel expense is at 24.8% of the budget due to the annual payment of maintenance agreements for the computer system.
8. District Counsel non-personnel expense is at 76.4% of the budget due to payment for temp help services and legal services in the approximate amount of \$9,000. A budget transfer has been processed and no further expenses are expected in these accounts.
9. Retirement expense is at 19.3% of the budget because part of the employee share of the expense will be credited to the District on a quarterly basis.
10. Absence with pay is at 17.8% of the budget since more vacation time is taken in the summer months. Total payroll is within budget.
11. Temp help expense is at 57.7% of the budget since funds are transferred to this account as needed by departments using temp help during position vacancies. Temp help is only funded through budget transfers from the salary account.
12. Tires and tubes expense is at 24.5% of the budget due to volume purchases.
13. Other mobile supplies are at 66.6% of the budget because upholstery supplies are purchased as needed.

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14. Printing is at 22.3% of the budget due to printing of Headways and bus stop stickers.
15. Office/computer supplies are at 33.1% of the budget due to volume purchase of IT supplies.
16. Insurance (property and PL/PD) expense is at 17.4% of the budget since the CalTIP quote upon which the budget was based was slightly lower than the actual billing. This will be addressed in the mid-year budget revision.
17. Repairs to property is a casualty and liability account to which repairs to District vehicles and property are charged when another party is liable for the damage. All collections made from other parties for property repair are applied to this account to offset the District's repair costs.
18. Dues and subscriptions are at 72.5% of the budget due to annual payment of APTA dues.

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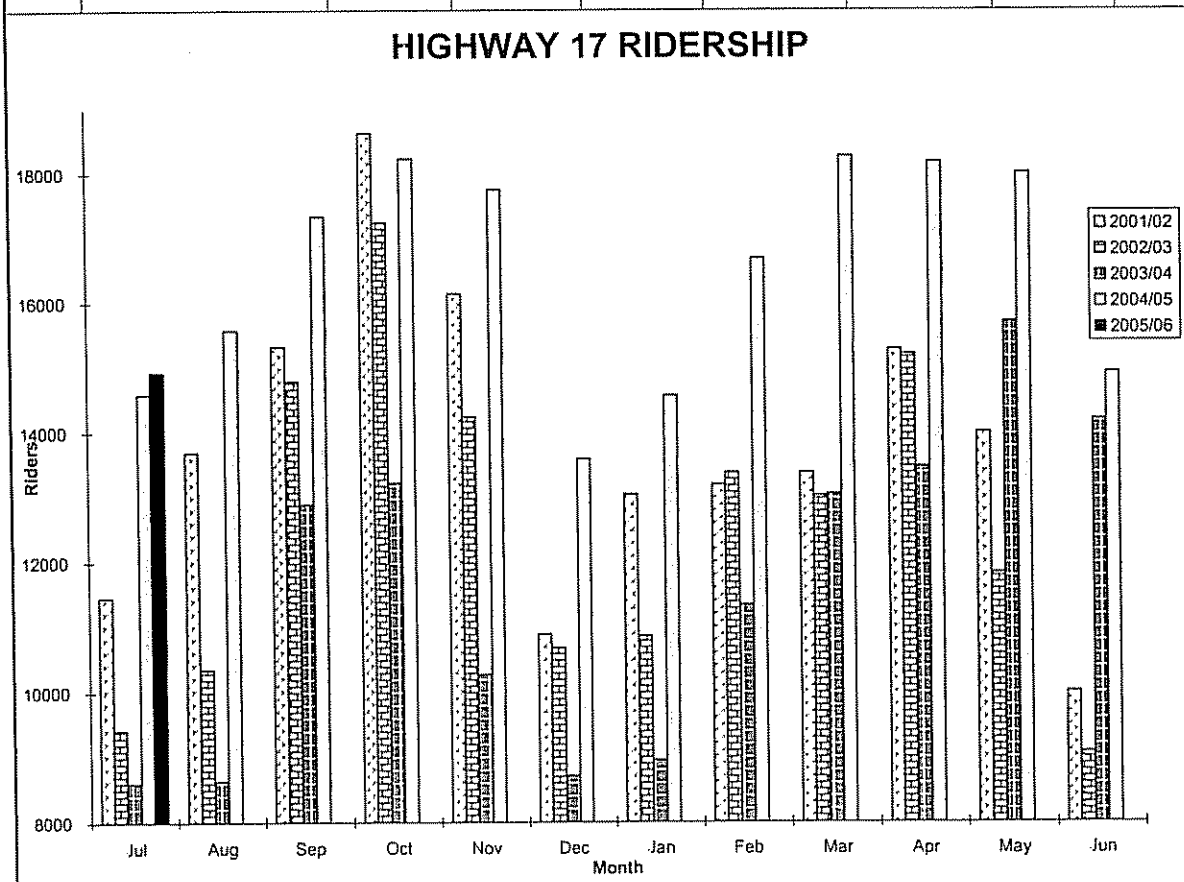
**FY 05-06 BUDGET TRANSFERS**  
**9/1/05-10/31/05**

	ACCOUNT #	ACCOUNT TITLE	AMOUNT
<b>TRANSFER # 06-005</b>			
TRANSFER FROM:	504211-3100	Postage & Mailing	\$ (600)
TRANSFER TO:	512061-3100	Equipment Rental	\$ 600
REASON:	To cover the cost of the monthly postage meter rental fee for the ParaCruz Department.		
<b>TRANSFER # 06-006</b>			
TRANSFER FROM:	501021-1700	Other Salaries	\$ (6,676)
	503033-1800	Legal Services	\$ (4,442)
			\$ (11,118)
TRANSFER TO:	503033-1700	Legal Services	\$ 4,442
	503041-1700	Temporary Help	\$ 6,676
			\$ 11,118
REASON:	To cover cost of temporary help during recruitment in District Counsel's office and to transfer funds for legal services from Risk to Counsel.		

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# HIGHWAY 17 - JULY 2005

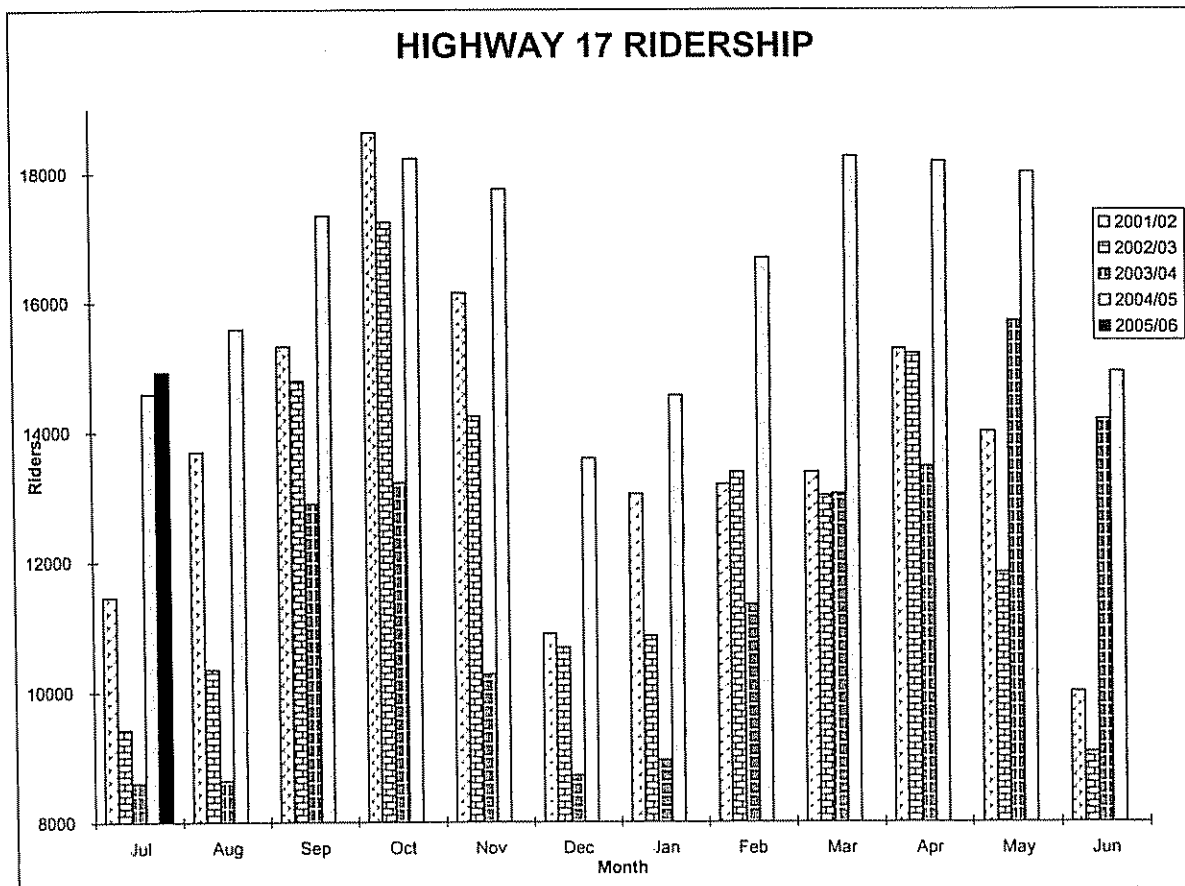
	July			YTD		
	This Year	Last Year	%	This Year	Last Year	%
<b>FINANCIAL</b>						
Cost	\$ 111,020	\$ 114,376	(2.9%)	\$ 111,020	\$ 114,376	(2.9%)
Farebox	\$ 47,775	\$ 42,802	11.6%	\$ 47,775	\$ 42,802	11.6%
Operating Deficit	\$ 54,723	\$ 62,495	(12.4%)	\$ 54,723	\$ 62,495	(12.4%)
Santa Clara Subsidy	\$ 27,361	\$ 31,248	(12.4%)	\$ 27,361	\$ 31,248	(12.4%)
METRO Subsidy	\$ 27,361	\$ 31,248	(12.4%)	\$ 27,361	\$ 31,248	(12.4%)
San Jose State Subsid	\$ -	\$ -		\$ -	\$ -	
AMTRAK Subsidy	\$ 8,523	\$ 9,079	(6.1%)	\$ 8,523	\$ 9,079	(6.1%)
<b>STATISTICS</b>						
Passengers	14,922	14,588	2.3%	14,922	14,588	2.3%
Revenue Miles	40,199	41,271	(2.6%)	40,199	41,271	(2.6%)
Revenue Hours	1,508	1,548	(2.6%)	1,508	1,548	(2.6%)
Passengers/Day	481	471	2.3%	481	695	(30.7%)
Passengers/Weekday	613	584	5.0%	613	584	5.0%
Passengers/Weekend	241	232	4.0%	241	38	534.7%
<b>PRODUCTIVITY</b>						
Cost/Passenger	\$ 7.44	\$ 7.84	(5.1%)	\$ 7.44	\$ 7.84	(5.1%)
Revenue/Passenger	\$ 3.20	\$ 2.93	9.1%	\$ 3.20	\$ 2.93	9.1%
Subsidy/Passenger	\$ 3.67	\$ 4.28	(14.4%)	\$ 3.67	\$ 4.28	(14.4%)
Passengers/Mile	0.37	0.35	5.0%	0.37	0.35	5.0%
Passengers/Hour	9.89	9.42	5.0%	9.89	9.42	5.0%
Recovery Ratio	43.0%	37.4%	15.0%	43.0%	37.4%	15.0%



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# HIGHWAY 17 - AUGUST 2005

	August			YTD		
	This Year	Last Year	%	This Year	Last Year	%
<b>FINANCIAL</b>						
Cost	\$ 124,724	\$ 117,731	5.9%	\$ 235,745	\$ 232,107	1.6%
Farebox	\$ 54,439	\$ 47,099	15.6%	\$ 102,213	\$ 89,900	13.7%
Operating Deficit	\$ 64,664	\$ 61,746	4.7%	\$ 119,387	\$ 124,241	(3.9%)
Santa Clara Subsidy	\$ 32,332	\$ 30,873	4.7%	\$ 59,694	\$ 62,121	(3.9%)
METRO Subsidy	\$ 32,332	\$ 30,873	4.7%	\$ 59,694	\$ 62,121	(3.9%)
San Jose State Subsid	\$ 715	\$ 1,067	(33.0%)	\$ 715	\$ 1,067	(33.0%)
AMTRAK Subsidy	\$ 4,906	\$ 7,820	(37.3%)	\$ 13,429	\$ 16,899	(20.5%)
<b>STATISTICS</b>						
Passengers	17,732	15,579	13.8%	32,654	30,167	8.2%
Revenue Miles	43,415	42,343	2.5%	83,614	83,614	0.0%
Revenue Hours	1,627	1,588	2.5%	3,136	3,136	0.0%
Passengers/Day	572	503	13.8%	527	487	8.2%
Passengers/Weekday	669	609	9.8%	643	597	7.7%
Passengers/Weekend	293	242	21.0%	263	237	11.1%
<b>PRODUCTIVITY</b>						
Cost/Passenger	\$ 7.03	\$ 7.56	(6.9%)	\$ 7.22	\$ 7.69	(6.2%)
Revenue/Passenger	\$ 3.07	\$ 3.02	1.6%	\$ 3.13	\$ 2.98	5.0%
Subsidy/Passenger	\$ 3.69	\$ 4.03	(8.6%)	\$ 3.68	\$ 4.15	(11.5%)
Passengers/Mile	0.41	0.37	11.0%	0.39	0.36	8.2%
Passengers/Hour	10.90	9.81	11.0%	10.41	9.62	8.2%
Recovery Ratio	43.6%	40.0%	9.1%	43.4%	38.7%	11.9%



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# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Steve Paulson, Paratransit Administrator  
**SUBJECT:** METRO PARACRUZ OPERATIONS STATUS REPORT

## I. RECOMMENDED ACTION

**This report is for information only- no action requested**

## II. SUMMARY OF ISSUES

- METRO ParaCruz is the federally mandated ADA complementary paratransit program of the Transit District, providing shared ride, door-to-door demand-response transportation to customers certified as having disabilities that prevent them from independently using the fixed route bus.
- METRO assumed direct operation of paratransit services November 1, 2004.
- Operating Statistics reported are for the month of September 2005.
- New regulations regarding lunch and rest breaks went into effect August 1, 2005.
- Customer feedback information is for the month of September 2005.

## III. DISCUSSION

METRO ParaCruz is the federally mandated ADA complementary paratransit program of the Transit District, providing shared ride, door-to-door demand-response transportation to customers certified as having disabilities that prevent them from independently using the fixed route bus.

METRO began direct operation of ADA paratransit service (METRO ParaCruz) beginning November 1, 2004. This service had been delivered under contract since 1992.

New regulations requiring meal periods became effective August 1, 2005. This presented new scheduling challenges resulting in decreased driver productivity and increased use of supplemental service providers.

During the month of September, six (6) service complaints and three (3) compliments were received regarding service issues. Two (2) of the complaints were found to be "not valid" when

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investigated. Of the four (4) valid service complaints, two (2) were related to late pick ups and two (2) were as a result of the driver taking the passenger to the wrong address. One (1) policy complaint was received regarding the on-board time as a result of the shared ride service. In the two (2) cases that employee error was identifiable, counseling and retraining was provided.

**Operating Statistics for September 2005**

	Jan 05	Feb 05	Mar 05	Apr 05	May 05	June 05	July 05	Aug 05	Sept 05
Scheduled	7782	7154	8989	8628	9078	8186	7570	7935	8413
Performed	6822	6804	7898	7405	7824	7181	6513	6799	7220
Total miles	56,825	56,556	62,911	59,182	59,671	54,7883	50,755	56,599	55,890
Av trip miles	6.54	6.20	6.09	6.12	5.80	5.77	5.86	6.03	5.69
Within ready window	89.65%	89.67%	90.64%	89.49%	92.05%	92.11%	91.97%	91.99%	90.93%
Excessively late/missed trips	20	17	24	18	15	21	9	12	23
Monthly call volume	6606	6688	7361	6429	6778	6535	6163	6719	6465
Call average seconds to answer	23	52	33	24	25	24	36	29	29
Hold times less than 2 minutes	95%	87%	93%	94%	94%	94%	88%	90%	90%
Distinct riders	842	845	884	835	880	872	795	806	842
Most frequent rider	48 rides	50 rides	48 rides	58 rides	65 rides	65 rides	52 rides	49 rides	57 rides
Shared rides	51.1%	52.1%	61.6%	59.4%	63.9%	60.0%	58.5%	58.9%	63.6%
Passengers per rev hour	1.57	1.64	1.72	1.72	1.78	1.68	1.68	1.38	1.58
Rides by supplemental providers	15%	5.7%	5.4%	7.6%	5.5%	3.98%	5.47%	7.94%	8.23%

5-7.2

SCT cost per ride	\$21.83	\$24.34	\$24.35	\$23.25	\$20.14	\$21.51	\$22.23	\$22.79	\$22.95
TME cost per ride	\$23.22	\$26.49	\$21.73	\$19.35	\$21.24	N/A	N/A	N/A	N/A
ParaCruz driver cost per ride	\$21.81 (est)	\$22.52 (est)	\$19.21 (est)	\$19.82 (est)	\$20.88 (est)	\$21.22 (est)	\$23.58 (est)	\$24.87 (est)	\$23.31 (est)
Rides < 10 miles	81.03%	80.41%	80.35%	80.44%	80.61%	80.83%	81.29%	82.85%	79.87%
Rides > 10	18.97%	19.59%	19.65%	19.56%	19.39%	19.17%	18.71%	17.15%	20.14%

**IV. FINANCIAL CONSIDERATIONS**

NONE

**V. ATTACHMENTS**

NONE

5-7.3

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Frank L. Cheng, Project Manager  
**SUBJECT:** STATUS OF THE METROBASE PROJECT

## I. RECOMMENDED ACTION

**That the Board of Directors accept and file the MetroBase Status Report.**

## II. SUMMARY OF ISSUES

- On November 18, 2005, METRO issued an Invitation For Bids, IFB 05-12, for the Service & Fueling Building Component of the MetroBase Project. The Pre-Bid Conference occurred on November 29, 2005 and sealed bids due December 13, 2005 at 2 p.m. The Final addendum for IFB will be available December 7, 2005.
- On October 14, 2005, Board of Director received new options in regards to services, bid process, and timeline for the MetroBase Project.
- On September 26, 2005, METRO rejected the bid from Hensel Phelps.
- On August 25, 2005, METRO received one bid for \$38,400,000 from Hensel Phelps Construction. Budget for construction is \$31,000,000.
- Last Addendum for IFB sent out August 18, 2005.
- Issuance of Invitation For Bids 04-19 were sent on June 1, 2005. IFB available to bidders on June 15, 2005 with a Pre-Bid Conference on June 29, 2005 and sealed bids due August 25, 2005 at 2 p.m.
- On June 29, 2005, representatives of eight general contractors and various subcontractors attended the Pre-Bid Conference.
- Real estate acquisition phase complete.
- Fleet maintenance Storage at 115 Dubois Street for bus parking complete.
- AB390 Reimbursement approved by California Transportation Commission on July 14, 2005.
- Federal Reauthorization Bill approved on July 29, 2005.

## III. DISCUSSION

On November 18, 2005, METRO issued an Invitation For Bids, IFB 05-12, for the Service & Fueling Building Component of the MetroBase Project. The Pre-Bid Conference occurred on

5-9.1

November 29, 2005 and sealed bids are due December 13, 2005 at 2 p.m. The Final addendum for IFB 05-12 will be available December 7, 2005.

The completed components of the project for the review period are as follows:

A. Right Of Way (ROW)

- Ground-Breaking Ceremony was held on January 14, 2005.
- Land acquisition for 1122 River Street & 120 Golf Club Drive complete.
- METRO signed 110 Vernon Street lease for the location of Fleet Maintenance Administration and Construction Management Personnel, and have relocated there.
- Board of Directors approved lease of property at 115 Dubois Street for bus parking and storage during construction on January 21, 2005. The lease has been signed with Iuliano 1977 Trust. The site work construction of bus parking improvements complete. Site is fully operational.

B. Finance

- 25 Sakata Lane, Watsonville property received no bids. The Board of Directors approved a Request For Proposals (RFP) for Broker Service. RFP due date is September 9, 2005. One proposal was received from Hirsch and Associates.
- The proposal by Hirsch and Associates was reviewed and determined to be a fair proposal. Hirsch and Associates was selected to market the property to its greatest ability.
- FTA approved concurrence letter with appraisal for Watsonville property.
- AB3090 approved by CTC on July 14, 2005 Meeting.
- Federal Reauthorization Bill (TEA-21) approved July 29, 2005.

C. Architectural & Engineering (A&E)

- Final addendum for MetroBase IFB 05-12 released December 7, 2005.
- Issuance of Invitation For Bids 05-12 released November 18, 2005.
- RNL prepared IFB 05-12 Service & Fueling Building for the MetroBase Project.
- Final addendum for MetroBase IFB 04-19 released August 18, 2005.
- Issuance of Invitation For Bids 04-19 released June 1, 2005.
- Issuance of IFB 04-19 and expression on intent to use sales tax backed debt presented to the Board of Directors on May 27, 2005.
- RNL Design presented to the Board of Directors options for bidding strategies in regards to cost, schedule, and benefits. Board of Directors approved one project bid option on February 25, 2005.

D. Construction Management (CM)

5-9.2

- CM reviewing, and recommending modifications to IFB 05-12.
- Meetings were scheduled for reviewing new options for the MetroBase Project.
- MetroBase Site Plan Check reviews completed by LP2A, City Of Santa Cruz Public Works, and Harris & Associates.

E. Construction Schedule

- Bid deadline for IFB 05-19 is December 13, 2005. Staff will bring the Board of Directors the results from the bid opening for IFB 05-19.
- On September 26, 2005, METRO rejected the bid from Hensel Phelps.
- In August 25, 2005, SCMTD received one bid from Hensel Phelps Construction at \$38,400,000. Construction budget is \$31,000,000.
- IFB 04-19 due date was extended to August 25, 2005 2:00pm PST.
- Approved and executed L/CNG Fueling Station long lead item LNG tank on September 10<sup>th</sup>, 2004. LNG tank was delivered in May 2005.
- Approved and executed L/CNG Fueling Station long lead item CNG Vessels on September 24<sup>th</sup>, 2004. CNG Vessels was delivered on March 2005.
- Nica DMT, demolition contractor, completed demolition on 1122 River Street and 120 Golf Club Drive on April 29, 2005.

**IV. FINANCIAL CONSIDERATIONS**

Funds for the construction of the Service & Fueling Building Component of the MetroBase Project are available within the funds the METRO has secured for the Project.

**V. ATTACHMENTS**

NONE

5-9.3

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Mark J. Dorfman, Assistant General Manager  
**SUBJECT:** ACCEPT AND FILE VOTING RESULTS FROM APPOINTEES TO THE SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION FOR PREVIOUS MEETINGS

## I. RECOMMENDED ACTION

**That the Board of Directors accept and file the voting results from appointees to the Santa Cruz County Regional Transportation Commission.**

## II. SUMMARY OF ISSUES

- Per the action taken by the Board of Directors, staff is providing the minutes from the most recent meetings of the Santa Cruz County Regional Transportation Commission.
- Each month staff will provide the minutes from the previous month's SCCRTC meetings.

## III. DISCUSSION

At the January Board of Directors Meeting of the Santa Cruz Metropolitan Transit District, the Board requested that staff include in the Board Packet information relating to the voting results from the appointees to the Santa Cruz County Regional Transportation Commission. Staff is enclosing the minutes from these meetings as a mechanism of complying with this request.

## IV. FINANCIAL CONSIDERATIONS

There is no cost impact from this action.

## V. ATTACHMENTS

- Attachment A:** Minutes of the November 3, 2005 Regular SCCRTC Meeting  
**Attachment B:** Minutes of the November 17, 2005 Transportation Policy Workshop  
**Attachment C:** Minutes of the November 17, 2005 Public Hearing

5 - 10.1

SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION  
AND  
SERVICE AUTHORITY FOR FREEWAY EMERGENCIES

Minutes

Thursday,  
November 3, 2005  
9:00 a.m.

Watsonville City Council Chambers  
215 Union Street  
Watsonville CA 95076

1. Roll Call

Members Present: Jan Beautz Emily Reilly  
Cliff Barrett (Alt.) Antonio Rivas  
Tony Campos Andy Schiffrin (Alt.)  
Michael Keogh Pat Spence  
Dennis Norton Mark Stone  
Ellen Pirie Marcela Tavantzis  
Rich Krumholz (ex-officio)

Staff Present: Pat Dellin Luis Mendez  
Karena Pushnik Gini Pineda  
Kim Shultz Grace Blakeslee  
Cory Caletti

2. Oral Communications

Les White, SCMTD General Manager, said that bus service was back in operation and that fares would be free through Wednesday, November 9, 2005. He said that bus passes for November would be sold at a prorated rate. He added that people who had October bus passes could trade them for December or January passes.

Commissioner Rivas said that he was pleased that the strike was over because many residents, especially in Watsonville, were negatively impacted by the strike. He added that he hopes this never has to happen again.

3. Additions or Deletions to Consent and Regular Agendas

Acting Executive Director Pat Dellin said that the Closed Session, Item 27, would not be held today. Chair Pirie removed it from the agenda.

5-10.91



Commissioner Spence noted that the Draft Elderly and Disabled Transportation Advisory Committee minutes, Item 9, showed a discrepancy listing John Daugherty as both present and absent. Staff will correct the minutes accordingly.

Commissioner Keogh said that he had a question and asked why the Transportation Funding Task Force work plan and budget passed by the Budget and Administration/Personnel Committee was not included on this agenda. Acting Executive Director Pat Dellin said that there were significant issues raised by members of the Budget and Administration/Personnel Committee, so staff had consulted with Commission Chair Ellen Pirie about reworking the proposal to address these issues. The proposal will be reviewed by the Budget and Administration/Personnel Committee meeting next week and by the full RTC at the November Transportation Policy Workshop.

CONSENT AGENDA (Schiffrin/Reilly) as amended

4. Approved Minutes of the October 6, 2005 Regular SCCRTC Meeting
5. Approved Minutes of the October 20, 2005 Regular Transportation Policy Workshop Meeting

POLICY

No consent items

PROJECTS and PLANNING

6. Accepted Status Report on Acquisition of the Santa Cruz Branch Rail Line Acquisition

COMMISSION BUDGET AND EXPENDITURES

7. Approved Budget & Administration/Personnel Committee and Staff Recommendations Regarding Implementation of the Flexible Spending Program

ADMINISTRATION

8. Accepted FY 05-06 First Quarter SCCRTC Work Program Report

5-10.92

## COMMITTEE MINUTES

9. Accepted Draft Minutes of the October 11, 2005 Elderly & Disabled Transportation Advisory Committee Meeting
10. Accepted Draft Minutes of the October 13, 2005 Budget and Administration/Personnel Committee Meeting
11. Accepted Draft Minutes of the Bicycle Committee Meeting of October 17, 2005
12. Accepted Draft Minutes of the October 20, 2005 Interagency Technical Advisory Committee

## INFORMATION/OTHER

13. Accepted Monthly Meeting Schedule
14. Accepted SCCRTC Staff Comment Letters on Draft Environmental Documents and Plans Prepared by Other Agencies
  - a. Letter to City of Watsonville Regarding the Draft Environmental Impact Report for the Draft Watsonville Vista 2030 General Plan Update
15. Accepted Correspondence Log
16. Accepted Letters from SCCRTC Committees and Staff to Other Agencies
  - a. Letter from staff to the Resources Agency Regarding Support for the City of Santa Cruz's River Parkways Program Grant Application for the San Lorenzo River Parkway Trail Connector Project
  - b. Letter from the Elderly & Disabled Transportation Advisory Committee to Central Coast Alliance for Health Regarding Changes in Medi-Cal/Central Coast Alliance for Health Transportation to Residential Care Facilities, Pharmacies and Dental Appointments
  - c. Letter from Bicycle Committee to the California Traffic Control Devices Committee Regarding Shared Roadway Bicycle Markings
  - d. Letter from staff to the Metropolitan Transportation Commission Regarding Continued Funding for the "Safe on 17" Project

5-10.93

17. Accepted Miscellaneous Written Comments from the Public on SCCRTC Projects and Transportation Issues
18. Accepted Handouts from Staff and Commissioners at Previous Regional Transportation Commission Meetings
19. Accepted Information Items
  - a. Community Traffic Safety Coalition Annual Report
  - b. Letter from Gregg Albright, Caltrans District Director, Regarding Scott Waddell Bridge Replacement Project
  - c. San Francisco Bay Area Regional Rail Community Workshops Announcement

SERVING AS THE SERVICE AUTHORITY FOR FREEWAY EMERGENCIES (SAFE)

No consent items

REGULAR AGENDA

20. Commissioner Reports - None
21. Director's Report

Acting Executive Director Pat Dellin recognized that the entire community is benefitting from the bus strike being over, noting the larger impacts to other transportation modes during the strike. She cited increased traffic congestion, more bikes used for transportation and the need for additional Park and Ride lots. She concluded that each mode of transportation affects the transportation system as a whole and that all modes need support.

Ms. Dellin said that currently the Commission is dealing with several high intensity projects which are all coming to a head at once. In addition, the new Executive Director will have to jump into these high profile projects with a staff that is already short-handed due to unfilled vacancies. She asked that the Commission keep this in mind when considering new projects. She highlighted the increased demands for staff time for the Highway 1/17 Merge Lanes Project, the rail line right-of-way acquisition and completion of the autonomy process. The newly created Transportation Funding Task Force will add to these demands. If new or expanded projects are undertaken, they will be at the expense of some of the RTC's existing projects until vacancies are completely filled.

5-10.24

Commissioners discussed the hiring process and that staff is working with the Budget and Administration/Personnel Committee regarding hiring and the needs for the Transportation Funding Task Force.

22. Caltrans Report

Rich Krumholz, Caltrans District 5, referred to a letter handed out at the meeting. It addressed concerns raised at the previous two Regional Transportation Commission meetings by Commissioner Reilly about the removal of audible signals along Mission Street and a request from Commissioner Beautz regarding the coordination of traffic signals at the 41<sup>st</sup> Avenue interchange. Mr. Krumholz said he would like to meet with Commissioner Reilly after the Commission meeting to further discuss the Caltrans decisions about the Mission Street signals.

Mr. Krumholz reported that the improvements on Highway 9 near Boulder Creek and the work on Highway 152 were completed. He added that the report from Luis Duazo, Highway 1/17 Merge Lanes Project Manager, indicated that the project was expected to go to bid in November with construction hopefully starting in March. He said that Caltrans is gearing up for the Public Awareness Campaign for the project.

23. Designation of Nominating Committee for 2006 SCCRTC Chair and Vice-Chair

Commissioners Beautz, Stone, Norton and Rivas volunteered to serve on the Nominating Committee for 2006 SCCRTC Chair and Vice-Chair.

24. Transportation Projects in the City of Watsonville - Oral Report

Maria Carranza Rodriguez gave a Power-Point presentation that showed both recent accomplishments and planned improvements for transportation projects within the City of Watsonville. Among the completed projects were improvements to Pinto Lake Park, sidewalks installed at the Alianza and Freedom schools and the joint Transit Center/Daycare/Affordable Housing Project which includes 40 housing units. Ms. Rodriguez gave a detailed presentation of the wetlands trails, showing the completed trails and those being planned or that are under construction.

5-10.95

Ms. Rodriguez presented current planned improvements which include curb ramps at 67 intersections; Walker Street rehabilitation; improvements to Green Valley Road, Freedom Boulevard, Harkins Slough Road, the Struve Slough Bridge and the interchange at Highway 1 and Harkins Slough Road in cooperation with Caltrans.

Commissioners complimented the City of Watsonville for moving forward with building a healthy community. Commission Alternate Schiffirin noted that, when finished, the slough trails will provide an alternative to Main Street as a means to get through town.

25. Update on Highway 1 Projects and Quarterly Progress Report on the Highway 1 Widening/HOV Lane PA/ED - Oral Presentation by Chris Metzger, Nolte & Associates

Acting Executive Director Pat Dellin said that the City of Santa Cruz staff will be leading the Public Relations campaign for the Highway 1/17 Merge lanes Project and that Commission and Caltrans staff will be working on issues including highway closures, noise and soundwall constructions. She said a brochure had been distributed regarding the Morrissey/Soquel Auxiliary Lanes and that an Open House and Public Hearing is scheduled for November 17, 2005 and that the Commissioners need to attend.

Chris Metzger, Nolte Associates, Inc., gave a PowerPoint presentation updating the Commission on the progress of the Highway 1 HOV Lane Widening Project.

Mr. Metzger said that some of the subsurface architectural and archeological work was on hold because FHWA requires identifying the preferred alternative before disturbing the archeological resources. He added that there is a state policy to delay subsurface work until a preferred alternative is selected. He said that the team was continuing to focus on engineering and the geometrics for the different alternatives.

Commissioners discussed aspects of proposed alternatives.

Mr. Metzger said that selecting the preferred alternative is key to moving forward with the archeological studies.

5-10.a6

## 26. SCCRTC Executive Director Recruitment

Acting Executive Director Pat Dellin introduced John Shannon and Christine Iams, of CPS Executive Search, the Commission's contracted Executive Director recruiters.

Mr. Shannon said that he had received suggestions from the Interagency Technical Advisory Committee, the Budget and Administration/Personnel Committee and SCCRTC staff on developing a candidate profile.

Commission Alternate Schiffirin suggested that the other RTC committees also be given an opportunity to provide input. Mr. Shannon agreed to follow up.

He said he will provide advice on the recruitment process and help to select semi-finalists for the Budget and Administration/Personnel Committee. He said that finalists will be brought before the full Commission. He added that the Budget and Administration/Personnel Committee had agreed that staff will be involved in providing input on finalists for the Committee and RTC's consultants.

Mr. Shannon said his goal is to have a candidate profile to be reviewed by the Budget and Administration/Personnel Committee at its meeting next Thursday. The profile will be shared with the Commission before being released with recruitment materials.

Mr. Shannon said that the key issues he had heard as necessary from the groups with whom he had met so far were:

1. Executive Director/ Commission relationship: a relationship of mutual trust between the Commission and the Executive Director;
2. Autonomy: assurance that the autonomy was successful;
3. Organizational Culture: maintenance of the agency's positive organizational culture that values competence, diversity, collegiality and quality of work environment;
4. Projects: continued success implementing a wide range of tasks;
5. Transportation Funding: the ability to generate and develop revenue programs; and,
6. Highway 1/17 Project: the ability to keep the \$50 million Highway 1/17 Merge Lanes Project on track.

5-10.a7

Commissioners discussed qualities they wanted to see in the new Executive Director including finding someone who has done one or more project on the scale currently on the Commission agenda, the ability to understand the demographics of the community and an open-minded attitude and willingness to embrace new ideas.

Mr. Shannon suggested that the ability to build relationships with neighboring agencies should also be evaluated.

Mr. Shannon discussed educational requirements and recommended hiring someone with a record of continuing education in transportation and community development. Regarding experience, he said that extensive executive experience is expected and that the candidate will also have to have administrative experience including human resources, budget etc. He added that some of the best candidates are from the private sector, but as a practical matter, a candidate not already in transportation or the Councils of Governments would need to have a passion and interest in transportation. He acknowledged that those already in the public sector may have a political astuteness that could help in fulfilling some of the required tasks.

Acting Executive Director Pat Dellin said that the candidate profile should be broad enough not to exclude qualified applicants from the private sector but that it was important for the applicant to have experience in California and its particular funding nuances. She said that having a network and contacts in California transportation circles would also be helpful.

Mr. Shannon listed what he described as "competencies" needed for the position. These included being an outstanding communicator and able to inspire confidence and trustworthiness, having a passion for transportation but not being an advocate for a particular mode of transportation, being politically astute but not "political", being a strategic thinker and able to see long term results, having diplomacy in pushing priorities forward, being respectful of differences in people and communities, being an effective, compassionate leader and a critical thinker, possessing professional competency, flexibility, a sense of humor and a willingness to foster staff development.

5-10.98

Commissioners discussed compensation, saying they needed additional information on the going rate for this type of job. They discussed the concept of relocation expenses and the high cost of housing in the area.

Commission Alternate Schiffirin said it was important to clarify that the Executive Director will be a County employee until RTC autonomy is complete and that after the separation, the Commission could then ask the Board of Supervisors for changes in compensation. Commissioner Beautz cautioned against the County of Santa Cruz setting a precedent regarding providing assistance with housing, noting that applicants may be coming from areas as expensive as Santa Cruz County.

Commissioners discussed the outreach process, noting that the candidate pool needs to reflect our community by including opportunities for women and minorities.

Mr. Shannon wrapped up saying that the next step was to develop a candidate profile in draft form, an ad campaign for review and more information on compensation.

CLOSED SESSION - Removed from Agenda

27. Conference with Real Property Negotiator for Acquisition of the Santa Cruz Branch Rail Line Property: Santa Cruz Branch Rail Line from Watsonville Junction to Davenport

Agency Negotiator: Kirk Trost, Miller, Owen & Trost

Negotiation Parties: SCCRTC, Union Pacific

Under Negotiation: Price and Terms

28. Next Meetings/Adjournment

The meeting adjourned at 11:10 am.

The next Transportation Policy Workshop is scheduled for Thursday, November 17, 2005 at 9:00 a.m. at the SCCRTC Offices, 1523 Pacific Avenue, Santa Cruz, CA 95060.

A Public Hearing on Highway 1 Soquel Avenue to Morrissey Blvd Auxiliary Lanes Project is scheduled for Thursday, November 17, 2005 at 7:15 p.m. at the Board of Supervisors

5-10.99



Chambers, 701 Ocean Street, Santa Cruz, CA 95060. The Public Hearing will be preceded by an Open House at 6 p.m. Commissioners are encouraged to attend the 6 p.m. Open House.

The next regular SCCRTC meeting is scheduled for Thursday, December 1, 2005 at 9:00 a.m. at the Board of Supervisors Chambers, 701 Ocean Street, 5<sup>th</sup> Floor, Santa Cruz, CA 95060.

Respectfully submitted,

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Gini Pineda, Staff

ATTENDEES

Les White	SCMTD
Bob Yount	E&D TAC
Leo Moll	Bike Committee
Bill Comfort	
Bob Scott	SCCRTC Consultant
Cliff Walters	Sierre Railroad
Chris Metzger	Nolte Associates
John Shannon	CPS Executive Search
Christine Iams	CPS Executive Search
Maria Carranza Rodriguez	City of Watsonville

REGIONAL TRANSPORTATION COMMISSION

Transportation Policy Workshop

MINUTES

Thursday, November 17, 2005

9:00 am

SCCRTC Conference Room

Santa Cruz, CA 95060

Members Present:    Jan Beautz                      Ellen Pirie  
                                 Dene Bustichi (Alt.)    Emily Reilly  
                                 Tony Campos                  Pat Spence  
                                 Randy Johnson                Mark Stone  
                                 David Koch (Alt.)            Marcela Tavantzis  
                                 Dennis Norton                Mardi Wormhoudt

Staff Present:            Pat Dellin                      Luis Mendez  
                                 Grace Blakeslee              Cory Caletti  
                                 Daniel Nikuna                 Gini Pineda  
                                 Karena Pushnik

1.    Introductions

Self-introductions were made.

2.    Oral Communications - None

SCMTD General Manager Les White announced that December 1<sup>st</sup> would be designated as Rosa Parks Day by the Santa Cruz Metro and that the first seat on every bus would be left empty in her honor. He invited everyone to a ceremony at the Metro Center at 3:00 pm on Thursday, December 1, 2005 in remembrance of Rosa Parks.

Commissioner Johnson thanked the Commission for its share of the funding for the improvements made at the Scotts Valley Drive/Granite Creek Road intersection, saying it was beautiful and relieved congestion in that area tremendously.

3.    Additions/Deletions to the Agenda

Acting Executive Director Pat Dellin said there would be no need for the Closed Session. TPW Chair Johnson removed Item 7 from the agenda.

Replacement pages for Items 5 and 6 were noted as well as a letter from a member of the public concerning Item 8.

5-10.b1

4. Accept Oral Update on Executive Director Recruitment

Acting Executive Director Pat Dellin said the recruitment was going well and that CPS Executive Search had solicited input from members of the Bike Committee, the Elderly and Disabled Transportation Advisory Committee and Traffic Operations System Oversight Committee this past week. She said the recruitment was proceeding on schedule.

5. Approve Staff Recommendations Regarding Concept and Budget for the Transportation Funding Task Force

Acting Executive Director Pat Dellin gave the staff report, saying that the main plan is to have two rounds of community meetings in each of the five supervisorial districts, and providing several ways for members of the public to participate: through workshops, the website, newsletters and Community TV broadcasts. She said the project is intended to be a one-year project but that it will span two fiscal years. Ms. Dellin said that after the initial round of neighborhood meetings, staff would return with a progress report, budget update and a recommendation whether to continue the project. She noted that the Budget and Administration/Personnel Committee also recommends a status report at the end of this fiscal year and recognition that the RTC could stop the project before its end. She explained funds and expenditures for the project budget and the need for additional staff to manage the Task Force activities.

Commissioners discussed various aspects of the Task Force including the budget breakdowns, the best approach to public participation to achieve the goals of the Task Force, and whether the meetings should be focused on hearing ideas rather than educating the public.

Ms. Dellin said that it will be important to educate the public about what constraints and opportunities there are in terms of how transportation funding can be used. She added that there will be lots of work with the media to get the information to the public and get their input. She said she recommended that the RTC make a commitment to the Task Force project, but clarified that the Commission could decide to disband it whenever they chose.

Commissioner Wormhoudt suggested using the first round of meetings to collect input from the public and educate them on the funding process and then have the Task Force organize the information and match the ideas to possible funding sources in order to develop a plan. She said the second round of meetings could be used to present to the public what was learned from the initial public input, what choices would be feasible, present the plan and take input again from the public.

Commissioner Wormhoudt moved and Commissioner Reilly seconded to:

1. Approve the proposed reworked two-year, concept, scope of work and draft project budget for the Transportation Funding Task Force project;

5-10.62

2. Include the project budget and work plan in the proposed amendment to the FY 05-06 RTC Budget and Work Program and the Draft FY 06-07 Budget and Work Program with the understanding that the second year of the project will only be funded if the RTC agrees to continue the project after review of a written report received before the end of the FY 04-05 05-06;
3. Approve a resolution to authorize the Executive Director to amend Eileen Goodwin's contract to augment it to a maximum expenditure of \$80,000 each fiscal year, to specify this project in the scope of services, and to extend the term to June 30, 2007, with FY 06-07 funding contingent upon the RTC's approval of funding for the Transportation Funding Task Force for the second fiscal year;
4. As part of approval of the amendment to the FY05-06 budget in the following agenda item, approve a temporary full time staff position to assist with Transportation Funding Task Force; and
5. Direct staff to return to the RTC after the initial round of neighborhood meetings to report on progress, provide a budget update and recommend whether to continue the project and staffing to the second round of workshop meetings; and
6. Require a progress report for the project to be presented to the RTC by June 30, 2006.

Commissioners continued to discuss aspects of the Task Force including the level of expertise expected of the planner, the attitude that the Task Force needs to adopt in order to be open minded and successful with the public and the requirement that the Commission review the project after the initial round of public meetings.

**Bill Comfort** said that looking for a 2/3 support from Task Force members for potential projects looked like a ploy to initiate another ballot measure.

Commissioner Reilly said she would not be as confident in the success of the Task Force if Eileen Goodwin was not involved and that the proposal follows Ms. Goodwin's recommendations.

The motion (Resolution 08-06) passed with Commissioner Johnson voting "no".

#### 6. Amendment to the FY05/06 Budget and Work Program

Acting Executive Director Pat Dellin said that the County Auditor-Controller had reduced his estimate of Transportation Development Act revenues by \$68,500. Ms. Dellin outlined staff recommendations.

After discussion, Commissioner Wormhoudt moved and Commissioner Stone seconded to approve the Budget and Administration/Personnel Committee and staff recommendations to:

1. Accept the quarterly report on Transportation Development Act (TDA) revenues and the updated estimate of FY05-06 TDA revenues from the County Auditor-Controller which reduces the FY05-06 estimate by \$68,504;
2. Approve allocation of the full Transportation Development Act (TDA) surplus,

5-10. b3

\$62,926, as a special, one-time allocation to SCMTD;

- 3. Approve a resolution approving the other proposed amendments to the FY05/06 Budget and the Work Program as discussed in the staff report, including the addition of the following projects:
  - a. Transportation Funding Task Force
  - b. Establishing the SCCRTC as an autonomous governmental agency, and
  - c. Implementation of the TDM/Ridesharing Plan during construction of the Highway 1/17 Merge Lanes project;
- 4. Include in the budget and approve the addition of 0.5 FTE (full time equivalent) Transportation Planning Technician and the filling of a 1.0 FTE Transportation Planner position to assist existing staff on the three new projects, with the condition that the RTC can reconsider the staffing additions if funding or project needs change; and
- 5. Direct staff to include in the draft of next fiscal year's budget a full year of the 0.5 FTE Transportation Planning Technician position and, for the Transportation Funding Task Force project, a half year of the 1.0 FTE Transportation Planner position, with reconsideration of extension of those positions to occur prior to their termination.

The motion (Resolution 09-06) was approved unanimously.

Closed Session – Removed from Agenda

- 7. Conference with Real Property Negotiator for Acquisition of the Santa Cruz Branch Rail Line Property: Santa Cruz Branch Rail Line from Watsonville Junction to Davenport

Agency Negotiator: Kirk Trost, Miller, Owen & Trost

Negotiation Parties: SCCRTC, Union Pacific

Under Negotiation: Price and Terms

Open Session

Deputy Director Luis Mendez called Paul Chrisman, Miller, Owen & Trost, to participate in a conference call while discussing Item 8.

- 8. Santa Cruz Branch Rail Line Acquisition – Additional Structures Assessment Analysis

Transportation Planner Grace Blakeslee presented the planning maps that had been prepared for the Commission. Ms. Blakeslee explained the map legends and upper and lower panels of each page and emphasized that the maps were for planning purposes only. She said they would be posted on the County's GIS Map Gallery, with a link on the SCCRTC website, and that CD's would also be available to the public.

5-10.64

Acting Executive Director Pat Dellin thanked Grace Blakeslee of the RTC staff and Matt Price of County GIS for preparing the maps. She added that copies of the maps would also be available at local libraries and at the Commission offices.

Ms. Dellin said staff recommended hiring HNTB Corporation for the recommended structural analyses and noted that Biggs Cardoza will conduct a peer review of the HNTB assessments.

Deputy Director Luis Mendez discussed the overall budget, noting that Union Pacific has agreed to pay for ½ of the cost of the La Selva structure analysis and has agreed to make the results of the structural analyses open to the public.

Acting Executive Director Pat Dellin proposed that the SCCRTC contract directly with HNTB. She added that Miller, Owen & Trost has asked for a rate increase for their hourly rate and staff recommended approval.

Commissioner Wormhoudt moved and Commissioner Norton seconded to approve the Rail Acquisition Task Force (RATF) and staff recommendations that the Regional Transportation Commission:

1. Approve amending the right of entry agreement with Union Pacific (UP) to cover the recommended additional structural analyses;
2. Approve hiring HNTB Corporation for production of the recommended additional structural analyses and Biggs-Cardoza for the peer review;
3. Approve the revised financial plan for the Santa Cruz Branch Rail Line Acquisition project to include the necessary funding for the additional structural analyses and peer review;
4. Accept the planning maps of the Santa Cruz Branch Rail Line Right of Way (ROW) produced by the Santa Cruz County GIS Department; and approved additional staff recommendations that the Regional Transportation Commission:
5. Approve contracting directly with HNTB Corporation for the additional structural assessment analyses; and
6. Approve the attached resolution amending the contract with Miller, Owen and Trost to increase some of the hourly rates.

Commissioners asked if the money for the hourly increase for Miller, Owen & Trost would affect Transportation Development Act funding. Acting Executive Director Pat Dellin responded that there was reserve funding that could be used if necessary and that TDA funds would be safeguarded.

In response to a question regarding the timing of the AB3090 reimbursement application, Ms. Dellin said that an updated timeline will be presented at a future meeting now that the timeline for the structures assessment is known.

The motion (Resolution 10-06) passed unanimously.

5-10.65

9. Next Meetings / Adjournment

A Public Hearing on Highway 1 Soquel Avenue to Morrissey Blvd Auxiliary Lanes Project is scheduled for Thursday, November 17th, at 7:15 p.m. at the Board of Supervisors Chambers, 701 Ocean Street, Santa Cruz, CA 95060. The Public Hearing will be preceded by an Open House at 6 p.m. Commissioners are encouraged to attend the 6 p.m. Open House.

The next regular RTC meeting will be held Thursday, December 1, 2005 at 9:00 a.m. at the Board of Supervisors Chambers, 701 Ocean Street, 5th Floor, Santa Cruz, CA 95060.

The next Transportation Policy Workshop will be held Thursday, December 15, 2005 at 9:00 a.m. at the RTC Office, 1523 Pacific Avenue, Santa Cruz, CA.

Respectfully submitted,

\_\_\_\_\_  
Gini Pineda, Staff

ATTENDEES

Bob Yount	
Bill Comfort	
Les White	Santa Cruz Metro
Donna Ziel	Alternate for Mark Stone
Genevieve Bookwalter	<i>Sentinel</i>
Ken Kannegaard	Cemex
Bob Scott	SCCRTC Technical Advisor
Piet Canin	SC Transportation Management Agency
Elizabeth Burnham	
Gustavo Gonzalez	Alternate for Tony Campos
Cliff Walters	Sierra Railroad

5-10.66

SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION  
AND  
SERVICE AUTHORITY FOR FREEWAY EMERGENCIES

Minutes

Thursday,  
November 17, 2005  
7:15 p.m.

Board of Supervisors Chambers  
701 Ocean Street  
Santa Cruz, CA

1. Roll Call

Members Present:	Jan Beautz	Ellen Pirie
	Dene Bustichi (Alt.)	Emily Reilly
	Tony Campos	Pat Spence
	Randy Johnson	Mark Stone
	David Koch (Alt.)	Marcela Tavantzis
	Dennis Norton	
	Tim Gubbins (ex-officio)	

Member Absent: Mardi Wormhoudt

Staff Present:	Pat Dellin	Luis Mendez
	Karena Pushnik	Gini Pineda
	Kim Shultz	Cory Caletti

2. Oral Communications - None

3. 7:15 PM Public Hearing on the Highway 1 Soquel Avenue to Morrissey Boulevard Auxiliary Lane Project - Oral Report by Chris Metzger, Nolte & Associates

Acting Executive Director Pat Dellin gave a brief description of the history of the proposed auxiliary lanes and introduced Chris Metzger, Nolte Associates.

Mr. Metzger gave a PowerPoint presentation that defined the goal of the project as improving traffic conditions for merging and weaving movements between Soquel Avenue and Morrissey Boulevard. Mr. Metzger stressed the increased safety that the auxiliary lanes would provide. He emphasized that the project has been under consideration since 1988 and had been included in the 2002 Caltrans Project Study Report as one of four areas where auxiliary lanes were recommended.

5-10.c1



Mr. Metzger described project benefits and illustrated the project alternatives, including the "no build" alternative, building separate auxiliary lanes between Soquel Avenue and Morrissey Boulevard, and building an extension of the Ocean Street auxiliary lane from where the Highway 1/17 Merge Lanes project ends to Soquel Avenue. Both of the build scenarios would include extensive improvements for bike and pedestrian traffic at the La Fonda overcrossing.

He said that the project would be subject to environmental review and would have to comply with both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) requirements. He projected the estimated cost to be \$11.3 million and provided a tentative timeline.

In reply to a question from Commissioner Reilly, Mr. Metzger said the distance of the project was less than a mile.

Commissioner Stone asked for counts regarding how much traffic exits at Morrissey Boulevard. Acting Executive Director Pat Dellin said that traffic operations analysis will be performed as part of the environmental review.

Ms. Dellin added that staff recommended that the Commission direct staff to prepare a cost and funding proposal for completing the Project Approval/Environmental Documentation (PA/ED) phase of the Highway 1 Soquel Avenue to Morrissey Boulevard Auxiliary Lanes Project.

Chair Pirie opened the floor for the Public Hearing.

Al Hoga said that he lives near the freeway and that pollution blows towards the De Laveaga Park side of the freeway. He said this should have been considered when the freeway was built.

Jean Brocklebank said she does not have a problem weaving and merging between lanes and proposed lowering the speed limit to 55 mph and widening the shoulders for use by emergency vehicles. She asked that this be included as an alternative.

Peter Scott, Campaign for Sensible Transportation, said that the era of oil dependence is ending and that there will likely be fewer cars on the roads. He said this should be factored in when thinking of adding lanes to the highway.

Chris McConn said he supports the auxiliary lanes and that he voted against Measure J because the measure included too many projects.

5-10.02

Don Hoernschemeyer, Campaign for Sensible Transportation, said he likes the idea of a citizens' task force so that projects can be recommended to the Commission and that the Commission should wait until after the Transportation Funding Task Force (TFTF) has made its suggestions.

Mark Vanderwoud said the merge lanes project was well thought out and supports moving forward.

Austin Harless said that when expansion comes, people fill the space and recommended improving public transportation instead.

Miles Payton said that huge freeways will make Santa Cruz more like Los Angeles and that widening highways doesn't work. He said the solution is to get more cars off the road and to spend the \$11 million on bike lanes, trails and buses.

Tim Wesdowski, People Power, said he had 1300 signatures against widening the highway and that he went to South County to get South County residents' opinions. He felt that there was a strong response in Watsonville to use the money to strengthen the bus system or to pursue new ideas.

Jesse Frey said he lives in an area where the wind blows in his direction and that putting more cars near his house will add to the pollution.

Bryan Smith, Aptos, said he opposed Measure J and that the auxiliary lane is a piecemeal part of the Highway 1 HOV Lane Widening Project. He said he supports the Transportation Funding Task Force and supports it doing its work before proceeding with auxiliary lanes.

Micah Posner, People Power, said the project is an affront to common sense and that the Commission is stuck in a 1950's paradigm. He said that consensus building means clearing the field and letting people think about what they want before proceeding with this project.

Robert Vallerga, Senior Coalition, said he supports a "build" alternative and that he voted no on Measure J because of all the other "garbage" on the ballot.

Tom Pistone said he supports the plan as presented and that it takes longer to get home from the fishhook than it does to commute from Silicon Valley. He noted that the Home Depot and other commercial projects at 41<sup>st</sup> Avenue will increase congestion on the freeway.

5-10.C3

Ed Oberweiser said the proposal is flying in the face of reality because there will not be enough oil to continue dependence on cars and that China will be getting all the oil because of our trade deficit.

Jim Kinney, Aptos, said that freeways are not going away and that this project is a start that will help all drivers even if cars will be electric in 10 years.

David Pirkle, Soquel, commutes over the hill and sees both Santa Clara and Santa Cruz traffic. He concluded that widening does not improve traffic flow. He said that if the goal of the project is to improve traffic flow, closing the entrance ramp at Fairmount in the southerly direction and allowing big rigs to use the left lane during rush hours would help.

Lois Robin said that the highway divided the community and widening will continue to degrade the community. She suggested sending a crew to Brazil to study the best bus system in the world.

Bill Comfort pointed out that in 1997 Rich Krumholz (Caltrans, District 5) presented this auxiliary lane project and that it has nothing to do with Measure J. He added his support for the project.

Tom Barber, Rio del Mar, said the earth is running out of fuel and that the transportation system cannot stay as it is. He said there needs to be a plan for mass transit.

Sam Moore, Rodeo Glen Homeowners Association, said there is a lot of widening already approved and the impacts to communities beyond this section need to be taken into consideration. He recommended soundwalls if this project goes forward.

Lisa Hochstein, Santa Cruz, voted no on Measure J because she cares about congestion and suggested that rather than spending money on widening the highway, to spend it on studying public transportation. She said it would undermine the Transportation Funding Task Force (TFTF) by going ahead at this time. She added that it is arrogant to hire consultants who are biased towards building and that "no build does not mean no change".

Lynn Robinson said she thinks as a safety issue it is important to extend the auxiliary lanes past La Fonda and asked the Commission to look at transportation as a whole, noting that the auxiliary lanes will help take traffic off the streets and make them safer.

5-10.C4

Tom Crosson said that he supported the auxiliary lanes as a safety measure for the freeway traffic.

Elaina Ramer said other parts of the world have better public transportation and that as a cyclist she does not feel safe in many parts of Santa Cruz. She would rather have train service and does not support the auxiliary lanes project.

Steve Schnaar, Bike Church, said many people would rather have a better public transportation system and that several studies show that widening highways only helps for a short while and usually the highways fill up in a few years.

Debbie Bulger, Santa Cruz, said she would re-do the wacky ramps at Morrissey Boulevard which are dangerous for bikes and pedestrians. She said it is necessary for people to adapt and that the future is in mass transit.

Aldo Giacchino, Sierra Club, said to look at ways to improve the circulation of traffic without widening and that the lack of circulation of traffic after cars get off the freeway is a problem.

Bill Le Bon said the real safety issue is our need for oil, that we are in Iraq over oil and that the main source of terrorism is our need for oil.

Barbara Lawrence said she lives near the freeway and that the Commission should work towards creating livable cities like Paris and San Francisco, concentrating on mass transit, bike lanes and safe pedestrian access.

Mark Forrester, Soquel, said that wider roads bring more people and that he supports public transportation. He suggested that employers in Silicon Valley could use a company van for commuting and that private enterprise should solve the problems it is creating.

Jim Danaher, Sierra Club, said he was excited about the Transportation Funding Task Force (TFTF) and would not advocate for a wider freeway, but for the Commission to wait for a decision until the TFTF has had a chance to meet.

Jim Conklin, Santa Cruz Business Council, said that Highway 1 desperately needs to be fixed and that businesses support widening as the highway is the lifeblood of the community.

Ed Davidson said that the options in the master plan for the City of Santa Cruz do not show road improvements, improvements

5-10.05

to the fishhook or plans for an eastern access to UCSC, but only plans for alternative transportation modes which don't work. He said there are no jobs along the rail line.

Paul Marcelin-Sampson said our buses are affected by the same congestion as car drivers and that the auxiliary lanes will improve conditions for buses.

Commissioner Pirie thanked everyone who participated in the meeting and closed the Public Hearing.

Commissioner Beautz said the hearing provided the Commission with a wide variety of viewpoints and moved to approve the staff recommendations to:

1. Accept the staff report and presentation by Chris Metzger, Nolte Associates Inc., on the Highway 1 Soquel Avenue to Morrissey Boulevard Auxiliary Lanes Project; and,
2. Conduct a Public Hearing to receive community input on the Highway 1 Soquel Avenue to Morrissey Boulevard Auxiliary Lanes Project; and,
3. Direct staff to prepare a cost and funding proposal for completing the Project Approval/Environmental Documentation (PA/ED) phase of the Highway 1 Soquel Avenue to Morrissey Boulevard Auxiliary Lanes Project.

Commissioner Campos seconded.

Commissioner Stone asked for a legal opinion regarding whether the auxiliary lanes project, as a stand alone project, could be considered segmentation of the proposed Highway 1 HOV Lane Widening Project.

Commissioner Norton asked if a pedestrian study was done in the area and if there were any Park and Ride lots within that section and the broader Highway 1 HOV Widening Lane Project. He also asked for a closer estimate of the costs.

Acting Executive Director Pat Dellin said there was a Park and Ride lot within the project limits of the Auxiliary Lanes Project and that pedestrian improvements, in addition to the improvements at the La Fonda overcrossing, were included in the plans for the Highway 1 HOV Lanes Widening Project. Senior Planner Kim Shultz added that in the Highway 1 HOV Widening Lane Project's current phase, there will be analysis for potential additional Park and Ride lots.

The motion passed unanimously.

5-10.06

4. Next Meetings/Adjournment

The meeting adjourned at 8:50 pm.

The next regular SCCRTC meeting is scheduled for Thursday, December 1, 2005 at 9:00 a.m. at the Board of Supervisors Chambers, 701 Ocean Street, 5<sup>th</sup> Floor, Santa Cruz, CA 95060.

The next Transportation Policy Workshop is scheduled for Thursday, December 15, 2005 at 9:00 a.m. at the SCCRTC Offices, 1523 Pacific Avenue, Santa Cruz, CA 95060.

Respectfully submitted,

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Gini Pineda, Staff

5-10.07

ATTENDEES

Karen Fry	
Robert Vallerga	Senior Coalition
Jan Kampa	
April Kampa	
Mark & Debora Vanderwoud	
Leo Moll	
Hillary Fusting	
Tom Barber	
Bill Comfort	
Bryan Smith	
John Presleigh	SC County Department of Public Works
Irene Ritchie	
Ed Silveira	
Jesse Jacovin	
Dan Alexander	
Joe Moreno	
Austin Harless	
Elaina Ramer	
Albert Haga	
Jean Brocklebank	
Peter Scott	
Chris McConn	
Don Hoernschemeyer	
Miles Payton	People Power
Tom Wesdowski	
Jesse Frey	Hub for Sustainable Transportation
Micah Posner	People Power
Tom Pistone	
Ed Oberweiser	
Jim Kinney	
David Pirkle	
Lois Robin	
Sam Moore	Rodeo Glen HOA
Lynn Robinson	
Tom Crosson	
Steve Schnaar	Bike Church
Debbie Bulger	
Aldo Giacchino	Sierra Club
William LeBon	
Barbara Lawrence	
Marl Forrester	
Jim Danaher	Sierra Club
Jim Conklin	SC Business Council
Ed Davidson	
Paul Marcelin-Sampson	

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Tom Stickel, Manager of Maintenance  
**SUBJECT:** CONSIDERATION OF CONTRACT RENEWAL WITH FOLGER GRAPHICS FOR THE PRINTING OF *HEADWAYS*

## I. RECOMMENDED ACTION

**District staff is recommending that the Board of Directors authorize the General Manager to execute an amendment to the contract with Folger Graphics for the printing of *Headways* to extend the term of the contract for one (1) additional year and increase the rate of compensation.**

## II. SUMMARY OF ISSUES

- The District has a contract (No. 02-12) for the printing of *Headways*.
- At the option of the District, this contract may be renewed for four (4) additional one-year terms.
- Folger Graphics has indicated that they are interested in extending the contract one additional year to December 31, 2006 with a price increase as provided in the contract. Price increases are limited to the annual percentage change in the Consumer Price Index for the San Francisco – Oakland – San Jose area.
- It is requested that the Board of Directors authorize the General Manager to execute an amendment to the contract to extend the contract term for one additional year and increase the rate of compensation.

## III. DISCUSSION

*Headways* is the District's bus schedule published to provide the community information with current service routes and timetables. The District's current contract with Folger Graphics for the printing of *Headways* is due to expire on December 31, 2005. Folger Graphics has provided good service under this contract. An extension of the contract would be favorable to the District. Section 3.02 of the contract allows the District the option to renew the contract for four (4) additional one-year terms. Folger Graphics has also reviewed the contract and has indicated their desire to extend the contract for one additional year with a rate increase limited to the annual percentage change in the Consumer Price Index for the San Francisco – Oakland – San Jose area as provided in the original contract.

5-12.1



District staff is recommending that the Board of Directors authorize the General Manager to execute an amendment to the contract to extend the contract term for one additional year and allow an increase the rate of compensation.

#### **IV. FINANCIAL CONSIDERATIONS**

Annual costs for two production runs of *Headways* will cost approximately \$30,000. These costs are included as part of the Customer Service budget.

#### **V. ATTACHMENTS**

- A- Letter from Folger Graphics
- B- Contract Amendment

5-12.2



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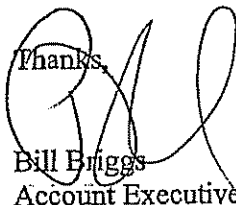
November 10, 2005

Lloyd Longnecker  
District Buyer  
Santa Cruz Metropolitan Transit District  
110 Vernon Street, Suite B  
Santa Cruz, California 95060

Greetings Lloyd:

Thank you for the letter of renewal of Contract for Printing of Headways (02-12)

This letter is intended to request to extend the contract for the new term with any cost increases not exceeding the Consumer Price Index for the San Francisco-Oakland-San Jose Area.

Thanks,  


Bill Briggs  
Account Executive

E-mail: [billbriggs@folgergraphics.com](mailto:billbriggs@folgergraphics.com)

Office: 510-887-5656x104/ cell: 510-329-0983

**SANTA CRUZ METROPOLITAN TRANSIT DISTRICT  
THIRD AMENDMENT TO CONTRACT NO. 02-12  
FOR PRINTING OF HEADWAYS**

This Third Amendment to Contract No. 02-12 for Printing of Headways is made effective January 1, 2006 between the Santa Cruz Metropolitan Transit District, a political subdivision of the State of California ("District") and Folger Graphics ("Contractor").

**I. RECITALS**

- 1.1 District and Contractor entered into a Contract for Printing of Headways ("Contract") on January 1, 2003.
- 1.2 The Contract allows for the extension upon mutual written consent.
- 1.3 Contractor has requested an increase in the rate of compensation as allowed in the contract.

Therefore, District and Contractor amend the Contract as follows:

**II. TERM**

- 2.1 Article 3.02 is amended to include the following language:

This Contract shall continue through December 31, 2006. This Contract may be mutually extended by agreement of both parties.

**III. III. COMPENSATION**

- 3.1 Article 5.01 is amended to include the following language:

Effective January 1, 2006, the rate of compensation shall be increased 1.2 %, which is the annual percentage change in the Consumers Price Index for the San Francisco – Oakland – San Jose area.

**IV. REMAINING TERMS AND CONDITIONS**

- 4.1 All other provisions of the Contract that are not affected by this amendment shall remain unchanged and in full force and effect.

**V. AUTHORITY**

Each party has full power to enter into and perform this Third Amendment to the Contract and the person signing this Third Amendment on behalf of each has been properly authorized

5-12. b1

and empowered to enter into it. Each party further acknowledges that it has read this Third Amendment to the Contract, understands it, and agrees to be bound by it.

Signed on \_\_\_\_\_

DISTRICT  
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

\_\_\_\_\_  
Leslie R. White  
General Manager

CONTRACTOR  
FOLGER GRAPHICS

By \_\_\_\_\_  
Linda Torre  
Vice President, Administration

Approved as to Form:

\_\_\_\_\_  
Margaret R. Gallagher  
District Counsel

5-12. b2

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Tom Stickel, Manager of Maintenance  
**SUBJECT:** CONSIDERATION OF CONTRACT RENEWAL WITH CLASSIC GRAPHICS FOR VEHICLE BODY REPAIR AND PAINT SERVICES.

## I. RECOMMENDED ACTION

**District staff is recommending that the Board of Directors authorize the General Manager to execute an amendment to the contract with Classic Graphics for vehicle body repair and paint services to extend the term of the contract for one (1) additional year and increase the rate of compensation.**

## II. SUMMARY OF ISSUES

- The District has a contract with Classic Graphics for vehicle body repair and paint services.
- At the option of the District, this contract may be renewed for four (4) additional one-year terms.
- Classic Graphics has indicated that they are interested in extending the contract an additional year through December 31, 2006 with an increase in the labor rate as provided in the contract. Price increases are limited to the annual percentage change in the Consumer Price Index for the San Francisco – Oakland – San Jose area.

## III. DISCUSSION

The District's current contract with Classic Graphics for vehicle body repair and paint services is due to expire on December 31, 2005. Classic Graphics has provided good service under this contract. An extension of the contract would be favorable to the District. Section 3.02 of the contract allows the District the option to renew the contract for four (4) additional one-year terms. Classic Graphics has also reviewed the contract and has indicated their desire to extend the contract for one additional year with an increase in the labor rate equal to the annual percentage change in the Consumer Price Index for the San Francisco – Oakland – San Jose area as provided in the original contract.

It is recommended that the Board of Directors authorize the General Manager to execute an amendment to the contract with Classic Graphics to extend the contract one (1) additional year and allow an increase the rate of compensation.

5-13.1

**IV. FINANCIAL CONSIDERATIONS**

Funds are available in the Fleet Maintenance budget for this amendment.

**V. ATTACHMENTS**

- A- Letter from Classic Graphics
- B- Second Amendment to Contract 02-08

5-13.2

T&J LEWIS, INC.

# CLASSIC GRAPHICS

COMPLETE PAINTING & BODY REPAIRS

Attachment **A**

Phone  
(510) 744-2190

7969 Enterprise Drive  
Newark, California 94560

Fax  
(510) 713-8541

November 22, 2005

Mr. Lloyd Longnecker  
District Buyer  
Santa Cruz Metropolitan Transit District  
110 Vernon Street, Ste. B  
Santa Cruz, CA 95060

SANTA CRUZ METRO  
TRANSIT DISTRICT

2005 NOV 28 AM 10:28

RECEIVED

Re: Renewal of Contract for Vehicle Body Repair and Paint Services (02-08)

Dear Mr. Longnecker:

Classic Graphics would be most agreeable to accept, renew and extend our contract with Santa Cruz Metropolitan Transit District for another year.

As per Janice's telephone conversation with you, we would like to modify the contract by changing the labor rate and cost for complete repaints using your accepted method of the Consumer Price Index 2004 increase rate of 1.2%.

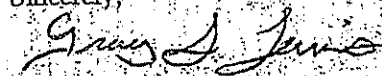
We propose the following changes which reflect the 2004 CPI 1.2% increase:

Current Labor Rate: \$45.81	New Labor Rate: \$46.36
Current 24' Bus \$2390.00	New Price for 24' Bus \$2418.00
Current 35' Bus \$2980.00	New Price for 30' Bus \$3015.00
Current 40' Bus \$3250.00	New Price for 40' Bus \$3289.00

We hope that you will find these changes acceptable, if you have any questions, or comments please contact us at (510) 744-2190 or at Janice's email address [jlewis@classicgraphicsbodyshop.com](mailto:jlewis@classicgraphicsbodyshop.com).

We eagerly look forward to having the opportunity to continue to be of service to Santa Cruz Metropolitan Transit District.

Sincerely,



Tracy S. Lewis  
President  
T&J LEWIS INC  
dba CLASSIC GRAPHICS

5-13.21

**SANTA CRUZ METROPOLITAN TRANSIT DISTRICT  
SECOND AMENDMENT TO CONTRACT FOR  
VEHICLE BODY REPAIR AND PAINT SERVICES**

This Second Amendment to the Contract for vehicle body repair and paint services is made effective January 1, 2006 between the Santa Cruz Metropolitan Transit District, a political subdivision of the State of California ("District") and Classic Graphics ("Contractor").

I. RECITALS

- 1.1 District and Contractor entered into a Contract for vehicle body repair and paint services ("Contract") on January 1, 2003.
- 1.2 The Contract allows for the extension upon mutual written consent.
- 1.3 Contractor has requested an increase in the labor rate as allowed in the contract.

Therefore, District and Contractor amend the Contract as follows:

II. TERM

- 2.1 Article 3.02 is amended to include the following language:

This Contract shall continue through December 31, 2006. This Contract may be mutually extended by agreement of both parties.

III. COMPENSATION

- 3.1 Article 5.01 is amended to include the following language:

Effective January 1, 2006, the rate for labor will be \$46.36 per hour. The cost for complete repaints of 24' buses will be \$2,418.00. The cost for complete repaints of 35' buses will be \$3,015.00. The cost for complete repaints of 40' buses will be \$3,289.00.

IV. REMAINING TERMS AND CONDITIONS

- 4.1 All other provisions of the Contract that are not affected by this amendment shall remain unchanged and in full force and effect.

V. AUTHORITY

- 5.1 Each party has full power to enter into and perform this Second Amendment to the Contract and the person signing this Second Amendment on behalf of each has been properly authorized and empowered to enter into it. Each party further acknowledges that it has read this Second Amendment to the Contract, understands it, and agrees to be bound by it.

SIGNATURES ON NEXT PAGE

5-13. b1



Signed on \_\_\_\_\_

DISTRICT  
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

---

Leslie R. White  
General Manager

CONTRACTOR  
CLASSIC GRAPHICS

By \_\_\_\_\_  
Tracy S. Lewis  
President

Approved as to Form:

---

Margaret R. Gallagher  
District Counsel

5-13. b2<sup>2</sup>

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Mark Dorfman, Assistant General Manager  
**SUBJECT:** CONSIDERATION OF REPORT ON RESULTS FROM THE FREE FARE PROMOTION AFTER THE TRANSIT STRIKE

## I. RECOMMENDED ACTION

**No action is required on this item.**

## II. SUMMARY OF ISSUES

- At the conclusion of the 37-day transit strike the Board of Directors authorized a Free Fare period of one week to encourage riders to come back to the system.
- As a result of the Free Fare period, ridership increased 5.77%.
- The purpose of this report is to document the impacts of the Fare Free Program, and to identify the cost of the program.

## III. DISCUSSION

The 37-day transit strike by the United Transportation Union Local 23 caused a significant hardship on individuals who had previously relied on METRO for their transportation needs. During the strike many METRO riders got into the habit of using other means of transportation. In cases where transit systems have experienced strikes of long duration (longer than 1 month), it is common to attempt to entice riders back to the system with free fare promotions.

Staff recommended a ten (10) day program for cash riders and pass holders. The Board of Directors approved the program but reduced it to seven (7) days and extended it to cover UCSC and Cabrillo. The free fare program began with the resumption of service on November 3, 2005, and continued through November 9, 2005.

The chart below shows the ridership impact for the seven day period:

Day	2005	2004
Thursday	20,447	22,534
Friday	22,742	22,867
Saturday	13,367	11,193
Sun/Mon	33,584	30,203
Tuesday	26,331	23,708

5-14.1

Wednesday	22,874	21,239
	139,345	131,744

Ridership Increase                      7,601  
 Percentage                                      5.77%

Sunday and Monday is combined as the fareboxes are pulled on Monday and the counts are for the two day period. To determine the cost of the Free Fare promotion a comparison was made to the revenue collected for the same time last year. In addition, the Finance Department was able to supply the value of the lost pass and ticket sales. Lastly, using data from the prior year, the impact on the billings to UCSC and Cabrillo were identified.

Day	2005	2004
Thursday	\$ 35.81	\$ 8,356.58
Friday	\$ 16.52	\$ 9,004.12
Saturday	\$ 9.50	\$ 5,540.00
Sun/Mon	\$ 9.00	\$ 13,647.00
Tuesday	\$ 7.57	\$ 8,544.85
Wednesday	\$ 6.50	\$ 7,607.95
	\$ 84.90	\$ 52,700.50

Farebox                                      \$ 52,615.60  
 Loss  
 Ticket & Pass Loss                      \$ 26,409.00  
 UCSC Lost Revenue                      \$ 56,028.35  
 Cabrillo Lost Revenue                      \$ 6,230.00  
  
 TOTAL                                      \$141,282.95

Based upon the above information, the total amount of revenue lost to METRO as a result of the Free Fare promotion is calculated at \$141,283.

No action is required regarding this report.

**IV. FINANCIAL CONSIDERATIONS**

The lost revenue of \$141,283 will be addressed when the FY 2005/06 budget is amended.

**V. ATTACHMENTS**

None

5-14.2

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

## STAFF REPORT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Margaret Gallagher, District Counsel  
**SUBJECT:** **CONSIDERATION OF OWNED AND LEASED PROPERTY INVENTORIES TO DETERMINE IF THERE IS ANY PROPERTY IN EXCESS OF SANTA CRUZ METROPOLITAN TRANSIT DISTRICT'S FORESEEABLE NEEDS**

### I. RECOMMENDED ACTION

Accept and File Santa Cruz METRO's Property Inventories of Leased and Owned Property for 2005 which includes a Determination of Properties that are in Excess of METRO's Foreseeable Needs

### II. SUMMARY OF ISSUES

- Santa Cruz Metropolitan Transit District is required on an annual basis to prepare inventories of properties it holds, owns and controls to determine if any properties are in excess of its foreseeable needs.
- The only property that Santa Cruz METRO owns that is not in transit use is the Watsonville Maintenance and Operations Facility (MOF) at 25 Sakata Lane in Watsonville. This property has been declared surplus and is currently being marketed for sale.
- All properties leased by Santa Cruz METRO are currently being used in transit operation for bus maintenance, bus parking, administration and facilities maintenance activities.

### III. DISCUSSION

Government Code Section 50569 requires that on or before December 31<sup>st</sup> of each year, Santa Cruz METRO, a local agency, make an inventory of all lands held, owned or controlled by it or any of its departments, agencies or authorities to determine what land, including air rights, if any, are in excess of its foreseeable needs. According to the statute, a description of each parcel found to be in excess of its needs should be made a matter of public record.

An inventory of all the properties owned by Santa Cruz Metro, prepared by the Finance Department is set forth in Attachment A. This inventory shows that the Watsonville Maintenance and Operations Facility located at 25 Sakata Lane in Watsonville, California is currently not in transit use. This property has been declared surplus by the Board of Directors.

This property is scheduled to be sold with the proceeds being used for the MetroBase Project. Currently, the property is leased to a truck-driving institute that teaches individuals how to drive large trucks. A Request for Proposals for the sale of the property issued by METRO staff with a minimum bid of \$4,000,000 did not result in any proposals. At this time, METRO has retained the services of a Real Estate broker to sell the property.

An inventory of properties that Santa Cruz METRO leases from others is set forth in Attachment B. All of the leased property is currently being used for transit operation and related support functions. Property (ABN# 017-011-57 and 017-011-58) owned by METRO in Watsonville adjacent to the Watsonville Transit Center are currently being leased to the City of Watsonville for a transit-orientated development, housing and a child care center. This facility will open in the beginning of 2006. It is anticipated that the tenants will utilize METRO transit service to facilitate their employment and recreational needs.

Additionally, Santa Cruz METRO entered into a 40-year ground lease with the City of Santa Cruz in which vacant property owned by the City would be utilized by METRO for its MetroBase Project. On February 1, 2005, Santa Cruz METRO leased from the Iuliano 1977 Trust a vacant lot located at 115 Dubois Street, Santa Cruz where buses are stored and parked.

Any citizen, limited dividend corporation, housing corporation or nonprofit corporation, shall upon request, be provided with a list of the parcels without charge.

#### IV. FINANCIAL CONSIDERATIONS

None

#### V. ATTACHMENTS

**Attachment A:** SCMTD Deeds

**Attachment B:** Properties Leased by Santa Cruz Metropolitan Transit District

5-15.2

# SCMTD DEEDS

APN NO.	PARCEL LOCATION	DATE OF ACQUISITION BY SCMTD	ACQUIRED FROM	DESCRIPTION	STATUS OF USE
5-152-05	Santa Cruz, CA 912 Pacific Ave. Santa Cruz	07/16/80	Peerless Stages, Inc.	Metro Center location (formerly Santa Cruz Transit)	Active transit center
5-152-31	Santa Cruz, CA 920 Pacific Avenue Santa Cruz	09/22/80	Reward Enterprises	Metro Center location (formerly Penny's)	Active transit center
8-013-04	Santa Cruz, CA 120 Golfclub Dr. Santa Cruz	6/24/05	Yvonne Aiassa Humphrey	Future Maintenance Shop Location	Future Building Site of MetroBase Project
8-013-5	Santa Cruz, CA 138 Golf Club Dr. Santa Cruz	05/19/71	Cecil E. Woodsy Minnie M. Woolsey	Minor Maintenance Shop Location	Active Maintenance Facility being retrofitted for CNG repairs
8-013-6	Santa Cruz, CA 140 Golf Club Dr. Santa Cruz	07/7/71	Sally Anne Smith	Minor Maintenance Shop Location	Same as above
8-032-06	Santa Cruz, CA 1200 River St. Santa Cruz	06/15/77	Warren R. French Mabel L. French	Operations Dept. Location	Active Operations Dept.
Bus Stop #2551. No APN # listed	Santa Cruz, CA 17 <sup>th</sup> Ave./Tremont Santa Cruz	09/5/89	No. Calif. VOE Elderly Housing, Inc.	17 <sup>th</sup> & Tremont Bus Stop Donation Live Oak Location	Active bus stop with shelter
22-211-90	Scotts Valley, CA 425 King's Village SVTC	011/15/96	Church of Latter-Day Saints	Transit Center Park and Ride Lot	13.87% ownership by Scotts Valley Redevelop. Agency

5-15.01

Attachment A

# SCMTD DEEDS

APN NO.	PARCEL LOCATION	DATE OF ACQUISITION BY SCMTD	ACQUIRED FROM	DESCRIPTION	STATUS OF USE
No APN # listed	Soquel	3/29/88	State of California, Dept. of Transportation	Director's Deed #DD-47160-1 for 1.312 acres and .037 of an acre for Soquel Park & Ride Lot	Active Park and Ride Lot
017-011-54	Watsonville, CA Watsonville Transit Center	05/9/86	Crocker National Bank	Borders West Lake Ave. & Rodriguez St.	Throughway for buses entering and leaving Watsonville Transit Center
017-011-57 and 017-011-58 (formerly 51 & 52)	Watsonville, CA Watsonville Transit Center	10/06/88	Allan Louis Alexander Ann Alexander Rando John M. Batistich Joan M. Batistich Janet F. Ryan	Child Care Center/Mixed Use Facility	99-year lease with City of Watsonville for a total amount of \$1.00 per year.
017-231-05	Watsonville, CA Sakata Lane	02/16/82	L & W Land Company	Original maintenance facility. Not used since 1990s.	Inactive
008-032-05	1122 River St.	06/25/05	The 2004 Jeannine M. Gibson, Family Trust, Jeannine Marie Gibson, Trustee	Future site of MetroBase Fueling Facility	MetroBase Project
086-102-14	Boulder Creek, CA 17835 China Grade Boulder Creek	04/7/05	Santa Cruz County/The Henry F. Plummer Trust, Henry F. Plummer, Trustee	Easement at China Grade & Hwy 236	Bus Turnaround

S-15.02

**PROPERTIES LEASED BY  
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT**

<b>PROPERTY ADDRESS/ LESSOR</b>	<b>TERM/ NOTICE/ BOARD ACTION</b>	<b>MONTHLY LEASE AMT.</b>	<b>USE OF PROPERTY</b>
111 Dubois IULIANO 1977 TRUST	03/01/05- Beginning 02/29/10- Ending	\$10,888.00	Maintenance
115 Dubois IULIANO 1977 TRUST	02/01/05-Beginning 01/31/08-Ending	\$3,000.00	Bus and vehicle parking
370 Encinal Street Edward and Barbara Hinshaw	01/15/99- Beginning 01/14/06- Ending 01/15/06- Ext. begins 01/14/08- End of term	\$25,899.59	Administration Offices/ Facilities Maintenance
425 Front Street Greyhound Lines, Inc.	07/01/98- Beginning 06/30/03- Ending 07/01/03- Ext. begins 12/31/08- end of term	\$626.21/Month \$7,514.51 (Fiscal Year from 07/05- 06/06)	Bus parking
2880 Research Park Drive, Soquel, CA Soquel III Associates	09/01/04-Beginning 08/31/09-Ending	\$10,930.72	ParaCruz Operations Facility
1200 River Street (small portion) City of Santa Cruz	10/01/04- Beginning 09/30/44- Ending	\$1.00/Annually *100% of taxes and assessments	Future MetroBase facility
110 Vernon Street Broughton Land, LLC	02/01/05- Beginning 01/31/10- Ending	\$7,590.00	Fleet Administration Offices
Capitola Mall Macerich Partnership, LP	Perpetual	\$1,407.05	Active Transit Center

5-15.b1



# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Mark Dorfman, Assistant General Manager  
**SUBJECT:** CONSIDERATION OF A RESOLUTION AUTHORIZING AN AMENDED TDA CLAIM FOR FY 2006.

## I. RECOMMENDED ACTION

**Adopt a resolution authorizing staff to submit an amended claim to the Santa Cruz County Regional Transportation Commission for FY2006 Transportation Development Act (TDA) funds.**

## II. SUMMARY OF ISSUES

- In March, 2005, METRO staff submitted a claim to the Santa Cruz County Regional Transportation Commission (SCCRTC) for \$5,677,686 in TDA funds based upon estimated TDA revenue during the coming year.
- In November, 2005, the SCCRTC declared a special allocation of \$62,926 to METRO from surplus TDA funds above the recommended SCCRTC reserves.
- Adopting the attached Resolution will authorize METRO staff to submit an amended claim to the SCCRTC for the special allocation of TDA funds to the District.

## III. DISCUSSION

Transit Development Act (TDA) funds are derived from ¼ cent of the 7.25 cent state sales tax collected in Santa Cruz County. The State Controller appraises the Santa Cruz County Regional Transportation Commission (SCCRTC) of the revenue amount projected to be returned to the County during the coming year. The SCCRTC then allocates by formula a portion of the countywide TDA Revenue to METRO. In March, the District submitted a claim to the SCCRTC for \$5,677,686 in TDA funds forecast to be apportioned to METRO in FY 2006.

On November 3, 2005 the SCCRTC adopted an amended FY2006 budget which increased the amount of TDA funds available to the District by \$62,926 as a special allocation.

Adopting the attached resolution (Attachment A) will authorize staff to submit an amended claim (Attachment B) for the increased amount of TDA funds available in FY2006.

5-16.1

**IV. FINANCIAL CONSIDERATIONS**

The amended TDA claim will increase the amount TDA revenue in the District's FY2006 Capital Program Funding by \$62,926 for a total of \$5,740,612.

**V. ATTACHMENTS**

- Attachment A:** Resolution Authorizing Submittal of Amended FY2006 TDA Claim  
**Attachment B:** Amended FY2006 TDA/STA Claim

5-16.2

BEFORE THE BOARD OF DIRECTORS OF THE  
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

Resolution No. \_\_\_\_\_

On the Motion of Director: \_\_\_\_\_

Duly Seconded by Director: \_\_\_\_\_

The Following Resolution is Adopted:

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT  
AUTHORIZING AN AMENDED CLAIM TO THE  
SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION  
FOR TRANSPORTATION DEVELOPMENT ACT FUNDS**

**WHEREAS**, in accordance with Article 1, Section 99210 of the Public Utilities Code the Santa Cruz Metropolitan Transit District is a transit operator; and

**WHEREAS**, in accordance with Article 1, Section 99214 of the Public Utilities Code the Santa Cruz County Regional Transportation Commission is the Transportation Planning Agency for Santa Cruz County; and

**WHEREAS**, in accordance with Article 4, Section 99260(a) of the Public Utilities Code, claims may be filed with the transportation planning agency by transit operators for the support of public transportation systems; and

**WHEREAS**, in accordance with 6655 of the California Code of Regulations, the Transportation Planning Agency may revise the allocation instruction to the County Auditor for payment to claimants when necessary to reconcile the Transportation Development Act apportionment estimate with actual figures,

**NOW, THEREFORE, BE IT RESOLVED**, that the General Manager of the Santa Cruz Metropolitan Transit District is authorized to submit an amended claim in the amount of \$5,740,612 for Transportation Development Act funds in FY2006. Said claim accompanies this resolution and is incorporated by reference.

5-16. a1

Resolution No. \_\_\_\_\_

Page 2

**PASSED AND ADOPTED** this 16th day of December 2005, by the following vote:

**AYES:** Directors -

**NOES:** Directors -

**ABSTAIN:** Directors -

**ABSENT:** Directors -

**APPROVED** \_\_\_\_\_  
MICHAEL W. KEOGH  
Board Chair

**ATTEST** \_\_\_\_\_  
LESLIE R. WHITE  
General Manager

**APPROVED AS TO FORM:**

\_\_\_\_\_  
MARGARET GALLAGHER  
District Counsel

5-16.92

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

Attachment **B**

**DATE:** December 16, 2005  
**TO:** Executive Director, SCCRTC  
**FROM:** General Manager, SCMTD  
**SUBJECT: AMENDED FY 2006 PUBLIC TRANSPORTATION CLAIM  
DISBURSEMENT REQUEST**

Disbursement of the Santa Cruz Metropolitan Transit District's FY 2006 claim for an amended amount of \$5,740,612.00 in TDA funds and \$1,100,894.00 in STA funds is requested as follows:

1. TDA FUNDING FOR FY 2006

<u>Disbursement Schedule</u>	<u>Operating Funds</u>	<u>Total Disbursement</u>
First Quarter (PAID)	\$1,419,421.50	\$1,419,421.50
Second Quarter	\$1,419,421.50	\$1,419,421.50
Third Quarter	\$1,450,884.50	\$1,450,884.50
Fourth Quarter	\$1,450,884.50	\$1,450,884.50
	<b>\$5,740,612.00</b>	<b>\$5,740,612.00</b>

2. STA FUNDING FOR FY 2006 (unchanged)

<u>Disbursement Schedule</u>	<u>Capital Funds</u>	<u>Total Disbursement</u>
First Quarter (PAID)	\$ 275,223.50	\$ 275,223.50
Second Quarter	\$ 275,223.50	\$ 275,223.50
Third Quarter	\$ 275,223.50	\$ 275,223.50
Fourth Quarter	\$ 275,223.50	\$ 275,223.50
	<b>\$1,100,894.00</b>	<b>\$1,100,894.00</b>

TDA funds will be used for capital and operating expenses. The STA funds will be used to fund transit projects included in the District's Capital Improvement Program.

5-16. b1

**PUBLIC TRANSPORTATION CLAIM  
FISCAL YEAR 2006**

**TO:** SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION  
1523 Pacific Avenue  
Santa Cruz, CA 95060

**FROM:** SANTA CRUZ METROPOLITAN TRANSIT DISTRICT  
370 Encinal Street, Suite 100  
Santa Cruz, CA 95060

This applicant, the Santa Cruz Metropolitan Transit District, qualified pursuant to Section 99203 of the Public Utilities Code, hereby requests in accordance with Article 4, Section 6630 of the California Code of Regulations that its claim for Local Transit Funds be approved in the amount of:

**TDA Funding:**

Five million, seven hundred forty thousand, six hundred twelve dollars \$5,740,612.00

**STA Funding:**

One million, one hundred thousand, nine hundred eighty-four dollars (\$1,100,984.00).

For Fiscal Year 2006 to be drawn from the local transportation trust fund of the following respective county in the following respective amount:

<u>COUNTY</u>	<u>PURPOSE</u>	<u>AMOUNT</u>
Santa Cruz	Transportation Development Act	\$5,740,612.00
Santa Cruz	State Transit Assistance Funds	<u>\$1,100,894.00</u>
		\$ 6,841,506.00

When approved, please transmit this claim for payment. Approval of the claim and payment by the County Auditor to this operator is subject to such monies being on hand and available for distribution, and to the provisions that such monies shall be used only in accordance with the terms of the approved annual financial plan.

**SANTA CRUZ METROPOLITAN TRANSIT DISTRICT**

BY: \_\_\_\_\_  
LESLIE R. WHITE  
General Manager

DATE: \_\_\_\_\_ December 16, 2005

5-16.bz

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

## STAFF REPORT

**DATE:** December 16, 2005

**TO:** Board of Directors

**FROM:** Margaret Gallagher, District Counsel

**SUBJECT:** CONSIDERATION OF APPROVAL OF AN AMENDED AND RESTATED GREAT WEST ELIGIBLE DEFERRED COMPENSATION PLAN FOR GOVERNMENTAL EMPLOYERS AND AMENDED ADOPTION AGREEMENT

### I. RECOMMENDED ACTION

Approve the amended and restated Great West Deferred Compensation Plan and Trust and Approve the Amended Great-West Adoption Agreement in order to update the Plan and incorporate IRS allowable changes

### II. SUMMARY OF ISSUES

- The Santa Cruz Metropolitan Transit District (METRO) has two deferred compensation plans. The Great-West Plan (originally NPC) was established in 1982 and the California Public Employees Retirement System (CalPERS) Plan was established in 1996.
- In 1998, the Board of Directors amended and restated the NPC Plan in order to include statutory revisions made to the Internal Revenue Code Section 457 to provide for the security and benefit of METRO employees who are participants in the Plan.
- In 2002, METRO's trustee to the NPC Plan resigned and because new federal and state laws had changed relative to 457 plans and NPC had been purchased by Great-West, the Board of Directors restated and modified the Great West Deferred Compensation Plan, changed the trustee and incorporated the new changes in the law into the Plan documents so the participating employees could take advantage of the changes.
- After METRO adopted the modification to its Great-West Plan in 2002, to assist plan sponsors with updating plan documents, the IRS issued Revenue Procedure 2004-56 containing model amendments for governmental Section 457(b) plans. Great-West has informed METRO that the version of the Plan documents adopted by METRO in 2002 has been revised using the IRS Model language. Attachment B and C are the revised documents that need approval by the Board of Directors to ensure that this Plan remains compliant with federal and state law.

5-17.1

### III. DISCUSSION

The National Plan Coordinators (NPC) Deferred Compensation Plan and Trust was established in 1982 for METRO employees. Through this plan and the CalPERS Plan, a METRO employee may contribute up to the established maximum amount of compensation received from his/her METRO income into one or both deferred compensation plans for the purpose of deferring income taxes on his/her retirement benefits. In December 1998, the Board of Directors approved by Resolution an Amendment and Restatement of the NPC Deferred Compensation Plan and Trust. At that time Ronnie Nichols was named as trustee for the Plan and statutory revisions made to the Internal Revenue Code Section 457 were included to provide for the security and benefit of METRO employees who are participants in the Plan.

Thereafter, Great-West purchased NPC and The Economic Growth and Tax Relief and Reconciliation Act of 2001 (EGTRRA) was signed into law which allowed plan sponsors to amend their eligible 457 deferred compensation plans to provide valuable additional benefits to participants. State law changes brought California tax law into conformity with EGTRRA. EGTRRA placed governmental 457(b), 401(k) and 403(b) retirement plans on equal par with each other in terms of contribution limits and distribution options. It also gave people over 50 a chance to catch up on their retirement savings. Overall, the law offered major opportunities for people to increase retirement savings, making tax-deferred plans more attractive than ever. With these changes additional investment options became available for the participating employees. METRO incorporated many of these changes into the Great West Plan in 2002.

At this juncture, final regulations have been completed by the IRS related to the EGTRRA laws. Besides fashioning model language for the Plan Document and the Adoption Agreement, the new guidelines also provided further guidance in certain areas that affects METRO's Great West Plan. In this regard there are two main areas that should be reviewed. The first is on the issue of deminimus distributions. According to Great West, there are two types of deminimus distributions. They are voluntary and involuntary. In METRO's current plan documents, METRO has allowed participants who are still employees with METRO to make voluntary deminimus distributions if they have a balance of less than \$5,000 and have not made contributions for at least 24 months. This provision is not being revised. With regard to the involuntary deminimus distribution the current plan documents state that METRO may establish procedures that allow the Plan to force separated employees with balances of less than \$5,000 to take a distribution and if they do not willingly take the distribution, that METRO may simply send them the money as a taxable event.

The final regulations from the IRS regarding EGTRRA gave further guidance in this area, according to Great-West. Pursuant to the final regulation, if the Plan requires the mandatory distribution provision for those that separate from METRO employment with a balance of less than \$5,000, than METRO must make some decisions with regard to that money. The best option, according to Great-West, is to lower the threshold on mandatory distributions to \$0.00 and then if anyone leaves under these circumstances, METRO is able to leave the money in the plan regardless of the size of the account balance. By handling the situation in this manner, the administration of the Plan is less difficult as no one has to track what to do every time someone

5-17.2



separates from METRO employment and METRO does not have to select a default IRA account for those that leave.

In 2002, it was determined that the Plan would not accept incoming rollovers, except from other 457 money. EGTRRA permits the Plan to accept rollover contributions from other types of employer-sponsored plans, including 401(a), 401(k), 403(b), 408 plans and IRAs pursuant to the new regulations defining eligible retirement plan. This change allows participants to consolidate assets from plans of previous employers and personal IRAs and allows for greater account growth within the 457 Plan. Any money of this type that comes into the account is kept in a separate "money type" that is segregated from the 457 money, so that Great West, the employer and the employee can identify the source of the funds. In 2002, it was not recommended for adoption because of the increase administrative burden and cost to the Plan if the Great West Plan were to accept rollovers from other employers' plans. Great-West recently pointed out that METRO's CalPERS 457 Plan accepts these incoming rollovers. Given that the CalPERS Plan allows this flexibility and Great West has assured METRO that the increased administrative burden is slight and easily handled, it is recommended that METRO's Great West Plan be modified in this regard.

Attachment B and C are recommended for approval by the Board of Directors in order to keep METRO's Great West Plan compliant with the law. The recommended changes discussed above are incorporated into these attachments

#### **IV. FINANCIAL CONSIDERATIONS**

None.

#### **V. ATTACHMENTS**

Attachment A: Adoption Agreement with Benefitscorp, Inc., Section 457 Eligible Deferred Compensation Plan for Governmental Employers, effective 12/13/02

Attachment B: Proposed Adoption Agreement with Great-West Retirement Services, Section 457(b), Eligible Deferred Compensation Plan for Governmental Employers, effective 12/16/05

Attachment C: Great West 457(b) Eligible Deferred Compensation Plan for Governmental Employers

5-17.3

ADOPTION AGREEMENT

BENEFITSCORP, INC.

SECTION 457  
ELIGIBLE DEFERRED COMPENSATION PLAN

FOR GOVERNMENTAL EMPLOYERS

Santa Cruz Metropolitan Transit District

**BENEFITSCORP, INC.**

**SECTION 457 ELIGIBLE DEFERRED COMPENSATION PLAN  
FOR GOVERNMENTAL EMPLOYERS**

The Employer named below hereby establishes (or, as applicable, amends and restates) a Deferred Compensation Plan for eligible Employees as provided in this Adoption Agreement and the accompanying BenefitsCorp Section 457 Eligible Deferred Compensation Plan document.

**A. EMPLOYER INFORMATION.**

1. EMPLOYER'S NAME AND ADDRESS:

**Santa Cruz Metropolitan Transit District  
370 Encinal Street, Suite 100  
Santa Cruz, CA 95060**

2. TELEPHONE NUMBER: (831) 426-6080

3. TAX ID NUMBER: 94-2376658

4. NAME OF PLAN: **BenefitsCorp, Inc. 457 Plan**

5. NAME OF PLAN ADMINISTRATOR (the Employer unless another person(s) is appointed as set forth in section 3.02 of the Plan):

**Robyn Slater, Human Resources Interim Manager**

**B. EFFECTIVE DATE.** (Check box 1 OR box 2 and fill in the blank(s).)

1.  This is a new Plan having an effective date of \_\_\_\_\_.

2.  This is an amended and restated Plan.

The effective date of the original Plan was **4/16/82 and amended 12/98.**

The effective date of the amended and restated Plan is **1/01/02.**

**C. CUSTODY OF ASSETS.** (Check each box that applies.)

Internal Revenue Code ("Code") § 457(g) shall be satisfied by setting aside plan assets for the exclusive benefit of participants and beneficiaries, as follows:

1.  in a trust pursuant to the provisions of Article V of the Plan. The Employer, or certain employees (or holders of certain positions with Employer) as named on page 6 of this Adoption Agreement shall be the Trustee.
2.  in a trust pursuant to a separate written trust agreement entered into between the Employer and the bank or trust company named on page 5 of this Adoption Agreement.
3.  in one or more annuity contracts meeting the requirements of Code § 401(f).
4.  in a custodial account meeting the requirements of Code § 401(f), pursuant to a separate written agreement with the Custodian named on page 4 of this Adoption Agreement.

**D. ELIGIBLE EMPLOYEES.** *(Check each box that applies.)*

"Employee" shall mean:

1.  any full-time employee working **40** or more hours per week.
2.  any permanent part-time employee working fewer than **40** hours per week.
3.  any seasonal, temporary or similar part-time employee
4.  any elected or appointed official
5.  any independent contractor

who performs services for and receives any type of compensation from the Employer (or any agency, department, subdivision or instrumentality of the Employer) for whom services are rendered. If Box D.4 is not checked, elected or appointed officials will not be treated as Employees and will not be eligible to participate in the Plan, without regard to whether they are treated as common-law employees or independent contractors for other purposes. The following are the additional requirements or limitations, if any, for one or more of the specified class(es) of employees to be eligible to participate in the Plan:

**Not Applicable**

**E. FICA REPLACEMENT ("3121") PLAN.**

Check the applicable box(es) if this Plan is a retirement system providing FICA replacement retirement benefits pursuant to regulations under Code § 3121(b)(7)(F) for  full time employees and/or  part-time employees, and complete the following. *(Check each box that applies) N/A*

5-17.93

1.  The Employer shall make an annual contribution to each Participant's account equal to \_\_\_\_\_ percent of such Participant's Compensation. N/A
2.  Each Participant is required to make an annual contribution of \_\_\_\_\_ percent of Compensation. N/A

(Note: The total percentage of 1 and 2 must equal at least 7.5%.)

In the event that this Plan is a retirement system providing FICA replacement retirement benefits as described above, all references to Unforeseeable Emergency distributions in the plan document shall be null and void.

**F. ROLLOVERS.** *(Check each box that applies.)*

1.  Rollovers from eligible Code §§ 457(b) plans SHALL BE allowed.
2.  Rollovers from plans qualified under Code §§ 401(a), 403(a) and 403(b) SHALL BE allowed.
3.  Rollovers from Individual Retirement Accounts and Annuities described in Code §§ 408(a) and (b) SHALL BE allowed.

**G. PARTICIPANT LOANS.** *(Check Box 1 OR Box 2)*

1.  The Administrator MAY direct the Trustee to make Participant loans in accordance with Article 9 of the Plan.
2.  The Administrator MAY NOT direct the Trustee to make Participant loans in accordance with Article 9 of the Plan.

**H. QUALIFIED DOMESTIC RELATIONS ORDERS.** *(Check Box 1 OR Box 2)*

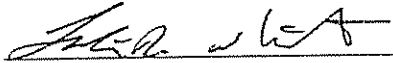
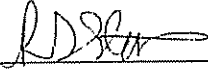
1.  The Plan SHALL accept qualified domestic relations orders as provided in section 12.02 of the Plan.
2.  The Plan SHALL NOT accept qualified domestic relations orders as provided in section 12.02 of the Plan.

This Plan and Adoption Agreement are duly executed on behalf of the Employer.

//

5-17.24

**EMPLOYER'S AUTHORIZED SIGNORS:**

By:  By: 

Title: General Manager Title: Human Resources Interim Manager

Date: 12/13/02 Date: 12/13/02

5-17.45

CUSTODIAN

[Complete this section only if box C.4. on page 2 was checked.]

Employer has elected to meet the trust requirement of Code § 457(g) by setting plan assets aside for the exclusive benefit of participants and beneficiaries in a custodial account meeting the requirements of Code § 401(f). The bank or trust company custodian named below shall be the "deemed trustee" of plan assets held pursuant to the custodial agreement.

A. Effective 01/01/02, the following named bank or trust company is hereby appointed as custodian of all or a portion of the assets of the Employer's § 457 Deferred Compensation Plan:

Wells Fargo Bank West, N.A.

B. INDIVIDUAL(S) AUTHORIZED TO ISSUE INSTRUCTIONS TO CUSTODIAN/TRUSTEE:

Robyn Slater, Human Resources Interim Manager

This appointment is duly signed on behalf of the Employer and the Custodian.

EMPLOYER

*Leslie White*  
Leslie White  
General Manager

12/13/02  
Date

CUSTODIAN Wells Fargo Bank West, N.A.

*Loisleen Collopy*  
[Signature] Loisleen Collopy

Vice President  
[Title]

1-29-03  
[Date]

5-17.26

ADOPTION AGREEMENT

GREAT-WEST RETIREMENT SERVICES<sup>SM</sup>

SECTION 457(b)  
ELIGIBLE DEFERRED COMPENSATION PLAN

FOR GOVERNMENTAL EMPLOYERS

Adopted By: Santa Cruz Metropolitan Transit District  
Employer

Santa Cruz Metropolitan Transit District 457 Plan  
Name of Plan

12/16/05  
Effective Date

5-17. b1



GREAT-WEST RETIREMENT SERVICES

SECTION 457(b) ELIGIBLE DEFERRED COMPENSATION PLAN  
FOR GOVERNMENTAL EMPLOYERS

The Employer named below hereby establishes (or, as applicable, amends and restates) a Deferred Compensation Plan for eligible Employees as provided in this Adoption Agreement and the accompanying Great-West Retirement Services section 457(b) Eligible Deferred Compensation Plan Document dated May 2005.

A. EMPLOYER INFORMATION.

1. EMPLOYER'S NAME AND ADDRESS:

SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

370 Encinal Street, Suite 100

Santa Cruz, CA 95060

2. TELEPHONE NUMBER: (831) 423-5583

3. TAX ID NUMBER: 94-2376658

4. NAME OF PLAN: SANTA CRUZ METROPOLITAN TRANSIT DISTRICT 457PLAN

5. NAME OF PLAN ADMINISTRATOR (the Employer unless another person(s) is appointed as set forth in section 9.01 of the Plan):

\_\_\_\_\_  
\_\_\_\_\_

B. EFFECTIVE DATE. (Check box 1 OR box 2 and fill in the blank(s))

1.  This is a new Plan having an effective date of \_\_\_\_\_.

2.  This is an amended and restated Plan.

The effective date of the original Plan was 04/16/82.

Except as otherwise noted in this Adoption Agreement, the effective date of the amended and restated Plan is 12/16/05.

**C. CUSTODY OF ASSETS.**

*(Check each box that applies.)*

Internal Revenue Code ("Code") §457(g) shall be satisfied by setting aside Plan assets for the exclusive benefit of Participants and Beneficiaries, as follows:

- 1.  in a Trust pursuant to the provisions of Article VII of the Plan. The Employer, or certain employees (or holders of certain positions with Employer) as named in this Adoption Agreement shall be the Trustee.
- 2.  in a Trust pursuant to a separate written trust agreement entered into between the Employer and the bank or trust company named in this Adoption Agreement.
- 3.  in one or more annuity contracts meeting the requirements of Code §401(f).
- 4.  in a custodial account meeting the requirements of Code §401(f), pursuant to a separate written agreement with the Custodian named in this Adoption Agreement.

**D. ELIGIBLE EMPLOYEES.**

*(Check each box that applies.)*

"Employee" shall mean:

- 1.  any full-time employee
- 2.  any permanent part-time employee
- 3.  any seasonal, temporary or similar part-time employee
- 4.  any elected or appointed official
- 5.  any independent contractor
- 6.  other employees: \_\_\_\_\_

who performs services for and receives any type of compensation from the Employer (or any agency, department, subdivision or instrumentality of the Employer) for whom services are rendered. If Box D.4 is not checked, elected or appointed officials will not be treated as Employees and will not be eligible to participate in the Plan, without regard to whether they are treated as common-law employees or independent contractors for other purposes.

The following are the additional requirements or limitations, if any, for one or more of the specified class(es) of employees to be eligible to participate in the Plan:

\_\_\_\_\_  
\_\_\_\_\_

5-17.b3

**E. PARTICIPANT LOANS.** Effective date if later than January 1, 2002: \_\_\_\_\_.  
(Check Box 1 OR Box 2.)

1.  The Administrator MAY direct the Trustee to make Participant loans in accordance with Article IV of the Plan.
2.  The Administrator MAY NOT direct the Trustee to make Participant loans in accordance with Article IV of the Plan.

**F. DISTRIBUTION OF SMALL ACCOUNT BALANCES effective March 28, 2005.**  
(Check Box 1, 2 or 3.)

1.  The Administrator SHALL direct the Trustee to distribute account balances of \$1,000 or less meeting the requirements of section 5.03(b) without Participant consent.
2.  The Administrator SHALL direct the Trustee to distribute account balances in excess of \$1,000 but not exceeding \$5,000 meeting the requirements of section 5.03 without Participant consent.
3.  The Administrator SHALL NOT direct the Trustee distribute any account balances without Participant consent.

**G. IN-SERVICE DE MINIMIS DISTRIBUTIONS effective March 28, 2005.**  
(Check Box 1, 2 or 3.)

1.  The Administrator SHALL direct the Trustee to distribute account balances of \$1,000 or less meeting the requirements of section 5.04(b) without Participant consent.
2.  The Administrator SHALL direct the Trustee to distribute account balances in excess of \$1,000 but not exceeding \$5,000 meeting the requirements of section 5.04(b) without Participant consent.
3.  The Administrator SHALL NOT direct the Trustee to distribute any account balances without Participant consent.

**H. ROLLOVERS.** Effective date if later than January 1, 2002: 12/16/05.  
(Check each box that applies )

1.  Rollovers from eligible Code §457(b) plans SHALL BE allowed pursuant to section 6.01.
2.  Rollovers from plans qualified under Code §§401(a), 401(k), 403(a) and 403(b) SHALL BE allowed pursuant to section 6.01.
3.  Rollovers from Individual Retirement Accounts and Annuities described in Code §§408(a) and (b) SHALL BE allowed pursuant to section 6.01.

**I. QUALIFIED DOMESTIC RELATIONS ORDERS.** Effective date if later than January 1, 2002: \_\_\_\_\_ (Check Box 1 OR Box 2.)

- 1.  The Plan SHALL accept qualified domestic relations orders as provided in section 13.02 of the Plan.
- 2.  The Plan SHALL NOT accept qualified domestic relations orders as provided in section 13.02 of the Plan.

**J. FICA REPLACEMENT ("3121") PLAN.**

Check each box that applies if this Plan is a retirement system providing FICA replacement retirement benefits pursuant to regulations under Code §3121(b)(7)(F).

- 1. Eligible Employees (check each box that applies):
  - a.  full-time employees and/or
  - b.  part-time employees, and complete the following.
- 2. Contributions (check each box that applies):
  - a.  The Employer shall make an annual contribution to each Participant's account equal to \_\_\_\_\_ percent of such Participant's Compensation.
  - b.  Each Participant is required to make an annual contribution of \_\_\_\_\_ percent of Compensation.

*(Note: The total percentage of a and b must equal at least 7.5%.)*

In the event that this Plan is a retirement system providing FICA replacement retirement benefits as described above, all references to In-Service De Minimis Distributions and Unforeseeable Emergency distributions in the Plan Document shall be null and void.

This Adoption Agreement and the Plan Document attached hereto are duly executed on behalf of the Employer.

**EMPLOYER'S AUTHORIZED SIGNORS:**

By: \_\_\_\_\_ By: \_\_\_\_\_  
Title: \_\_\_\_\_ Title: \_\_\_\_\_  
Date: \_\_\_\_\_ Date: \_\_\_\_\_

5-17.65

CUSTODIAN

[Complete this section only if box C.4. was checked.]

Employer has elected to meet the trust requirement of Code §457(g) by setting Plan assets aside for the exclusive benefit of Participants and Beneficiaries in a custodial account meeting the requirements of Code §401(f). The bank or trust company custodian named below shall be the "deemed trustee" of Plan assets held pursuant to the custodial agreement.

A. Effective 01/01/02, the following named bank or trust company is hereby appointed as custodian of all or a portion of the assets of the Employer's §457(b) Deferred Compensation Plan:

WELLS FARGO BANK WEST, N.A.

B. INDIVIDUAL(S) AUTHORIZED TO ISSUE INSTRUCTIONS TO CUSTODIAN/TRUSTEE:

This appointment is duly signed on behalf of the Employer and the Custodian.

EMPLOYER

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
[Date]

CUSTODIAN

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
[Date]

5-17.66

TRUSTEE

A. Effective \_\_\_\_\_, the following is hereby appointed as Trustee for and accepts the Trust created by the Employer's §457(b) Deferred Compensation Plan:

1. Complete this section only if box C. 1. was checked.

- The Employer or  
 The following named employees:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Complete this section only if box C. 2. was checked.

- The following named bank or trust company:

\_\_\_\_\_

B. NAME(S) OF EMPLOYEE(S) AUTHORIZED TO ISSUE INSTRUCTIONS TO TRUSTEE:

\_\_\_\_\_  
\_\_\_\_\_

This Trustee appointment is duly signed on behalf of the Employer and the Trustee.

EMPLOYER

TRUSTEE

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[Date]

TRUSTEE

TRUSTEE

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[Date]

INTRODUCTION TO GREAT-WEST  
SECTION 457(b) ELIGIBLE DEFERRED COMPENSATION PLAN  
FOR GOVERNMENTAL EMPLOYERS

The attached Plan may be used by eligible governmental employers as a model in preparing deferred compensation plans intended to satisfy §457 of the Internal Revenue Code of 1986, as amended. In general, under a §457(b) plan, which is also referred to as an “eligible deferred compensation plan,” a participant may defer amounts of compensation (and income earned on those deferrals) and avoid federal income taxation until those amounts are paid to the participant.

The following types of governmental entities may establish eligible §457(b) plans:

1. The 50 states of the United States and the District of Columbia;
2. A political subdivision of a state (for example, a county or municipality); and
3. Any agency or instrumentality of a state or a political subdivision of a state.

This Plan contains provisions that may be included in an eligible governmental deferred compensation plan. It was prepared for your convenience, and incorporates many of the provisions set forth in the Model Amendments issued by the Internal Revenue Service on August 30, 2004 with respect to the final Treasury Regulations under §457. You should review and, where appropriate, draft an amendment to meet your particular needs. Alterations to the Adoption Agreement are permissible, but any and all modifications to the Plan document itself should be set forth in a separate amendment attached to the front of the Plan document. Do not modify the Plan document itself.

In designing your plan, you should take into account the investment options to be used and the terms of any trust or custodial agreements entered into with respect to the Plan. You should also ascertain the federal income tax reporting and withholding obligations, FICA and FUTA obligations (to the extent applicable), and any comparable state obligations with respect to your Plan. Generally, deferred amounts under a §457 plan are not reported as income, and federal income tax is not withheld until the amounts are paid to the participant. Deferred amounts generally are included in the FICA and FUTA wage base when deferred.

This Plan is not intended to provide you with legal advice, nor should it be implemented without regard to your particular needs or any applicable state laws. No state or federal government has passed on the legal sufficiency (including the conformity with §457) of this Plan. Neither Great-West, nor any of its affiliated companies, assumes any liability to any person or entity with respect to the adequacy of this document for any purpose, or with respect to any tax or legal ramifications arising from its use. Great-West is not a party to any plan which you may adopt and Great-West has no responsibility, accountability, or liability to you, any employer, any participant or any beneficiary with regard to the operation or adequacy of this Plan, any §457 plan prepared from this Plan, or any future amendments made to this Plan. You should consult with your legal counsel prior to adopting any plan.

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## SECTION 457(b) ELIGIBLE DEFERRED COMPENSATION PLAN

### INTRODUCTION

In accordance with the provisions of §457 of the Internal Revenue Code of 1986, as amended, the Employer named in section A. of the Adoption Agreement hereby establishes this §457(b) Eligible Deferred Compensation Plan, hereinafter referred to as the "Plan." Nothing contained in this Plan shall be deemed to constitute an employment agreement between any Participant and Employer and nothing contained herein shall be deemed to give a Participant any right to be retained in the employ of Employer.

### I. DEFINITIONS

- 1.01 "Account Balance." The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Annual Deferrals, the earnings or loss of the Fund (net of Fund expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then each beneficiary's share of the Account Balance shall be treated as a separate account for each Beneficiary. The Account Balance includes any account established under Article VI for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in Code §414(p)(8)).
- 1.02 "Administrator." Administrator means the person, persons or entity appointed by the Employer to administer the Plan as set forth in section A. of the Adoption Agreement. Administrator shall not include the recordkeeper or any company which issues policies, contracts, or investment media to the Plan in respect of a Participant.
- 1.03 "Alternate Payee." Alternate Payee means the spouse, former spouse, child or other dependent of a Participant who has acquired an interest in the Participant's account pursuant to a Qualified Domestic Relations Order (QDRO) pursuant to section 13.02. Alternate Payees shall be treated as Beneficiaries for all purposes under the Plan except that Alternate Payees shall be allowed to request a distribution of all or a portion of their account balance at any time, subject to the terms of the QDRO.
- 1.04 "Annual Deferral." The amount of Compensation deferred in any taxable year.
- 1.05 "Beneficiary." The designated person (or, if none, the Participant's surviving spouse, if any, and then the Participant's estate) who is entitled to receive benefits under the Plan after the death of a Participant.
- 1.06 "Code." The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

- 1.07 “Compensation.” All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee’s gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee’s gross income for the calendar year but for a compensation reduction election under Code §§125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer compensation under Article III. To the extent permitted by Treasury regulations or other similar guidance, accrued bona fide sick, vacation or other leave pay paid within two and one-half (2 ½) months of Participant’s severance from employment so long as the employee would have been able to use the leave if employment had continued.
- 1.08 “Custodian.” The bank, trust company or other person, if any, selected by the Employer in section C. and named on page 6 of the Adoption Agreement and who is authorized to hold Plan assets in a custodial account in accordance with regulations issued by the Secretary of the Treasury pursuant to Code §401(f).
- 1.09 “Employee.” Each natural person (individual) who is employed by the Employer, either as a common law employee or an independent contractor, including elected or appointed individuals, as selected in section D. of the Adoption Agreement. Any employee who is included in a unit of employees covered by a collective bargaining agreement that does not specifically provide for participation in the Plan shall be excluded.
- 1.10 “Employer.” An eligible entity that is a State as defined below, and who is the sponsor of the Plan named in the section A. of the Adoption Agreement.
- 1.11 “Includible Compensation.” An employee’s actual wages in box 1 of Form W-2 for a year for services to the Employer, but subject to a maximum of \$200,000 (or such higher maximum as may apply under Code §401(a)(17)) and increased (up to the dollar maximum) by any compensation reduction election under Code §§125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer Compensation under Article III.
- 1.12 “Nonelective Employer Contribution.” Nonelective Employer Contribution is a contribution made by an Employer for the Participant with respect to which the Participant does not have the choice to receive the contribution in cash or property. Such term may also include an employer matching contribution.
- 1.13 “Normal Retirement Age.” Normal Retirement Age means age 70½, unless the Participant has elected an alternate Normal Retirement Age and delivered such election to the Administrator prior to beginning special §457 Catch-up contributions as described in section 3.03 of the Plan. Once a Participant has begun making special §457 Catch-up contributions, his Normal Retirement Age may not be changed.

For Participants eligible to receive benefits under the Employer’s basic defined benefit pension plan or a money purchase pension plan (herein collectively referred to as “pension plan”), a Participant’s alternate Normal Retirement Age may not be earlier than the earliest date the Participant has the right to retire and receive immediate retirement benefits under such pension plan, without actuarial or similar reduction because of retirement before some later specified age, and the date selected may not be later than age 70 ½.

If the Participant is not eligible to receive benefits under a basic defined benefit pension plan or money purchase pension plan, the Participant's alternate Normal Retirement Age may not be earlier than age 65 nor later than age 70 ½.

A special rule shall apply to qualified police or firefighters under the Plan, if any. Any qualified police or firefighter, as defined under §415(b)(2)(H)(ii)(I), who is participating in the Plan may choose a Normal Retirement Age that is not earlier than age 40 nor later than age 70 ½.

If any Participant continues to be employed by Employer after attaining age 70½, not having previously elected an alternate Normal Retirement Age, the Participant's alternate Normal Retirement Age shall not be later than the age at which the Participant actually severs employment with the Employer.

- 1.14 "Participant." An individual who is currently deferring Compensation, or who has previously deferred Compensation under the Plan by salary reduction or received a Nonelective Employer Contribution and who has not received a distribution of his or her entire benefit under the Plan. Only individuals who perform services for the Employer as an Employee may defer Compensation under the Plan. The Administrator, if he or she is otherwise eligible, may participate in the Plan.
- 1.15 "Participation Agreement." The agreement entered into and filed by an Employee with the Employer pursuant to Article II, in which the Employee elects to become a Plan Participant.
- 1.16 "Plan." The Plan named in section A. of the Adoption Agreement.
- 1.17 "Plan Year." The calendar year.
- 1.18 "Severance from Employment." The date the Employee dies, retires, or otherwise has a severance from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code). An Employee whose employment is interrupted by qualified military service under Code §414(u) shall be deemed severed from employment until such time as he or she is reemployed following the term of duty. All other Participants shall be deemed to have severed his employment with the Employer for purposes of this Plan when both parties consider the employment relationship to have terminated and neither party anticipates any future employment of the Participant by the Employer. In the case of a Participant who is an independent contractor, Severance from Employment shall be deemed to have occurred when the Participant's contract for services has completely expired and terminated, there is no foreseeable possibility that the Employer shall renew the contract or enter into a new contract for services to be performed by the Participant, and it is not anticipated that the Participant shall become an Employee of the Employer.
- 1.19 "Trust or Custodial Agreement." The written agreement (or declaration) made by and between the Employer and the Trustee under which the Trust Fund is maintained. Custodial accounts and annuity contracts described in §401(f) are treated as trusts under the rules described in Treasury Reg. §1.457-9(a)(2).
- 1.20 "Trust Fund." The trust fund created under and subject to the Trust Agreement or Custodial Agreement, as selected in section C. and named on page 7 of the Adoption Agreement.

- 1.21 “Trustee.” The Trustee duly appointed and currently serving under the Trust Agreement if selected in the Adoption Agreement.
- 1.22 “Valuation Date.” Each business day.

## II. PARTICIPATION AND CONTRIBUTIONS

- 2.01 Eligibility. Individuals performing services for the Employer, as selected in section D. of the Adoption Agreement, shall be eligible to participate in the Plan upon becoming employed by the Employer unless specifically restricted in the Adoption Agreement.
- 2.02 Election Required for Participation. An Employee may elect to become a Participant by executing a Participation Agreement to defer a portion of his or her Compensation (and have that amount contributed as an Annual Deferral on his or her behalf) and filing it in good order with the Administrator. In entering into the Participation Agreement, the Participant elects to participate in this Plan and consents to the deferral by the Employer of the amount specified in the Participation Agreement from the Participant’s gross compensation for each payroll period, and agrees to be bound by all the terms and conditions of the Plan. Such deferral shall continue in effect until modified, disallowed or revoked in accordance with the terms of this Plan, or until the Participant ceases employment with the Employer. Any prior Employee who was a Participant in the Plan and is rehired by Employer may resume participation in the Plan by entering into a Participation Agreement so long as any distributions being taken from this Plan are terminated prior to the resumption of deferrals under the Plan. Additionally, if distributions had not begun pursuant to a prior Severance from Employment, any deferred commencement date elected by such employee with respect to distribution of those prior Plan assets shall be null and void.

The Employer retains the right to establish minimum deferral amounts per payroll period, and to change such minimums from time to time and to limit the number and/or timing of enrollments into the Plan in the Participation Agreement. No adjustment in future deferrals shall be made if a periodic deferral is missed or is less than the amount elected. The Employer or Administrator shall have the right to modify or disallow the periodic deferral of Compensation elected by the Participant:

- (a) in excess of the limitations stated in Article III;
- (b) in excess of the Participant’s net Compensation for any payroll period;
- (c) upon any change in the length of payroll period utilized by Employer. In such case the periodic deferral shall be adjusted so that approximately the same percentage of pay shall be deferred on an annual basis;
- (d) in order to round periodic deferrals to the nearest whole dollar amount;

- (e) to reduce the future deferrals in the event that the amount actually deferred for any payroll period exceeds, for any reason whatsoever, the amount elected by the Participant. In the alternative, such amount of excess deferral may be refunded to the Participant; or
- (f) if the deferral elected for any payroll period is less than the minimum amount specified by the Employer or Administrator.

The participation election, or such other form as approved by the Administrator, shall include the Employee's designation of investment funds. Any such election shall remain in effect until a new election is filed. A change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees. The Participant may also designate a Beneficiary(ies) to receive any amounts that may be distributed in the event of death of the Participant prior to the complete distribution of benefits. A Participant may change the designated Beneficiary(ies) at any time by filing such change with the Administrator in a manner approved by the Administrator. A change in the Beneficiary designation shall take effect when the election is accepted by the Administrator. If no such designation is in effect on the Participant's death, or to the extent that there is no beneficiary who is treated as surviving the Participant by 30 days, the Beneficiary shall be the Participant's surviving spouse, if any, or if none, the Participant's estate.

#### 2.03 Commencement of Participation.

- (a) Voluntary Enrollment. An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a participation election pursuant to section 2.02. Such election shall become effective no earlier than the calendar month following the month in which the election is made. A new Employee may defer compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the Employer.
- (b) Automatic Enrollment. Notwithstanding section 2.01 and section 2.02, to the extent permitted by applicable law, the Administrator may establish procedures whereby, as a term or condition of employment, each employee automatically elects to participate in the Plan and consents to the deferral by the Employer of a specified amount for any payroll period for which a Participation Agreement is not in effect. If such procedures are in place, a Participant may elect a different deferral amount per payroll period, including zero, by entering into a Participation Agreement.

2.04 Information Provided by the Participant. Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable, in the sole discretion of the Administrator,

for the Administrator to administer the plan, including, without limitation, whether the Employee is a participant in any other eligible plan under Code §457(b).

- 2.05 Contributions Made Promptly. Annual Deferrals by the Participant under the Plan shall be transferred to the Trust Fund within a period that is not longer than is reasonable for the proper administration of the Participant's Account Balance. For this purpose, Annual Deferrals shall be treated as contributed within a period that is not longer than is reasonable for the proper administration if the contribution is made to the Trust Fund within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.
- 2.06 Amendment of Annual Deferrals Election. Subject to other provisions of the Plan, a Participant may at any time revise his or her participation election, including a change of the amount of his or her Annual Deferrals. Unless the election specifies a later effective date, a change in the amount of the Annual Deferrals shall take effect as of the first day of the next following month or as soon as administratively practicable if later. Notwithstanding the above, if a negative election procedure has been implemented pursuant to section 2.03(b), a Participant may enter into or modify a Participation Agreement at any time to provide for no deferral.
- 2.07 Leave of Absence. Unless an election is otherwise revised, if a Participant is absent from work by leave of absence, Annual Deferrals under the Plan shall continue to the extent that Compensation continues.
- 2.08 Disability. A disabled Participant may elect Annual Deferrals during any portion of the period of his or her disability to the extent that he or she has actual Compensation (not imputed Compensation and not disability benefits) from which to make contributions to the Plan and has not had a Severance from Employment.
- 2.09 Revocation of Deferrals. In addition to a Participant's ability to change or revoke an election as described in section 2.06, a Participant's request for a distribution in the event of an Unforeseeable Emergency as defined in section 5.05(b) shall in addition be treated as a request for revocation of deferrals as of a date determined by the Administrator for the period of time determined under section 5.05(f). Revocation of deferrals is not a distributable event, however, and the Participant's Account may only be distributed as provided in Article V.
- 2.10 Re-Enrollment. A Participant who revokes the Participation Agreement may again become a Participant at the times and in the manner authorized by the Administrator, by entering into a new Participation Agreement to defer Compensation payable no earlier than the first payroll period after the first day of the month after such new Participation Agreement is entered into by the Participant and accepted by the Administrator.



### III. LIMITATIONS ON AMOUNTS DEFERRED

- 3.01 Basic Annual Limitation Effective for Calendar Years on and after January 1, 2002. The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of (i) the Applicable Dollar Amount or (ii) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount established under Code §457(e)(15) applicable as follows:

\$11,000 for 2002;  
\$12,000 for 2003;  
\$13,000 for 2004;  
\$14,000 for 2005; and  
\$15,000 for 2006 and thereafter. After 2006, the \$15,000 amount is adjusted for cost-of-living under Code §415(d).

The annual deferral amount does not include any rollover amounts received by the Plan under Treasury Reg. §1.457-10(e).

- 3.02 Age 50 Catch-up Annual Deferral Contributions. A Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum age 50 catch-up Annual Deferrals for the year. The maximum dollar amount of the age 50 catch-up Annual Deferrals for a year is as follows:

\$1,000 for 2002;  
\$2,000 for 2003;  
\$3,000 for 2004;  
\$4,000 for 2005;  
\$5,000 for 2006 and thereafter. After 2006, the \$5,000 amount is adjusted for cost-of-living. Age 50 catch-up contributions are subject to the requirements of Code §414(v).

- 3.03 Special §457 Catch-up Limitations for Calendar Years Beginning On and After January 1, 2002.

If the applicable year is one of a Participant's last three (3) calendar years ending before the year in which the participant attains Normal Retirement Age and the amount determined under this section exceeds the amount computed under sections 3.01 and 3.02, then the Annual Deferral limit under this section shall be the lesser of:

- (a) an amount equal to two (2) times the section 3.01 applicable dollar limit for such year;  
or  
(b) the sum of:

1. An amount equal to the aggregate section 3.01 limit for the current year plus each prior calendar year beginning after December 31, 2001, during which the Participant was an Employee under the Plan, minus the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus

2. An amount equal to the aggregate limit referred to in Code §457(b)(2) for each prior calendar year beginning after December 31, 1978, and before January 1, 2002, during which the Participant was an Employee (determined without regard to sections 3.02 and 3.03), minus the aggregate contributions to Pre-2002 Coordination Plans for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for such years unless the Employer is making non-elective Employer contributions.

3.04 Coordination of Age 50 Catch-up with Special §457 Catch-up. The Age 50 Catch-up does not apply for any taxable year for which a higher limitation applies under the Special §457 Catch-up described in section 3.03. A Participant who is eligible for the Age 50 Catch-up for a Plan Year and for whom the Plan Year is also one of the Participant's last three (3) taxable years ending before the Participant attains Normal Retirement Age is eligible for the larger of:

- (a) The basic annual limitation described in 3.01 and the Age 50 Catch-up described in section 3.02, or
- (b) The basic annual limitation described in section 3.01 and the Special §457 Catch-up described in section 3.03.

3.05 Special Rules. For purposes of this Article III, the following rules shall apply:

- (a) Participant Covered By More Than One Eligible Plan. If the Participant is or has been a participant in one or more other eligible plans within the meaning of Code §457(b), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Article III. For this purpose, the Administrator shall take into account any other such eligible plan maintained by the Employer and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan.
- (b) Pre-Participation Years. In applying section 3.03, a year shall be taken into account only if the Participant was eligible to participate in the Plan during all or a portion of the year and Compensation deferred, if any, under the Plan during the year was subject to the Basic Annual Limitation described in section 3.01 or any other plan ceiling required by Code §457(b).
- (c) Pre-2002 Coordination Years. For purposes of section 3.03(b)(2)(B), "contributions to Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code §457(b) plan, or a salary reduction or elective contribution under any Code §401(k) qualified cash or deferred arrangement, Code §402(h)(1)(B) simplified employee pension (SARSEP), Code §403(b) annuity contract, and Code §408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code §501(c)(18), including plans, arrangements or accounts maintained

by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of section 3.03(b)(2)(B) to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code §457(b)(2) for that year.

- (d) Disregard Excess Deferral. For purposes of sections 3.01, 3.02 and 3.03, an individual is treated as not having deferred compensation under a plan for a prior taxable year to the extent Excess Deferrals under the plan are distributed, as described in section 3.06. To the extent that the combined deferrals for pre-2002 years exceeded the maximum deferral limitations, the amount is treated as an Excess Deferral for those prior years.

3.06 Correction of Excess Deferrals. If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code §457(b) for which the Participant provides information that is accepted by the Administrator, then the Annual Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant.

3.07 Protection of Persons Who Serve in a Uniformed Service. An Employee whose employment is interrupted by qualified military service under Code §414(u) may elect to make additional Annual Deferrals upon resumption of employment with the Employer equal to the maximum Annual Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Annual Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five (5) years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

#### IV. LOANS

4.01 Loans. If so specified in section E. of the Adoption Agreement, a Participant who is an Employee may apply for and receive a loan from his or her Account Balance as provided in this Article IV or pursuant to a loan policy executed by the Plan Administrator. Any such loan may not be for an amount less than the minimum amount specified by the Administrator. If not specified by the Administrator, the minimum loan amount shall be \$1,000.

Except as modified by the loan policy adopted by the Plan Administrator from time to time, the following rules shall apply to loans under the Plan.

4.02 Maximum Loan Amount. No loan to a Participant hereunder may exceed the lesser of:

- (a) \$50,000, reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period), or
- (b) one-half of the value of the Participant's vested Account Balance.

For purposes of this section 4.02, any loan from any other plan maintained by a participating employer shall be treated as if it were a loan made from this Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan under this section 4.02 to exceed the amount that would otherwise be permitted in the absence of this paragraph.

4.03 Loan Provisions. The terms of the loan shall:

- (a) require level amortization with payments not less frequently than quarterly throughout the repayment period, except that alternative arrangements for repayment may apply in the event that the borrower is on a bona fide unpaid leave of absence for a period not to exceed one (1) year for leaves other than a qualified military leave within the meaning of Code §414(u) or for the duration of an interruption of employment which is due to qualified military service;
- (b) require that the loan be repaid within five (5) years unless the Participant certifies in writing to the Administrator that the loan is to be used to acquire any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as a principal residence of the Participant; and
- (c) provide for a reasonable rate of interest to be fixed by the Administrator from time to time. The Administrator shall not discriminate among Participants in the matter of interest rates, but loans granted at different times may bear different interest rates based upon prevailing rates at the time.

A loan to a Participant shall be considered a directed investment option for such Participant's account balance.

4.04 Security for Loan; Default.

- (a) Security. Any loan to a Participant under the Plan shall be secured by the pledge of the portion of the Participant's interest in the Plan invested in such loan.
- (b) Default. In the event that a Participant fails to make a loan payment under this Article IV by the end of the calendar quarter following the calendar quarter in which such payment was due, a default on the loan shall occur. In the event of such default;
- (i) all remaining payments on the loan shall be immediately due and payable;
  - (ii) interest will continue to accrue on the unpaid balance until the loan is repaid in full; and
  - (iii) the Participant shall be permanently ineligible for any future loans from the Plan unless, in the Administrator's sole discretion, the Participant is deemed to be credit worthy and agrees to repay the loan through payroll deduction.

In the case of any default on a loan to a Participant, the Administrator shall apply the portion of the Participant's interest in the Plan held as security for the loan in satisfaction of the loan on the date of Severance from Employment. In addition, the Administrator shall take any legal action it shall consider necessary or appropriate to enforce collection of the unpaid loan, with the costs of any legal proceeding or collection to be charged to the Account Balance of the Participant.

Notwithstanding anything elsewhere in the Plan to the contrary, in the event a loan is outstanding hereunder on the date of a Participant's death, his or her estate shall be his or her Beneficiary as to the portion of his or her interest in the Plan invested in such loan (with the Beneficiary or Beneficiaries as to the remainder of his or her interest in the Plan to be determined in accordance with otherwise applicable provisions of the Plan).

- 4.05 Repayment. The Participant shall be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing the Employer to make payroll deductions from his or her Compensation as long as the Participant is an Employee and to transfer such payroll deduction amounts to the Trustee in payment of such loan plus interest. Repayments of a loan shall be made by payroll deduction of equal amounts (comprised of both principal and interest) from each paycheck, with the first such deduction to be made as soon as practicable after the loan funds are disbursed; provided, however, a Participant may prepay the entire outstanding balance of his loan at any time; and provided, further, that if any payroll deductions cannot be made in full because a Participant is on an unpaid leave of absence or is no longer employed by a participating employer (that has consented to make payroll deductions for this purpose) or the Participant's paycheck is insufficient for any other reason, the Participant shall pay directly to the Plan the full amount that would have been deducted from the Participant's paycheck, with such payment to be made by the last business day of the calendar month in which the amount would have been deducted.

## V. BENEFIT DISTRIBUTIONS

- 5.01 Distributions from the Trust. The payment of benefits from the Trust in accordance with the terms of the Plan may be made by the Trustee, or by any custodian or other person so authorized by the Employer to make such distribution. Neither the Administrator, the Trustee, the Custodian nor any other person shall be liable with respect to any distribution from the Trust made at the direction of the Employer or a person authorized by the Employer to give disbursement direction.
- 5.02 Conditions for Distributions.
- (a) §457 Deferred Compensation. Payments from a Participant's §457 Deferred Compensation account shall not be made to the Participant or Beneficiary earlier than:
- (1) the Participant's Severance from Employment or death pursuant to sections 5.03 and 5.06;
  - (2) the Participant's account meets all of the requirements for an in-service *de minimis* distribution pursuant to section 5.04(a) and/or (b);
  - (3) the Participant incurs an approved Unforeseeable Emergency pursuant to section 5.05;
  - (4) The calendar year in which an in-service Participant attains age 70 ½, but only if such participant revokes all deferrals of Compensation into the Plan prior to beginning distributions; or
  - (5) Plan termination under section 11.01.
- (b) Latest Distribution Date. In no event shall any distribution to a Participant under this Article V begin later than the April 1 of the year following the calendar year in which the participant attains age 70 ½ or April 1 of the year following the year in which the Participant retires or otherwise has a Severance from Employment, whichever is later. If the Participant delays the distribution due in the calendar year he turns age 70 ½ or severs employment, as applicable, to the following calendar year, a second required minimum distribution must be taken by the end of that calendar year.
- (c) Rollovers. If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account(s).

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5.03 Severance from Employment for any Reason, Including Retirement.

- (a) Subject to section 5.03(b), distributions to a Participant shall commence following Severance from Employment, on the regular distribution commencement date (as the Employer or Administrator may establish from time-to-time) elected by the Participant, in a form and manner determined pursuant to sections 5.07, 5.08 and 5.09. If the Participant does not elect otherwise, the distribution shall be paid commencing on the Participant's Required Beginning Date under a payment method meeting the requirements of Code §401(a)(9) and the regulations thereunder.
- (b) If, in section F. of the Adoption Agreement, the Plan elected mandatory distributions of Account Balances of \$1,000 or less, and if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution in a lump sum to the Participant at the Participant's last known mailing address.

If, in section F. of the Adoption Agreement, the Plan elected mandatory distributions of amounts greater than \$1,000 but not greater than \$5,000, and if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution amount in excess of \$1,000 in a direct rollover to an individual retirement plan designated by the plan administrator.

5.04 In-Service Distributions.

- (a) Voluntary In-Service Distribution of *De Minimis* Accounts. A Participant who is an active Employee may elect to receive a distribution of the total amount payable to the Participant under the Plan if the following requirements are met:
- (1) the portion of the total amount payable to the Participant under the Plan does not exceed an amount specified from time to time by the Administrator (not in excess of \$5,000 or other applicable limit under the Code);
  - (2) the Participant has not previously received an in-service distribution of the total amount payable to the Participant under the Plan; and
  - (3) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution.
- (b) Involuntary In-Service Distribution of *De Minimis* Accounts. If so elected in section G. of the Adoption Agreement, the Administrator shall distribute the total amount payable under the Plan to a Participant who is an active Employee if the following requirements are met:

- (1) the Participant has not previously received an in-service distribution of the total amount payable to the Participant under the Plan;
- (2) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution; and
- (3) the total Account Balance amount payable to the Participant under the Plan, does not exceed the amount selected in section G. of the Adoption Agreement.

If, in section G. of the Adoption Agreement, the Plan elected mandatory distributions of \$1,000 or less, and if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution in a lump sum to the Participant at the Participant's last known mailing address.

If, in section G. of the Adoption Agreement, the Plan elected mandatory distributions greater than \$1,000 but not greater than \$5,000, and if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator.

- (c) As indicated in section J. of the Adoption Agreement, participants in a plan that is a retirement system providing FICA replacement retirement benefits pursuant to regulations under Code §3121(b)(7)(F) are not eligible for In-Service De Minimis distributions.

#### 5.05 Unforeseeable Emergency Distributions.

- (a) Distribution. If the Participant has an unforeseeable emergency before retirement or other Severance from Employment, the Participant may elect to receive a lump sum distribution equal to the amount requested or, if less, the maximum amount determined by the Administrator to be permitted to be distributed under this section 5.05.
- (b) Unforeseeable emergency defined. An unforeseeable emergency is defined as a severe financial hardship of the Participant resulting from: an illness or accident of the Participant, the Participant's spouse, or the Participant's dependent (as defined in Code §152(a)); loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); the need to pay for the funeral expenses of the Participant's spouse or dependent (as defined in Code §152(a)); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. For example, the imminent foreclosure of or eviction from the Participant's primary residence may constitute an unforeseeable



emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Except as otherwise specifically provided in this section 5.05, neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency.

- (c) Unforeseeable emergency distribution standard. A distribution on account of unforeseeable emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or by cessation of deferrals under the Plan.
- (d) Distribution necessary to satisfy emergency need. Distributions because of an unforeseeable emergency may not exceed the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).
- (e) The Administrator shall have the right to request and review all pertinent information necessary to assure that Unforeseeable Emergency withdrawal requests are consistent with the provisions of Code §457.
- (f) The Employer or Administrator may suspend the Participant's salary deferral election during the pendency of the Participant's request for an Unforeseeable Emergency distribution. Payment of an Unforeseeable Emergency distribution shall result in mandatory suspension of deferrals for a minimum of six (6) months from the date of payment (or such other period as mandated in applicable Treasury regulations).
- (g) As indicated in section J. of the Adoption Agreement, participants in a plan that is a retirement system providing FICA replacement retirement benefits pursuant to regulations under Code §3121(b)(7)(F) are not eligible for unforeseeable emergency distributions.

5.06 Death Benefit Distributions. Upon receipt of satisfactory proof of the Participant's death, the Participant's remaining Account Balance shall be paid under a method satisfying the required minimum distribution rule of Code §401(a)(9) and the regulations thereunder.

- (a) Participant's Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date as defined in Section 5.06(l).
- (b) Death of Participant Before Participant's Required Beginning Date. If the Participant dies before the required beginning date, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- (1) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then, except as provided in Section 5.06(f), distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
- (2) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then, unless the Beneficiary elects the five-year rule, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
- (3) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (4) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 5.06(b), other than Section 5.06(b)(1), will apply as if the surviving spouse were the Participant.

For purposes of this Section 5.06(b) and Section 5.06(f) unless Section 5.06(b)(4) applies, distributions are considered to begin on the Participant's required beginning date. If Section 5.06(b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 5.06(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 5.06(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (c) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Section 5.06. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and the Treasury regulations.
- (d) Amount of Required Minimum Distribution For Each Distribution Calendar Year During the Participant's Lifetime. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

- (1) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
  - (2) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.
- (e) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under Sections 5.06(d) and (e) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.
- (f) Death On or After Participant's Required Beginning Date.
- (1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the Participant's required beginning date and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:
    - (a) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
    - (b) If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
    - (c) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year

following the year of the Participant's death, reduced by one for each subsequent year.

- (2) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- (g) Death Before Participant's Required Beginning Date.
- (1) Participant Survived by Designated Beneficiary. If the Participant dies before the required beginning date and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in Section 5.06(f).
- (2) No Designated Beneficiary. If the Participant dies before the required beginning date and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the required beginning date, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 5.06(b)(1), this Section 5.06(g)(3) will apply as if the surviving spouse were the Participant.
- (h) Designated beneficiary. The individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- (i) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 5.06(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum

distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

- (j) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- (k) Participant's account balance. The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.
- (l) Required beginning date. The date specified under Section 401(a)(9) of the Internal Revenue Code when distributions are required to begin, which, for a Participant, is currently the April 1 following the year the Participant attains age 70 ½ or retires, whichever is later.

5.07 Participant's Payment Options. A Participant's election of a payment option must be made at least thirty (30) days prior to the date that the payment of benefits is to commence or such earlier date as may be permitted by the plan. If a timely election of a payment option is not made, benefits shall be paid in accordance with section 5.08. Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one of the following payment options.

- (a) A single lump-sum payment of the entire Account Balance;
- (b) Installment payments for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis) which extends no longer than the life expectancy of the Participant as permitted under Code §401(a)(9) using the Uniform Lifetime Table at Reg. §1.041(a)(9)-9, A-2 for the Participant's age on the Participant's birthday for that year. If the Participant's age is less than age 70, the distribution period is 27.4 plus the number of years that the Participant's age is less than age 70. The Account Balance for this calculation (other than the final installment payment) is the Account Balance as of the end of the year prior to the year for which the distribution is being calculated;
- (c) Partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years, as described in subsection (b);

- (d) Annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the Participant or for the lifetimes of the Participant and Beneficiary in compliance with Code §401(a)(9); or
- (e) Such other forms of installment payments as may be approved by the Employer consistent with the requirements of Code §401(a)(9).

5.08 Default Distribution Option. In the absence of an effective election by the Participant as to the commencement and/or form of benefits, distributions shall be made in accordance with the applicable requirements of Code §§ 401(a)(9) and 457(d), and final Treasury regulations thereunder. In the absence of an effective election by the Beneficiary or Alternate Payee as to the commencement and/or form of benefits, distribution shall be made in a lump sum.

5.09 Limitations on Distribution Options. Notwithstanding any other provision of this Article V, Plan distributions shall satisfy the requirements of this section 5.09.

- (a) No distribution option may be selected by a payee under this Article V unless it satisfies the applicable requirements of Code §§401(a)(9) and 457(d), and final Treasury regulations thereunder.
- (b) The terms of this Article V shall be construed in accordance with all applicable Code sections.

5.10 Eligible Rollover Distributions.

- (a) General. Notwithstanding any provision of the Plan to the contrary that would otherwise limit an election under this section, a Participant, the surviving spouse of a Participant (or a Participant's former spouse who is the alternate payee under a qualified domestic relations order as defined in Code §414(p)) (herein collectively called "distributee") may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan in a direct rollover.
- (b) Definitions. For purposes of this section, the following definitions shall apply.
  - (1) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Code §401(a)(9); any deemed distribution under the provisions of Code §72(p); the portion of any distribution that is not includable in gross income;

any distribution of excess deferrals; and any distribution on account of an Unforeseeable Emergency.

- (2) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), an annuity plan described in Code §403(a) that accepts the distributee's eligible rollover distribution, a qualified trust described in Code §401(a) (including §401(k)) that accepts the distributee's eligible rollover distribution, a tax-sheltered annuity described in Code §403(b) that accepts the distributee's eligible rollover distribution, or another eligible deferred compensation plan described in Code §457(b) that accepts the distributee's eligible rollover distribution.
- (3) Distributee. A distributee includes an Employee or former Employee, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in Code §414(p), are distributees with regard to the interest of the spouse or former spouse.
- (4) Direct Rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

5.11 Elections. Elections under this section shall be made in such form and manner as the Administrator may specify from time to time. To the extent permitted by and in accordance with the Code, any irrevocable elections as to the form or timing of distributions executed prior to January 1, 2002, are hereby revoked.

5.12 Practices and Procedures. The Employer or Plan Administrator may adopt practices and procedures applicable to existing and new distribution elections.

5.13 Taxation of Distributions. To the extent required by law, income and other taxes shall be withheld from each benefit payment and payments shall be reported to the appropriate governmental agency or agencies.

## VI. ROLLOVERS AND TRANSFERS

### 6.01 Eligible Rollover Contributions to Plan.

- (a) If so specified in section H. of the Adoption Agreement, and only to the extent so specified, a Participant who is an Employee and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to

effectuate the rollover in accordance with Code §402 and to confirm that such plan is an eligible retirement plan within the meaning of Code §402(c)(8)(B).

- (b) For purposes of section 6.01(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee, (3) any deemed distribution under the provisions of Code §72(p), (4) the portion of any distribution that is not includable in gross income, (5) any distribution of excess deferrals or (6) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code §401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), a qualified trust described in Code §401(a), an annuity plan described in Code §§403(a) or 403(b), or an eligible governmental plan described in Code §457(b), that accepts the eligible rollover distribution.
- (c) The Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under Code §457(b). In addition, the Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible governmental plan under Code §457(b).

6.02 Plan-to-Plan Transfers to the Plan. At the direction of the Employer, the Administrator may permit a class of Participants who are participants in another eligible governmental plan under Code §457(b) to transfer assets to the Plan as provided in this section 6.02. Such a transfer is permitted only if the other plan provides for the direct transfer of each Participant's interest therein to the Plan. The Administrator may require in its sole discretion that the transfer be in cash or other property acceptable to the Administrator. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code §457(e)(10) and Treasury Reg. §1.457-10(b) and to confirm that the other plan is an eligible governmental plan as defined in Reg. §1.457-2(f). The amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Annual Deferral under the Plan in determining the maximum deferral under Article III.

6.03 Plan-to-Plan Transfers from the Plan.

- (a) At the direction of the Employer, the Administrator may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of Code §457(b) and Reg. §1.457-2(f). An in-service transfer is permitted under this section only if the Participant is transferring to another eligible governmental plan maintained by Employer. In all other circumstances, a transfer is permitted under this section 6.03(a) for a Participant only if the Participant has had a Severance from Employment with



the Employer and is an employee of the entity that maintains the other eligible governmental plan. Further, a transfer is permitted under this section 6.03(a) only if the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

- (b) Upon the transfer of assets under this section 6.03, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this section 6.03 (for example, to confirm that the receiving plan is an eligible governmental plan under paragraph (a) of this section 6.03, and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to Reg. §1.457-10(b).

#### 6.04 Permissive Service Credit Transfers.

- (a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in Code §414(d)) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan. A transfer under this section 6.04(a) may be made before the Participant has had a Severance from Employment.
- (b) A transfer may be made under section 6.04(a) if the transfer is either for the purchase of permissive service credit (as defined in Code §415(n)(3)(A)) under the receiving defined benefit governmental plan or a repayment to which Code §415 does not apply by reason of Code §415(k)(3), or as otherwise allowed by the Internal Revenue Service.

### VII. CREATION OF TRUST AND TRUST FUND

- 7.01 Trust Fund. All amounts of Annual Deferrals, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held and invested in the Trust Fund in accordance with this Plan and the Trust Agreement. The Trust Fund, and any subtrust established under the Plan, shall be established pursuant to a written agreement that constitutes a valid trust under applicable state law. The Trustee shall ensure that all investments, amounts, property, and rights held under the Trust Fund are held for the exclusive benefit of Participants and their Beneficiaries. The Trust Fund shall be held in trust pursuant to the Trust Agreement for the exclusive benefit of Participants and their Beneficiaries and defraying reasonable expenses of the Plan and of the Trust Fund. It shall be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Trust Fund to be used for, or

diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

The trust requirement of Code §457(g) may be satisfied by a trust agreement, a custodial agreement or the annuity contract, if any. The trust requirement shall be satisfied in the manner specified in the Adoption Agreement. If so elected in the Adoption Agreement, the Employer or certain employees of (or holders of certain positions with) the Employer shall be named as Trustee in the Adoption Agreement and Plan assets shall be set aside in trust pursuant to this Article VII.

If the Employer does not elect to self-trustee the Plan, the Employer must elect one of the following options in the Adoption Agreement:

- (a) Plan assets will be set aside in trust pursuant to a separate written trust agreement entered into between the Employer and the bank or trust company named as Trustee named in the Adoption Agreement. The Employer shall enter into a separate written trust agreement with the Trustee.
- (b) Plan assets shall be set aside in one or more annuity contracts issued by an insurance company qualified to do business in the state where the contract is issued. The owner of the annuity contract is the “deemed trustee” of the assets invested under the contract for purposes of Code §457(g).
- (c) Plan assets shall be set aside in one or more custodial accounts described in Code §401(f) with the bank or trust company named in the Adoption Agreement as Custodian and “deemed trustee” for purposes of Code §457(g). The Employer shall enter into a separate written custodial agreement with the Custodian.

7.02 Establishment of Trust. The Employer or named Employees of Employer (or certain holders of positions with the Employer) named in the Adoption Agreement shall serve as under a Trust hereby created to hold all of the assets of the Plan for the exclusive benefit of Participants and Beneficiaries. The Trust shall consist of all contributions made under the Plan and the investment earnings thereon. All contributions and the earnings thereon less payments made under the terms of the Plan, including fees and expenses, shall constitute the Trust. Except to the extent that the Employer enters into a separate written trust agreement with a bank or trust company Trustee, the assets in Trust shall be administered as provided in this document.

7.03 Appointment and Termination of Trustee. A Trustee may be named by the Employer and may be a Participant. The Trustee shall remain in office at the will of the Employer and may be removed from office at any time by the Employer, with or without cause. Such removal shall be effective upon delivery of written notice to the Trustee or at such later time as may be designated in such notice; provided that any such notice of removal shall take effect no sooner than thirty (30) days and no later than sixty (60) days after the delivery thereof, unless such thirty (30) or sixty (60) day period shall be waived. The Trustee may resign at any time upon giving written notice to the Employer or at such later time as may be designated in the notice

of resignation; provided that (a) any such notice of resignation shall take effect no sooner than thirty (30) days and no later than sixty (60) days after the delivery thereof, unless such thirty (30) day or sixty (60) day period shall be waived and (b) upon such resignation or removal the Employer shall have the power and the duty to designate and appoint a successor Trustee, and the actual appointment of a successor Trustee is a condition that must be fulfilled before the resignation or removal of the Trustee shall become effective.

Upon appointment, the successor Trustee shall have all the rights, powers, privileges, liabilities and duties of the predecessor Trustee. The Trustee so resigned or removed shall take any and all action necessary to vest the rights, powers, privileges, liabilities and duties of the Administrator in his, her or its successor.

7.04 Acceptance. By signing the Adoption Agreement the Trustee accepts the Trust created under the Plan and agrees to perform the obligations imposed.

7.05 Control of Plan Assets. The assets of the Trust or evidence of ownership shall be held by the Trustee, under the terms of the Plan and under either this Article VII or under the separate written trust agreement with a bank or trust company. If the assets represent amounts transferred from a former plan, the Trustee shall not be responsible for the propriety of any investment under the former plan.

7.06 General Duties of the Trustee. The Employer or named individuals in the employ of the Employer named as Trustee(s) in the Adoption Agreement shall be responsible for the administration of investments held in the Plan. The Trustee's duties shall include:

- (a) receiving contributions under the terms of the Plan;
- (b) making distributions from Plan assets held in Trust in accordance with written instructions received from an authorized representative of the Employer;
- (c) keeping accurate records reflecting its administration of the Trust assets and making such records available to the Employer for review and audit. Within ninety (90) days after each Plan Year, and within ninety (90) days after its removal or resignation, the Trustee shall file with the Employer an accounting of its administration of the Trust assets during such year or from the end of the preceding Plan Year to the date of removal or resignation. Such accounting shall include a statement of cash receipts and disbursements since the date of its last accounting and shall contain an asset list showing the fair market value of investments held in the Trust as of the end of the Plan Year.

The value of marketable investments shall be determined using the most recent price quoted on a national securities exchange or over the counter market. The value of non-marketable investments shall be determined in the sole judgment of the Trustee which determination shall be binding and conclusive. The value of investments in securities or obligations of the Employer in which there is no market shall be determined in the sole judgment of the Employer and the Trustee shall have no responsibility with respect to the valuation of such

assets. The Employer shall review the Trustee's accounting and notify the Trustee in the event of its disapproval of the report within ninety (90) days, providing the Trustee with a written description of the items in question. The Trustee shall have sixty (60) days to provide the Employer with a written explanation of the items in question; and

- (d) employing such agents, attorneys or other professionals as the Trustee may deem necessary or advisable in the performance of its duties.

The Trustee's duties shall be limited to those described above. The Employer shall be responsible for any other administrative duties required under the Plan or by applicable law.

7.07 Investment Powers of the Trustee. The Trustee shall implement an investment program based on the Employer's investment objectives. If either the Employer or the Employee fails to issue investment directions as provided in sections 6.01 and 6.02, the Trustee shall have authority to invest the Trust assets in its sole discretion. In addition to powers given by law, the Trustee may:

- (a) invest the Trust assets in any form of property, including common and preferred stocks, exchange and trade put and call options, bonds, money market instruments, mutual funds (including Trust assets for which the Trustee or its affiliates serve as investment advisor), Treasury bills, deposits at reasonable rates of interest at banking institutions including but not limited to savings accounts and certificates of deposit, and other forms of securities or investment of any kind, class, or character whatsoever, or in any other property, real or personal, having a ready market;
- (b) invest and reinvest all or any part of the Trust assets in any insurance policies or other contracts with insurance companies including but not limited to individual or group annuity, deposit administration, and guaranteed interest contracts. Such contracts shall be held in the name of the Trustee;
- (c) transfer any assets of the Trust to any group or common, collective or commingled fund that is maintained by a bank or other institution that is established to permit the pooling of assets of separate Trusts so long as such fund is available to §457 plans;
- (d) hold cash uninvested and deposit same with any banking or savings institution at reasonable interest;
- (e) join in or oppose the reorganization, recapitalization, consolidation, sale or merger of corporations or properties, including those in which it is interested as a Trustee, upon such terms as it deems wise;
- (f) hold investments in nominee or bearer form;
- (g) to vote or refrain from voting any stocks, bonds, or other securities held in the Trust, to exercise any other right appurtenant to any securities or other property held in the Trust, to vote or refrain from voting proxies;
- (h) exercise all ownership rights with respect to assets held in the Trust; and

- (i) do any and all other acts that may be deemed necessary in the performance of the Trustee's duties hereunder.
- 7.08 Trustee Fees and Expenses. All reasonable costs, charges and expenses incurred by the Trustee in connection with the administration of the Trust assets (including fees for legal services rendered to the Trustee) may be paid by the Employer, but if not paid by the Employer when due, shall be paid from the Trust. Such reasonable compensation to a bank or trust company Trustee as may be agreed upon from time to time between the Employer and the Trustee may be paid by the Employer, but if not paid by the Employer when due shall be paid by the Trust. The Trustee shall have the right to liquidate Trust assets to cover its fees. Notwithstanding the foregoing, no compensation other than reimbursement for expenses shall be paid to a Trustee who is the Employer or a full-time Employee. In the event any part of the Trust assets become subject to tax, all taxes incurred shall be paid from the Trust unless the Administrator advises the Trustee not to pay such tax.
- 7.09 Exclusive Benefit Rules. No part of the Trust assets shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants, former Participants with a interest in the Plan, and the Beneficiary or Beneficiaries of a deceased Participant having an interest in the Trust assets at the death of the Participant.
- 7.10 Trustee Actions. Every action taken by the Trustee shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon him, her, or it. The Trustee shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all persons interested, unless the contrary be proven by affirmative evidence. The Trustee shall not be liable for amounts of Compensation deferred by Participants or for other amounts payable under the Plan.
- 7.11 Delegation. Subject to any applicable laws and any approvals required by the Employer, the Trustee may delegate any or all powers and duties hereunder to another person, persons, or entity, and may pay reasonable compensation for such services as an administrative expense of the Plan, to the extent such compensation is not otherwise paid.
- 7.12 Division of Duties and Indemnification.
- (a) The Trustee shall have the authority and discretion to manage and govern the Trust assets to the extent provided in this instrument, but does not guarantee the Trust in any manner against investment loss or depreciation in asset value, or guarantee the adequacy of the Trust assets to meet and discharge all or any liabilities of the Plan.
  - (b) The Trustee shall not be liable for the making, retention or sale of any investment or reinvestment made by it, as herein provided, or for any loss to, or diminution of the Trust assets or for any other loss or damage which may result from the discharge of its duties hereunder except to the extent it is judicially determined that the Trustee has failed to exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims.

- (c) The Employer warrants that all directions issued to the Trustee by it or the Administrator shall be in accordance with the terms of the Plan and not contrary to the provisions of the Code.
- (d) The Trustee shall not be answerable for any action taken pursuant to any direction, consent, certificate, or other paper or document on the belief that the same is genuine and signed by the proper person. All directions by the Employer or the Administrator shall be in writing from the authorized individual or individuals named in the Adoption Agreement.
- (e) The duties and obligations of the Trustee shall be limited to those expressly imposed upon it by this instrument or subsequently agreed upon by the parties. Responsibility for administrative duties required under the Plan or applicable law not expressly imposed upon or agreed to by the Trustee shall rest solely with the Employer.
- (f) The Trustee shall be indemnified and held harmless by the Employer from and against any and all liability to which the Trustee may be subjected, including all expenses reasonably incurred in its defense, for any action or failure to act resulting from compliance with the instructions of the Employer, the employees or agents of the Employer, the Administrator, or any other fiduciary to the Plan, and for any liability arising from the actions or inactions of any predecessor Trustee, custodian or other fiduciaries of the Plan.
- (g) The Trustee shall not be responsible in any way for the application of any payments it is directed to make or for the adequacy of the Trust assets to meet and discharge any and all liabilities under the Plan.

## VIII. INVESTMENTS

- 8.01 Investment Options. Employer shall have the sole discretion to select one or more investment options to be offered under the Plan. These investment options may include specified life insurance policies, annuity contracts, or investment media issued by an insurance company. It shall be the sole responsibility of the Employer to ensure that all investment options offered under the Plan are appropriate and in compliance with any and all state laws pertaining to such investments.
- 8.02 Participant Investment Direction. If the Employer chooses to designate one or more investment options in which Participants may direct investment of their Account(s), Participants shall have the option to direct the investment of their Account(s) from among the investment options designated by the Employer. The Participant's right to transfer among or out of any such investment options shall be subject to any timing or other restrictions imposed upon Participants by the providers of the investment options chosen by the Participant, including, but not limited to market-timing restrictions, excessive trading restrictions and redemption fees. The Trustee or Custodian, as applicable, shall hold title to such investment options. A Participant's right to direct the investment of Account balances shall apply only to making selections among the options made available under the Plan and only to the extent

specified by the Employer pursuant to uniform rules. The terms of this paragraph, including any trading restrictions or fees, shall also apply to Beneficiary and Alternate Payee accounts.

- (a) Each Participant shall designate on the form prescribed by the Administrator the one or more investment options in which he or she wishes to have his Account invested and may change such investment directions in accordance with and at the time or times specified under uniform rules established by the Administrator or the investment provider, as applicable. The Participant's Account shall be debited or credited as appropriate to reflect all gains or losses on such investments. If a Participant has the right to direct the investment of his Account but does not provide such direction pursuant to uniform rules established by Employer, the Participant's Account shall be invested in the investment option selected by the Plan.
- (b) Neither the Employer, the Administrator, the Trustee, the Custodian nor any other person shall be liable for any loss incurred by virtue of following the Participant's directions or by reason of any reasonable administrative delay in implementing such directions.
- (c) The Employer may from time to time change the investment options made available under the Plan pursuant to uniform rules established by the Administrator. If the Employer eliminates an investment option, all Participants who had chosen that investment option shall select another option. If the Participant does not select a new option, money remaining in the eliminated investment option shall be reinvested at the direction of the Employer. The Participants shall have no right to require the Employer to select or retain any investment option. Any change with respect to investment options made by the Employer or a Participant, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options.

#### 8.03 Employer Investment Direction.

- (a) To the extent the Employer chooses not to allow Participant direction of the investment of his or her Account, the Employer shall have the right to direct the Trustee or Custodian with respect to investments of the Trust assets, may appoint an investment manager to direct investments or may give the Trustee sole investment management responsibility. The Employer or investment manager shall make any investment directive in writing. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing. The Trustee shall not be responsible for the propriety of any investment made at the direction of the Employer or an investment manager and shall not be required to consult with or advise the Employer regarding the investment quality of any directed investment held hereunder. In the absence of such written directive, the Trustee shall automatically invest the available cash in its discretion in an appropriate interim investment until specific investment directions are received.

- (b) If the Employer fails to direct the investment of Trust assets or name an investment manager, and the Trustee or Custodian do not have investment authority, the Administrator shall have full investment authority.

8.04 Participant Accounts. The Administrator shall maintain or cause to be maintained one or more individual accounts for each Participant. Such accounts shall include separate accounts, as necessary, for Code §457 Deferred Compensation, Code §457 rollovers, IRA rollovers, other qualified plan and Code §403(b) plan rollovers, and such other accounts as may be appropriate from time-to-time for plan administration. At regular intervals established by the Administrator, each Participant's account(s) shall be credited with the amount of any Deferred Compensation paid into the Trust; debited with any applicable administrative or investment expense, including, but not limited to, fees charged to Participants, allocated on a reasonable and consistent basis; credited or debited with investment gain or loss, as appropriate; and debited with the amount of any distribution. Each Participant shall be notified in writing of the balance in his Account at least once a year.

## IX. ADMINISTRATION

- 9.01 Administrator. Employer shall be the Administrator unless another person or persons is appointed by the Employer in section A. of the Adoption Agreement pursuant to section 1.02.
- 9.02 Appointment and Termination of Administrator. An Administrator may be named in section A. of the Adoption Agreement by the Employer and may be a Participant. The Administrator shall remain in office at the will of the Employer and may be removed from office at any time by the Employer, with or without cause. Such removal shall be effective upon delivery of written notice to the Administrator or at such later time as may be designated in such notice; provided that any such notice of removal shall take effect no later than sixty (60) days after the delivery thereof, unless such sixty (60) day period shall be waived. The Administrator may resign at any time upon giving written notice to the Employer or at such later time as may be designated in the notice of resignation provided that; (a) any such notice of resignation shall take effect no later than sixty (60) days after the delivery thereof, unless such sixty (60) day period shall be waived; and (b) upon such resignation or removal the Employer shall have the power and the duty to designate and appoint a successor Administrator, and the actual appointment of a successor Administrator is a condition that must be fulfilled before the resignation or removal of the Administrator shall become effective. Upon appointment, the successor Administrator shall have all the rights, powers, privileges, liabilities and duties of the predecessor Administrator. The Administrator so resigned or removed shall take any and all action necessary to vest the rights, powers, privileges, liabilities and duties of the Administrator in the successor.
- 9.03 Duties of Administrator. Subject to any applicable laws and any approvals required by the Employer, the Administrator shall have full power and authority to adopt rules, regulations and procedures for the administration of the Plan, and to interpret, alter, amend, or revoke any rules, regulations or procedures so adopted. The Administrator's duties shall include:



- (a) appointing the Plan's attorney, accountant, actuary, custodian or any other party needed to administer the Plan or the Plan assets;
- (b) directing the Trustee or Custodian with respect to payments from the Plan assets held in Trust;
- (c) communicating with Employees regarding their participation and benefits under the Plan, including the administration of all claims procedures;
- (d) filing any returns and reports with the Internal Revenue Service or any other governmental agency;
- (e) reviewing and approving any financial reports, investment reviews, or other reports prepared by any party appointed under paragraph (a);
- (f) establishing a funding policy and investment objectives consistent with the purposes of the Plan; and
- (g) construing and resolving any question of Plan interpretation. The Administrator's interpretation of Plan provisions including eligibility and benefits under the Plan is final.

9.04 Administrative Fees and Expenses. All reasonable costs, charges and expenses incurred by the Administrator in connection with the administration of the Plan (including fees for legal services rendered to the Administrator) may be paid by the Employer, but if not paid by the Employer when due, shall be paid from Plan assets. Such reasonable compensation to the Administrator as may be agreed upon from time to time between the Employer and Administrator may be paid by the Employer, but if not paid by the Employer when due shall be paid from Plan assets. Notwithstanding the foregoing, no compensation other than reimbursement for expenses shall be paid to an administrator who is the Employer or a full-time Employee of the Employer. In the event any part of the assets in the Plan become subject to tax, all taxes incurred shall be paid from the Plan assets unless the Administrator instructs the Trustee or Custodian not to pay such tax.

9.05 Actions of Administrator. Every action taken by the Administrator shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon him, her, or it. The Administrator shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all persons interested, unless the contrary be proven by affirmative evidence. The Administrator shall not be liable for amounts of Compensation deferred by Participants or for other amounts payable under the Plan.

9.06 Delegation. Subject to any applicable laws and any approvals required by the Employer, the Administrator may delegate any or all powers and duties hereunder to another person, persons, or entity, and may pay reasonable compensation for such services as an administrative expense of the Plan, to the extent such compensation is not otherwise paid.

- 9.07 Investment and Service Providers. Any company which issues policies, contracts, or investment media to the Employer or in respect of a Participant is not a party to this Plan and such company shall have no responsibility, accountability, or liability to the Employer, the Administrator, any Participant, or any Beneficiary with regard to the operation or adequacy of this Plan, including any future amendments made thereto.

## X. LEAVE OF ABSENCE

- 10.01 Paid Leave of Absence. If a Participant is on an approved leave of absence from the Employer with Compensation, or on approved leave of absence without Compensation that does not constitute a Severance from Employment, which under the Employer's current practices is generally a leave of absence without Compensation for a period of one year or less, said Participant's participation in the Plan may continue.
- 10.02 Unpaid Leave of Absence. If a Participant is on an approved leave of absence without Compensation and such leave of absence continues to such an extent that it becomes a Severance from Employment, said Participant shall have separated from service with the Employer for purposes of this Plan. Upon termination of leave without pay and return to active status, the Participant may enter into a new Participation Agreement to be effective when permitted by section 2.10.

## XI. AMENDMENT OR TERMINATION OF PLAN

- 11.01 Termination. The Employer may at any time terminate this Plan; provided, however, that no termination shall affect the amount of benefits, which at the time of such termination shall have accrued for Participants or Beneficiaries. Such accrued benefit shall include any Compensation deferred before the time of the termination and income thereon accrued to the date of the termination. Such amount shall be calculated in accordance with section 8.04 and the terms and conditions of the affected investment option. Upon such termination, each Participant in the Plan shall be deemed to have revoked his agreement to defer future Compensation as provided in section 2.09 as of the date of such termination and section 2.03(b) shall no longer be in effect. Each Participant's full Compensation on a nondeferred basis shall be restored. Upon plan termination, all amounts deferred will be distributed to Participants or Beneficiaries as soon as administratively practicable after the termination date.
- 11.02 Amendment. The Employer may amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the amount of benefits which at the time of such amendment shall have accrued for Participants or Beneficiaries, to the extent of Compensation deferred before the time of the amendment and income thereon accrued to the date of the amendment, calculated in accordance with section 8.04 and the terms and conditions of the investment options hereunder; and provided further, that no amendment shall affect the duties and responsibilities of the Trustee or Custodian unless executed by the Trustee or Custodian.

To the extent permitted by applicable law, the Employer delegates to the Administrator the authority to adopt rules, regulations or procedures from time to time as may be necessary or desirable to conform Plan provisions to, or to elaborate Plan provisions in light of, technical amendments to the Code, Treasury regulations or other guidance issued under the Code, and such rules, regulations or procedures are hereby ratified by the Employer as having the force and effect of Plan amendments.

- 11.03 Copies of Amendments. The Administrator shall provide a copy of any Plan amendment to any Trustee or custodian and to the issuers of any investment options selected pursuant to section 8.01.

## **XII. TAX TREATMENT OF AMOUNTS CONTRIBUTED**

It is intended that pursuant to Code §457, the Amount Deferred shall not be considered current compensation for purposes of federal income taxation. This rule shall also apply to state income taxation unless applicable state laws provide otherwise. Such amounts shall, however, be included as compensation to the extent required under the Federal Insurance Contributions Act (FICA). Payments under this Plan shall supplement retirement and death benefits payable under the Employer's group insurance and retirement plans, if any.

## **XIII. NON-ASSIGNABILITY**

- 13.01 Non-Assignability. Except as provided in sections 13.02 and 13.03, the interests of each Participant or Beneficiary under the plan are not subject to the claims of the Participant's or Beneficiary's creditors, and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.
- 13.02 Qualified Domestic Relations Orders. If so specified in the Adoption Agreement, domestic relations orders approved by the Administrator shall be administered as follows.
- (a) Notwithstanding section 13.01, if a final judgment, decree, or order (including approval of a property settlement) that is related to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant (herein called an Alternate Payee) is made pursuant to the domestic relations law of any State and meets the requirements of Code §414(p), then such order shall be referred to as a Qualified Domestic Relations Order ("QDRO"). If a QDRO is duly filed upon the Employer, then the amount of the Participant's Account Balance shall be paid to or set aside in a separate account for Alternate Payee(s) as elected by the Alternate Payee. Payments to the Alternate Payee shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for

determining the status of any such decree or order and for effectuating distribution pursuant to the QDRO and may charge the Participant and Alternate Payee a fee as established from time to time.

Where necessary to carry out the terms of such a QDRO, a separate account shall be established with respect to the Alternate Payee(s) and such person shall be entitled to make investment selections with respect thereto in the same manner as the Participant, except to the extent restricted by the employer or a specific investment option under the plan. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the spouse, former spouse, or child making the investment selection. The Alternate Payee may select from among the forms of payment available to Participants except a joint and survivor annuity naming the Alternate Payee and a subsequent spouse. Withholding and income tax reporting shall be done with respect to the alternate payee under the terms of the Code as amended from time to time.

- (b) The Employer's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to a spouse, former spouse or child pursuant to this section. No amount shall be paid or set aside unless the Employer, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the Participant with respect to these amounts. The Participant shall be deemed to have released the Employer from any claim with respect to such amounts in any case in which the Employer has been notified of or otherwise joined in a proceeding relating to a QDRO which sets aside a portion of the Participant's account for a spouse, former spouse or child, and the Participant fails to obtain an order of the court in the proceeding relieving the Employer from the obligation to comply with the QDRO.
- (c) The Employer shall not be obligated to comply with any judgment, decree or order that attempts to require the Plan to violate any Plan provision or any provision of Code §457. Neither the Employer nor its agents or assigns shall be obligated to defend against or set aside any judgment, decree, or order described herein or any legal order relating to the division of a Participant's benefits under the Plan unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Employer, its agents or assigns to incur such expense, the amount of the expense may be charged against the Participant's account and thereby reduce Employer's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the Employer, its agents and assigns shall be authorized to disclose information relating to Participant's individual account to the Participant's spouse, former spouse or child (including the legal representatives of the spouse, former spouse or child), or to a court.

- 13.03 IRS Levy. Notwithstanding section 13.01, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.
- 13.04 Mistaken Contributions. If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contributions (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.
- 13.05 Payments to Minors and Incompetents. To the extent the Employer or Administrator determines that the following procedure meets applicable state or local law, if a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, benefits will be paid to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.
- 13.06 Procedure When Distributee Cannot Be Located. The Administrator shall make all reasonable attempts to determine the identity and address of a participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer's or Administrator's records, (b) notification sent to the Social Security Administration, Internal Revenue Service or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within six (6) months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the trust fund shall continue to hold the benefits due such person until in the Employer's or Administrator's sole discretion, the Plan is required to take other action under applicable law except that if, in the Adoption Agreement, the Plan elected mandatory distributions greater than \$1,000, then the Administrator will pay the distribution for such person in a direct rollover to an individual retirement plan designated by the plan administrator.

#### XIV. DISCLAIMER

The Employer and the Administrator make no endorsement, guarantee or any other representation and shall not be liable to the Plan or to any Participant, Beneficiary, or any other person with respect to (a) the financial soundness, investment performance, fitness, or suitability (for meeting a Participant's objectives, future obligations under the Plan, or any other purpose) of any investment option offered pursuant to section 8.01 or any investment vehicle in which amounts deferred under

the Plan are actually invested, or (b) the tax consequences of the Plan to any Participant, Beneficiary or any other person.

#### **XV. EMPLOYER PARTICIPATION**

Notwithstanding any other provisions of this Plan, the Employer may contribute additional amounts into the Plan on behalf of any Participant, so long as the total amount contributed by the Employer when added to the Annual Deferral made by the Participant does not exceed the maximum deferral permitted by Article III for the calendar year. The amount of such Employer contribution and the Employees or independent contractors eligible to receive such contributions shall be detailed in an amendment attached to this Plan document. Such Employer contributions shall be wages for services rendered by the Participant to the Employer during the payroll period contributed.

#### **XVI. INTERPRETATION**

- 16.01 Governing Law. This Plan shall be construed under the laws of the state in which the Employer's headquarters are located.
- 16.02 §457. This Plan is intended to be an eligible deferred compensation plan within the meaning of Code §457, and shall be interpreted so as to be consistent with such section and all regulations promulgated thereunder.
- 16.03 Word Usage. Words used herein in the singular shall include the plural and the plural the singular where applicable, and one gender shall include the other genders where appropriate.
- 16.04 Headings. The headings of sections, sections or other subdivisions hereof are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Plan, the text shall control.
- 16.05 Entire Agreement. This Plan, the executed Adoption Agreement and any properly adopted amendment thereof, shall constitute the total agreement or contract between the Employer and the Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the Participant. This Plan and any properly adopted amendment, shall be binding on the parties hereto and their respective heirs, administrators, Trustees, successors, and assigns and on all designated Beneficiaries of the Participant.

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Robyn Slater, Human Resources Manager  
**SUBJECT:** PRESENTATION OF EMPLOYEE LONGEVITY AWARDS

## I. RECOMMENDED ACTION

**Staff recommends that the Board of Directors recognize the anniversaries of those District employees named on the attached list and that the Board Chair present them with awards.**

## II. SUMMARY OF ISSUES

- None.

## III. DISCUSSION

Many employees have provided dedicated and valuable years to the Santa Cruz Metropolitan Transit District. In order to recognize these employees, anniversary awards are presented at five-year increments beginning with the tenth year. In an effort to accommodate those employees that are to be recognized, they will be invited to attend the Board meetings to receive their awards.

## IV. FINANCIAL CONSIDERATIONS

None.

## V. ATTACHMENTS

**Attachment A:** Employee Recognition List

6.1

**SANTA CRUZ METROPOLITAN TRANSIT DISTRICT**  
**EMPLOYEE RECOGNITION**

**TEN YEARS**

None

**FIFTEEN YEARS**

None

**TWENTY YEARS**

Richard C. Gabriel, FM Lead Mechanic  
Frank Q. Jacinto, Bus Operator  
Ian McFadden, Transit Planner  
Gillian S. McGlaze, Transit Supervisor  
Peter I Milburn, Bus Operator  
David W. Moreau, Transit Supervisor  
Rosalio L. Ramos, Bus Operator  
Serena M Tovar, Bus Operator

**TWENTY-FIVE YEARS**

Frank H. Bauer, Safety & Training Coordinator  
Roland T. Owens, Vehicle Service Technician

**THIRTY YEARS**

None

6.91



# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Tom Stickel, Manager of Maintenance  
**SUBJECT:** CONSIDERATION OF AWARD OF CONTRACT FOR STATE LEGISLATIVE SERVICES WITH SHAW/YODER, INC.

## I. RECOMMENDED ACTION

**District Staff recommends that the Board of Directors authorize the General Manager to execute a contract for state legislative services with Shaw/Yoder, Inc.**

## II. SUMMARY OF ISSUES

- A competitive procurement was conducted to solicit proposals from qualified firms.
- Two firms submitted proposals for the District's review.
- An evaluation committee comprised of District staff reviewed and evaluated the proposals.
- The evaluation committee is recommending that a contract be established with Shaw/Yoder, Inc. to provide state legislative services.

## III. DISCUSSION

The District requires the services of a state legislative representative to represent and advocate before the State Legislature and the Governor's Office, the positions and policies of the District. Other required services include: represent the District before the various legislative committees in Sacramento, as directed; monitor transportation committees and other committees as appropriate; represent the District before such committees as directed; advise the District on legislative strategy; serve as an advisor to management and the Directors; represent the District, when directed, before State Departments, Agencies, and regulatory bodies that impact the policies and programs of the District; provide information relative to the legislative hearings which may have impact on the policies and programs of the District; closely monitor and manage legislative issues and/or bills which the District has identified as high priority items; provide assistance to the District in drafting proposed testimony before the Legislature and present such testimony when requested; coordinate advocacy efforts with the District's Board of Directors and staff; undertake such other assignments upon which the District and consultant mutually agree; prepare written reports, at least monthly, summarizing its activities on behalf of the District; and shall comply with all Federal and State laws and regulations relating to the activities of lobbyists.

8.1

Consultant shall provide necessary documentation to support the filing of all required Federal and State forms related to legislative assistant or lobbying services.

On October 27, 2005, District Request for Proposal, 05-08 was mailed to sixteen firms and was legally advertised. On November 23, 2005, proposals were received and opened from two firms. These firms are listed in Attachment A. An evaluation committee comprised of District staff have reviewed and evaluated the proposals.

The evaluation committee used the following criteria as contained in the Request for Proposals:

Criteria	Points
Qualifications of Firm	30
Qualifications of Proposed Staff	30
Fees for Service	20
Compliance with Proposal Requirements, Contract Terms and Conditions	15
DBE Participation	5
Total Points Possible	100

Based on the above criteria, the selection committee is recommending that the Board of Directors authorize the General Manager to sign a contract with Shaw/Yoder, Inc. to provide state legislative services for an amount not to exceed \$ 30,000. Contractor has provided State Legislative Services for the District since 1995. Contractor will continue to provide services meeting all District specifications and requirements.

#### IV. FINANCIAL CONSIDERATIONS

Funding for this contract is contained in the Operating Budget.

#### V. ATTACHMENTS

**Attachment A:** Ranking of Proposals Submitted

**Attachment B:** Contract with Shaw/Yoder, Inc.

**Note: The RFP along with its Exhibits and any Addendum(s) are available for review at the Administration Office of METRO or online at [www.scmtd.com](http://www.scmtd.com)**

8.2

# Attachment A

Request for Proposals No. 05-08 for State Legislative Services

## Ranking of Proposals Received

1. Shaw/Yoder, Inc., 1414 K Street, Suite 320, Sacramento, California
2. Law Offices of Duncan D. McFetridge, 1225 8<sup>th</sup> Street, Suite 595, Sacramento, California

8.91

CONTRACT FOR STATE LEGISLATIVE REPRESENTATIVE SERVICES (05-08)

THIS CONTRACT is made effective on January 1, 2005 between the SANTA CRUZ METROPOLITAN TRANSIT DISTRICT, a political subdivision of the State of California ("District"), and SHAW/YODER, INC ("Contractor")

1 RECITALS

1 01 District's Primary Objective

District is a public entity whose primary objective is providing public transportation and has its principal office at 370 Encinal Street, Suite 100, Santa Cruz, California 95060

1 02 District's Need for State Legislative Representative Services

District has the need for State Legislative Representative Services In order to obtain these services, the District issued a Request for Proposals, dated October 27, 2005, setting forth specifications for such services The Request for Proposals is attached hereto and incorporated herein by reference as Exhibit "A"

1 03 Contractor's Proposal

Contractor is a firm/individual qualified to provide State Legislative Representative Services and whose principal place of business is 1414 K Street, Suite 320, Sacramento, California Pursuant to the Request for Proposals by the District, Contractor submitted a proposal for State Legislative Representative Services, which is attached hereto and incorporated herein by reference as Exhibit "B "

1 04 Selection of Contractor and Intent of Contract

On December 16, 2005 District selected Contractor as the offeror whose proposal was most advantageous to the District, to provide the State Legislative Representative Services described herein This Contract is intended to fix the provisions of these services

District and Contractor agree as follows:

2 INCORPORATED DOCUMENTS AND APPLICABLE LAW

2 01 Documents Incorporated in this Contract

The documents below are attached to this Contract and by reference made a part hereof This is an integrated Contract This writing constitutes the final expression of the parties' contract, and it is a complete and exclusive statement of the provisions of that Contract, except for written amendments, if any, made after the date of this Contract in accordance with Section 13 14.

A Exhibit "A"

Santa Cruz Metropolitan Transit District's "Request for Proposals" dated October 27, 2005

B Exhibit "B" (Contractor's Proposal)

Contractor's Proposal to the District for State Legislative Representative Services, signed by Contractor and received on November 23, 2005

2 02 Conflicts

Where in conflict, the provisions of this writing supersede those of the above-referenced documents, Exhibits "A" and "B" Where in conflict, the provisions of Exhibit "A" supercede Exhibit "B".

8. b1

2 03 Recitals

The Recitals set forth in Article 1 are part of this Contract

3 DEFINITIONS

3 01 General

The terms below (or pronouns in place of them) have the following meaning in the contract:

3 01 01 CONTRACT - The Contract consists of this document, the attachments incorporated herein in accordance with Article 2, and any written amendments made in accordance with Section 13 14

3 01 02 CONTRACTOR - The Contractor selected by District for this project in accordance with the Request for Proposals issued October 27, 2005.

3 01 03 CONTRACTOR'S STAFF - Employees of Contractor

3 01 04 DAYS - Calendar days

3 01 05 OFFEROR - Contractor whose proposal was accepted under the terms and conditions of the Request for Proposals issued October 27, 2005

3 01 06 PROVISION - Any term, agreement, covenant, condition, clause, qualification, restriction, reservation, or other stipulation in the contract that defines or otherwise controls, establishes, or limits the performance required or permitted by either party

3 01 07 SCOPE OF WORK (OR "WORK") - The entire obligation under the Contract, including, without limitation, all labor, equipment, materials, supplies, transportation, services, and other work products and expenses, express or implied, in the Contract

4. TIME OF PERFORMANCE

4 01 Term

The term of this Contract will be for a period not to exceed one (1) year and shall commence upon the issuance of the contract by the District

At the option of the District, this contract agreement may be renewed for four (4) additional one (1) year terms upon mutual written consent

5. COMPENSATION

5 01 Terms of Payment

District shall compensate Contractor in an amount not to exceed \$2,500 per month, all expenses included District shall reasonably determine whether work has been successfully performed for purposes of payment Compensation shall be made within forty-five (45) days of District written approval of Contractor's written invoice for said work Contractor understands and agrees that if he/she exceeds the \$30,000 maximum amount payable under this contract, that it does so at its own risk

5 02 Invoices

Contractor shall submit invoices with a project number provided by the District on a monthly basis Contractor's invoices shall include detailed records showing actual time devoted, work accomplished, date work accomplished, personnel used, and amount billed per hour Expenses shall only be billed if allowed under the Contract Telephone

8.62

call expenses shall show the nature of the call and identify location and individual called Said invoice records shall be kept up-to-date at all times and shall be available for inspection by the District (or any grantor of the District, including, without limitation, any State or Federal agency providing project funding or reimbursement) at any time for any reason upon demand for not less than four (4) years after the date of expiration or termination of the Contract Under penalty of law, Contractor represents that all amounts billed to the District are (1) actually incurred; (2) reasonable in amount; (3) related to this Contract; and (4) necessary for performance of the project

6 NOTICES

All notices under this Contract shall be deemed duly given upon delivery, if delivered by hand; or three (3) days after posting, if sent by registered mail, receipt requested; to a party hereto at the address hereinunder set forth or to such other address as a party may designate by notice pursuant hereto

DISTRICT

Santa Cruz Metropolitan Transit District  
370 Encinal Street  
Suite 100  
Santa Cruz, CA 95060  
Attention: General Manager

CONTRACTOR

Shaw Yoder, Inc  
1414 K Street, Suite 320  
Sacramento CA 95814  
Attention: Joshua Shaw

8.63

7 AUTHORITY

Each party has full power and authority to enter into and perform this Contract and the person signing this Contract on behalf of each has been properly authorized and empowered to enter into this Contract. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

Signed on \_\_\_\_\_

DISTRICT  
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

\_\_\_\_\_  
Leslie R. White  
General Manager

CONTRACTOR  
SHAW/YODER, INC

By \_\_\_\_\_  
Joshua W. Shaw  
Partner

Approved as to Form:

\_\_\_\_\_  
Margaret Rose Gallagher  
District Counsel

**EXHIBIT -A-**

**SANTA CRUZ METROPOLITAN TRANSIT DISTRICT**

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**Request for Proposals (RFP) For Services Of A**

**State Legislative Representative**

**District RFP NO. 05-08**

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**Date Issued: October 27, 2005**

**Proposal Deadline: 5:00 P.M., November 23, 2005**

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**Contents of this RFP**

Part I.	Instructions to Offerors
Part II.	General Information Form
Part III.	Specifications
Part IV.	General Conditions
Part V.	Contract/Agreement
Part VI.	FTA Requirements for Non-Construction Contracts
Part VII.	Protest Procedures



**PART I**  
**INSTRUCTIONS TO OFFERORS**

1. **GENERAL:** These instructions form a part of the contract documents and shall have the same force as any other portion of the contract. Failure to comply may subject the proposal to immediate rejection.
2. **OFFEROR RESPONSIBILITY:** The District has made every attempt to provide all information needed by offerors for a thorough understanding of project terms, conditions, and requirements. It is expressly understood that it is the responsibility of offerors to examine and evaluate the work required under this RFP and the terms and conditions under which the work is performed. By submitting a proposal, Offeror represents that it has investigated and agrees to all terms and conditions of this RFP.
3. **DELIVERY OF PROPOSALS TO THE DISTRICT:** Proposals (1 original and 4 copies) must be delivered to the District Purchasing Office, 110 Vernon Street, Suite B, Santa Cruz, California, 95060 on or before the deadline noted in the RFP.

Any contract or purchase order entered into as a result of this RFP shall incorporate the RFP and the proposal submitted by successful offeror. In the event of conflict between the proposal and any other contract document, the other contract document shall prevail unless specified otherwise by the District. Telephone or electronic proposals will not be accepted.

4. **LATE PROPOSALS:** Proposals received after the date and time indicated herein shall not be accepted and shall be returned to the Offeror unopened.

Requests for extensions of the proposal closing date or time will not be granted. Offerors mailing proposals should allow sufficient mail time to ensure timely receipt of their proposals before the deadline, as it is the offerors responsibility to ensure that proposals arrive before the closing time.

5. **MULTIPLE PROPOSALS:** An offeror may submit more than one proposal. At least one of the proposals shall be complete and comply with all requirements of this RFP. However, additional proposals may be in abbreviated form, using the same format, but providing only the information that differs in any way from the information contained in the master proposal. Master proposals and alternate proposals should be clearly labeled.
6. **PARTIAL PROPOSALS:** No partial proposals shall be accepted.
7. **WITHDRAWAL OR MODIFICATION OF PROPOSALS:** Proposals may not be modified after the time and date proposals are opened. Proposals may be withdrawn by Offeror before proposal opening upon written request of the official who is authorized to act on behalf of the Offeror.
8. **CHANGES TO THE RFP RECOMMENDED BY OFFERORS:** All requests for clarification or modification of the RFP shall be made in writing. Offerors are required to provide the value of each proposed modification and a brief explanation as to why the change is requested. Value shall be defined as the cost or savings to the District and the advantage to the District of the proposed change.
9. **ADDENDA:** Modifications to this RFP shall be made only by written addenda issued to all RFP holders of record. Verbal instructions, interpretations, and changes shall not serve as official expressions of the District, and shall not be binding. All cost adjustments or other changes resulting from said addenda shall be taken into consideration by offerors and included in their proposals.
10. **OFFEROR'S PROPOSAL TO THE DISTRICT:** Offerors are expected to thoroughly examine the scope of work and terms and conditions of the RFP. Offerors' terms, conditions, and prices shall constitute a firm offer to the District that cannot be withdrawn by the Offeror for ninety (90) calendar days after the closing date for

proposals, unless a longer time period is specified by the District in the RFP. Offerors shall identify all proprietary information in their proposals. Information identified as proprietary shall not be made available to the public or other offerors.

11. **SINGLE OFFEROR RESPONSIBILITY:** Single Offeror responsibility is required under this RFP. Each Offeror responding to this RFP must respond to all professional services and provide all materials, equipment, supplies, transportation, freight, special services, and other work described or otherwise required herein.
12. **EXPERIENCE AND QUALIFICATIONS:** Offeror may be required upon request of the District to substantiate that Offeror and its proposed subcontractors have the skill, experience, licenses, necessary facilities, and financial resources to perform the contract in a satisfactory manner and within the required time.
13. **SUBCONTRACTING:** The requirement for single-point responsibility does not prohibit subcontracts or joint ventures provided that the single successful Offeror assumes the following responsibilities: (1) serves as the sole general contractor with the District; (2) assumes full responsibility for the performance of all its subcontractors, joint venturers, and other agents; (3) provides the sole point of contact for all activities through a single individual designated as project manager; (4) submits information with its proposal documenting the financial standing and business history of each subcontractor or joint venturer; and, (5) submits copies of all subcontracts and other agreements proposed to document such arrangement.

Without limiting the foregoing, any such legal documents submitted under item "5" above must (a) make the District a third-party beneficiary thereunder; (b) grant to the District the right to receive notice of and cure any default by the successful offeror under the document; and (c) pass through to the District any and all warranties and indemnities provided or offered by the subcontractor or similar party.

14. **EVALUATION CRITERIA AND AWARD OF CONTRACT:** The award of the contract will be made to the responsible Offeror whose proposal is most advantageous to the District. Specific evaluation criteria are identified in the Specifications section of the RFP.
15. **DISTRICT'S PREROGATIVE:** The District reserves the right to contract with any single firm or joint venture responding to this RFP (without performing interviews), based solely upon its evaluation and judgment of the firm or joint venture in accordance with the evaluation criteria. This RFP does not commit the District to negotiate a contract, nor does it obligate the District to pay for any costs incurred in preparation and submission of proposals or in submission of a contract.

The District reserves and holds at its discretion the following rights and options in addition to any others provided by the Public Utility Code, Section 98000 and the Public Contract Code: (1) to reject any or all of the proposals; (2) to issue subsequent requests for proposals; (3) to elect to cancel the entire request for proposals; (4) to waive minor informalities and irregularities in proposals received; (5) to enter into a contract with any combination of one or more prime contractors, subcontractors, or service providers; (6) to approve or disapprove the use of proposed subcontractors and substitute subcontractors; (7) to negotiate with any, all, or none of the respondents to the RFP.

16. **EXECUTION OF CONTRACT:** The final contract shall be executed by the successful offeror and returned to the District Administrative Office no later than ten (10) calendar days after the date of notification of award by the District. All required bonds and insurance certificates shall also be submitted by this deadline. In the event successful offeror does not submit any or all of the aforementioned documents on or before the required deadline, the District may award the contract to another offeror; in such event, District shall have no liability and said party shall have no remedy of any kind against the District.
17. **DISADVANTAGED AND WOMEN'S BUSINESS ENTERPRISES:** The Board of Directors of the Santa Cruz Metropolitan Transit District has adopted a Disadvantaged Business Enterprise Policy to promote the participation of disadvantaged business enterprises (DBE) in all areas of District contracting to the maximum extent practicable. Consistent with the DBE Policy, the successful offeror selected for this project shall take all necessary and reasonable steps to ensure that DBE firms have the maximum practicable opportunity to participate in the performance of this project and any subcontracting opportunities thereof.

18. NONDISCRIMINATION: The Santa Cruz Metropolitan Transit District will not discriminate with regard to race, color, creed, ancestry, national origin, religion, sex, sexual preference, marital status, age, medical condition or disability in the consideration for award of contract

***ADDITIONAL INSTRUCTIONS TO OFFERORS ARE SET FORTH IN  
OTHER SECTIONS OF THIS REQUEST FOR PROPOSALS***

**PART II**

**GENERAL INFORMATION FORM**

**SERVICES OF A STATE LEGISLATIVE REPRESENTATIVE 05-08**

(To be completed by the offeror and placed at the front of your proposal)

\_\_\_\_\_  
Legal Name of Firm

\_\_\_\_\_  
Date

\_\_\_\_\_  
Firm's Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
FAX Number

\_\_\_\_\_  
Type of Organization (Partnership, Corporation, etc.)

\_\_\_\_\_  
Tax ID Number

Offeror understands and agrees that, by his/her signature, if awarded the contract for the project, he/she is entering into a contract with the District that incorporates the terms and conditions of the entire Request for Proposals package, including the General Conditions section of the Request for Proposals. Offeror understands that this proposal constitutes a firm offer to the District that cannot be withdrawn for ninety (90) calendar days from the date of the deadline for receipt of proposals. If awarded the contract, offeror agrees to deliver to the District the required insurance certificates within ten (10) calendar days of the Notice of Award.

\_\_\_\_\_  
Signature of Authorized Principal

\_\_\_\_\_  
Name of Principal-in-Charge and Title

\_\_\_\_\_  
Name of Project Manager and Title

\_\_\_\_\_  
Name, Title, Email Address and Phone Number of Person To Whom Correspondence Should be Directed

\_\_\_\_\_  
Addresses Where Correspondence Should Be Sent

\_\_\_\_\_  
Areas of Responsibility of Prime Contractor

Listing of major sub consultants proposed (if applicable), their phone numbers, and areas of responsibility (indicate which firms are DBE's):

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**LOBBYING CERTIFICATION**  
**(Only for Contracts above \$100,000)**

**Lobbying Certification for Contracts Grants, Loans and Cooperative Agreements (Pursuant to 49 CFR Part 20, Appendix A)**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions and as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed Reg 1413 (1/19/96).
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and Contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Bidder/Offeror certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Bidder/Offeror understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.* apply to this certification and disclosure, if any.

Firm Name \_\_\_\_\_

Signature of Authorized Official \_\_\_\_\_

Name and Title of Authorized Official \_\_\_\_\_

Date \_\_\_\_\_

**BUY AMERICA PROVISION {tc "BUY AMERICA PROVISION " \ 2}  
(Only for Contracts above \$100,000)**

This procurement is subject to the Federal Transit Administration Buy America Requirements in 49 CFR part 661.

A Buy American Certificate, as per attached format, must be completed and submitted with the bid. A bid which does not include the certificate will be considered non-responsive.

A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this procurement be investigated, the successful bidder/proposer has the burden of proof to establish that it is in compliance.

A waiver from the Buy America Provision may be sought by SCMTD if grounds for the waiver exist.

Section 165(a) of the Surface Transportation Act of 1982 permits FTA participation on this contract only if steel and manufactured products used in the contract are produced in the United States.

**BUY AMERICA CERTIFICATE**

The bidder hereby certifies that it will comply with the requirements of Section 165(a) or (b) (3) of the Surface Transportation Assistance Act of 1982, and the applicable regulations in 49 CFR Part 661.

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

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

Company Name: \_\_\_\_\_

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

OR

The bidder hereby certifies that it cannot comply with the requirements of Section 165(a) or (b) (3) of the Surface Transportation Act of 1982, but may qualify for an exception to the requirement pursuant to Section 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended, and regulations in 49 CFR 661.7.

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

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

Company Name: \_\_\_\_\_

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

# CONTRACTOR DBE INFORMATION

CONTRACTOR'S NAME \_\_\_\_\_  
 DBE GOAL FROM CONTRACT \_\_\_\_\_ %  
 FED. NO. \_\_\_\_\_  
 COUNTY \_\_\_\_\_  
 AGENCY \_\_\_\_\_  
 CONTRACT NO. \_\_\_\_\_

CONTRACTOR'S ADDRESS \_\_\_\_\_  
 \_\_\_\_\_  
 PROPOSAL AMOUNT \$ \_\_\_\_\_  
 PROPOSAL OPENING DATE \_\_\_\_\_  
 DATE OF DBE CERTIFICATON \_\_\_\_\_  
 SOURCE \*\* \_\_\_\_\_

This information must be submitted during the initial negotiations with the District. By submitting a proposal, offeror certifies that he/she is in compliance with the District's policy. Failure to submit the required DBE information by the time specified will be grounds for finding the proposal non-responsive.

CONTRACT ITEM NO.	ITEM OF WORK AND DESCRIPTION OF WORK OR SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED *	CERTIFICATION FILE NUMBER	NAME OF DBE	DOLLAR AMOUNT DBE ***	PERCENT DBE

TOTAL CLAIMED DBE PARTICIPATION      \$ \_\_\_\_\_      %

SIGNATURE OF CONTRACTOR \_\_\_\_\_  
 AREA CODE/TELEPHONE \_\_\_\_\_

DATE \_\_\_\_\_  
 (Detach from proposal if DBE information is not submitted with proposal.)

- \* If 100% of item is not to be performed or furnished by DBE, describe exact portion, including plan location of work to be performed, of item to be performed or furnished by DBE.
- \*\* DBE's must be certified on the date proposals are opened.
- \*\*\* Credit for a DBE supplier who is not a manufacturer is limited to 60% of the amount paid to the supplier.

**NOTE:** Disadvantaged business must renew their certification annually by submitting certification questionnaires in advance of expiration of current certification. Those not on a current list cannot be considered as certified.



# CONTRACTOR DBE INFORMATION

CONTRACT ITEM NO.	ITEM OF WORK AND DESCRIPTION OF WORK OR SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED *	CERTIFICATION FILE NUMBER	NAME OF DBE	DOLLAR AMOUNT DBE ***	PERCENT DBE
TOTAL CLAIMED DBE PARTICIPATION				\$ _____	_____ %

## **PART III**

### **SERVICES OF A STATE LEGISLATIVE REPRESENTATIVE**

#### **1. BACKGROUND**

The Santa Cruz Metropolitan Transit District ("District") is a special district organized under the Public Utilities Code of the State of California for the purpose of operating mass transit services within Santa Cruz County. The District is governed by an eleven (11) member Board of Directors whose members are appointed by the County of Santa Cruz and the cities of Santa Cruz, Watsonville, Capitola, and Scotts Valley. The District is involved in a number of issues relating to state programs and legislation, and therefore wishes to ensure representation in Sacramento through a governmental relations or legislative assistance firm.

#### **2. STATEMENT OF SERVICES**

The tasks involved will include, but not be limited to, the following:

- A. Represent and advocate before the State Legislature and the Governor's Office, the positions and policies of the District;
- B. Represent the District before the various legislative committees in Sacramento, as directed; monitor transportation committees and other committees as appropriate and represent the District before such committees as directed;
- C. Advise the District on legislative strategy and serve as an advisor to management and the Directors;
- D. Represent the District, when directed, before State Departments, Agencies, and regulatory bodies that impact the policies and programs of the District
- E. Provide information relative to the legislative hearings which may have impact on the policies and programs of the District;
- F. Closely monitor and manage legislative issues and/or bills which the District has identified as high priority items;
- G. Provide assistance to the District in drafting proposed testimony before the Legislature and present such testimony when requested;
- H. Coordinate advocacy efforts with the District's Board of Directors and staff;
- I. Undertake such other assignments upon which the District and consultant mutually agree.
- J. The consultant shall prepare written reports, at least monthly, summarizing its activities on behalf of the District.
- K. The Consultant shall comply with all Federal and State laws and regulations relating to the activities of lobbyists. Consultant shall provide necessary documentation to support the filing of all required Federal and State forms related to legislative assistant or lobbying services.

#### **3. QUALIFICATIONS FOR CONSIDERATION**

To be considered for selection and contract award, the Consultant must have the following qualifications:

- A. A minimum of five (5) years of practice as a representative before the California State Legislature and Governor's Office
- B. Knowledge of State law and regulations pertaining to public utilities, railroads, mass transportation and the environment.
- C. Detailed knowledge of State legislative and executive leadership, legislative procedures and legislative agendas which would affect the District's activities.
- D. Record of satisfactorily representing interests of local public agencies before the California State Legislature and Governor's Office, and in getting legislation or orders favorable to such agencies.
- E. Resources available for services to the District.

The District reserves the right to investigate the qualifications of all firms and persons under consideration, to include reference checks, and to confirm any part of the information furnished by an Consultant, or to require other evidence of professional, financial, or other capabilities which are necessary for the successful performance of the services

#### 4. MINIMUM PROPOSAL REQUIREMENTS

- A. Consultant's Experience and Qualifications – This section should provide a summary of description of the Consultant's overall qualifications for this service and previous experience on similar or related engagements. A summary of the financial stability of the consultant should be provided, insofar as s/he has resources available to perform the services. This section should include the names and resumes of the individuals who will be performing legislative and representation services.
- B. Understanding of the Scope of Work – This section should include a brief narrative introducing the Consultant's understanding of the work required. The contents of this section are to be determined by the particular respondent, but should demonstrate the understanding of the scope of work.
- C. References – The prospective Consultant shall provide names, addresses and telephone numbers for at least three clients for whom he/she has performed services similar in nature and complexity to that proposed in this RFP
- D. Conflict of Interest - The prospective Consultant shall disclose any financial, business or other relationship with the District or any of its Consultants or officials that may have an impact upon the outcome of the work. The prospective Consultant shall also list current clients who may have a financial interest in the outcome of the work
- E. Professional Services Agreement – Consultant's proposal shall be based on the requirements set forth in the "Professional Services Agreement" included in this RFP. The final agreement between the District and Consultant shall be in substantially the same form and content as the "Professional Services Agreement" included herein
- F. Signature – The proposal shall be signed by the Consultant and shall contain a statement to the effect that the proposal is a firm offer for a 90-day period. The proposal shall also provide the following: name, title, address and telephone number of the Consultant
- G. Past, Present and Pending Legal Actions – Consultant shall list all legal actions in which it was a party within the past five (5) years, including all parties and outcome(s)
- H. Proposed Fee – Consultant shall provide a proposed monthly fee for services

**5. PROPOSAL SUBMITTAL**

Proposals and six copies must be received **no later than 5:00 p.m. Wednesday, November 23, 2005** at the Purchasing Department of the District Administrative Office, 110 Vernon Street, Suite B, Santa Cruz, CA 95060  
Proposals must be clearly marked:

**“Proposal for Services of a State Legislative Representative  
(Proposal Date: Wednesday November 23, 2005)”**

The prospective Consultant shall be available for an oral or telephone interview on Wednesday November 30, 2005 between the hours of 8:00 a.m. and 5:00 p.m., if so requested by the Purchasing Department. The prospective Consultant will be notified before 5:00 p.m. on Tuesday, November 29, 2005 about the exact time of the interview.

**6. MODIFICATION OR WITHDRAWAL OF PROPOSALS**

Any proposal received prior to the date and time specified above for receipt of proposals may be withdrawn or modified by written request of the Consultant. To be considered, however, the modified proposal must be received by the date and time specified above.

All verbal modifications of these conditions or provisions are void and ineffective for proposal evaluation purposes. Only written changes issued to Consultants by the Purchasing Department are authorized and binding.

**7. REJECTION OF PROPOSALS**

Failure to meet the requirements for the Request for Proposals will be cause for rejection of the proposals. The District may reject any proposal if it is conditional, incomplete or contains irregularities. The District may waive an immaterial deviation in the proposal. Waiver of an immaterial deviation shall in no way modify the Request for Proposal's documents or excuse the Consultant from full compliance with the contract documents if the Consultant is awarded the contract. The District reserves the right to not award the contract, should it determine that the proposals are not in its best interest.

**8. EVALUATION CRITERIA**

Proposals will be evaluated according to the following criteria, listed in order of priority, which shall be the sole criteria for determining qualifications for contract award:

**A. Qualifications of Firm: (30 points)**

1. General experience in appropriate State law and legislative representation
2. Resources available to perform the services
3. Prior history of satisfactory service to other clients

**B. Qualifications of Proposed Staff: (30 points)**

1. General experience in appropriate State law and legislative representation
2. Education and licensing
3. Prior history of satisfactory service to other clients or employers
4. Good character and standing before professional associations
5. Availability for District service

**C. Fees for Service – Monthly and Annual : (20 points)**

**D. Compliance with Proposal Requirements and Contract Terms and Conditions: (15 points)**

E DBE (Disadvantaged Business Enterprise) Participation: (5 points)

9. **PROPOSED CONTRACT**

The District anticipates entering into a one-year contract that involves payment of a flat monthly retainer to be provided to the Consultant. The retainer is not to be exceeded nor added to for any month that requires significant use of Consultant's time to accomplish the legislative service requirement. The terms and conditions will be set forth in the final agreement for the Services of a State Legislative Representative, (a draft of which is currently provided in Part V of this RFP), which will include the addition of any changes negotiated between the selected Consultant and the District.

10. **PROJECT SCHEDULE**

The anticipated schedule of activities related to this RFP is as follows:

<b>EVENT</b>	<b>DATE</b>
Distribution of RFP	October 27, 2005
Proposal Due Date	November 23, 2005
Evaluation and Oral Interviews	November 30, 2005
Consultant Contract Negotiation Completion	December 2, 2005
Board Approval of Consultant Contract	December 16, 2005
Notice to Proceed	January 1, 2006

## PART IV

### GENERAL CONDITIONS TO THE CONTRACT

#### 1 GENERAL PROVISIONS

##### 1.01 Governing Law & Compliance with All Laws

This Contract is governed by and construed in accordance with the laws of California. Each party will perform its obligations hereunder in accordance with all applicable laws, rules, and regulations now or hereafter in effect. Contractor shall ensure throughout the terms of this Agreement that all federal, state and local laws and requirements are met including any requirements District is obligated to perform because of receipt of grant funding. Contractor shall also be required to fulfill its obligation as a federal and/or state and/or local sub-recipient of grant funding.

##### 1.02 Right to Modify Contract

District may extend the term of this Contract, expand the Scope of Work, or otherwise amend the Contract. Any such extension, expansion or amendment shall be effective only upon written agreement of the parties in accordance with Section 13.14.

#### 2 TERMINATION

##### 2.01 Termination for Convenience

2.01.01 The performance of Work under this Contract may be terminated by the District upon fifteen (15) days' notice at any time without cause for any reason in whole or in part, whenever the District determines that such termination is in the District's best interest.

2.01.02 Upon receipt of a notice of termination, and except as otherwise directed by the District, the Contractor shall: (1) stop work under the Contract on the date and to the extent specified in the notice of termination; (2) place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the Work under the Contract as is not terminated; (3) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination; (4) assign to the District in the manner, at the time, and to the extent directed by the District all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the District shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts; (5) settle all outstanding liabilities and claims arising out of such termination or orders and subcontracts, with the approval or ratification of the District, to the extent the District may require, which approval or ratification shall be final for all the purposes of this clause; (6) transfer title to the District and deliver in the manner, at the time, and to the extent, if any, directed by District the fabricated or unfabricated parts, work in progress, completed work, supplies and other material produced as a part of, or acquired in connection with the performance of, the work terminated and the completed or partially completed plans, drawings, information and other property which, if the Contract had been completed, would have been required to be furnished to the District; (7) use its best efforts to sell, in the manner, at the time, to the extent, and at the price(s) directed or authorized by the District, any property of the types referred to above provided, however, that the Contractor shall not be required to extend credit to any purchaser, and may acquire any such property under the conditions prescribed by and at a price(s) approved by the District, and provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made to the District to the Contractor under this Contract or shall otherwise be credited to the price or cost of the Work covered by this Contract or paid in such other manner as the District may direct; (8) complete performance of

such part of the Work as shall not have been terminated by the notice of termination; and (9) take such action as may be necessary, or as the District may direct, for the protection or preservation of the property related to this Contract which is in the possession of the Contractor and in which the District has or may acquire an interest

2.02 Termination for Default

2.02.01 The District may, upon written notice of default to the Contractor, terminate the whole or any part of this Contract if the Contractor: (1) fails to complete the Scope of Work within time period stated in the Specifications section of the IFB; (2) fails to perform any of the other provisions of the Contract; or (3) fails to make progress as to endanger performance of this Contract in accordance with its provisions.

2.02.02 If the Contract is terminated in whole or in part for default, the District may procure, upon such terms and in such manner as the District may deem appropriate, supplies or services similar to those so terminated. Without limitation to any other remedy available to the District, the Contractor shall be liable to the District for any excess costs for such similar supplies or services, and shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.

2.02.03 If, after notice of termination of this Contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of Contractor and District shall be considered to have been terminated pursuant to termination for convenience of the District pursuant to Article 2.01 from the date of Notification of Default.

2.03 No Limitation

The rights and remedies of the District provided in this Article 2 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract

3. FORCE MAJEURE

3.01 General

Neither party hereto shall be deemed to be in default of any provision of this Contract, or for any failure in performance, resulting from acts or events beyond the reasonable control of such party. For purposes of this Contract, such acts shall include, but not be limited to, acts of God, civil or military authority, civil disturbance, war, strikes, fires, other catastrophes, or other "force majeure" events beyond the parties' reasonable control; provided, however, that the provisions of this Section 3 shall not preclude District from canceling or terminating this Contract (or any order for any product included herein), as otherwise permitted hereunder, regardless of any force majeure event occurring to Contractor.

3.02 Notification by Contractor

Contractor shall notify District in writing as soon as Contractor knows, or should reasonably know, that a force majeure event (as defined in Section 3.01) has occurred that will delay completion of the Scope of Work. Said notification shall include reasonable proofs required by the District to evaluate any Contractor request for relief under this Article 3. District shall examine Contractor's notification and determine if the Contractor is entitled to relief. The District shall notify the Contractor of its decision in writing. The District's decision regarding whether or not the Contractor is entitled to force majeure relief shall be final and binding on the parties.

3.03 Losses

Contractor is not entitled to damages, compensation, or reimbursement from the District for losses resulting from any "force majeure" event

#### 4. PROFESSIONAL STANDARDS

Contractor shall at all times during the term of this Contract possess the technical ability, experience, financial ability, overall expertise, and all other skills, licenses, and resources necessary to perform and complete the scope of work in a timely, professional manner so as to meet or exceed the provisions of this Contract

#### 5. PROFESSIONAL RELATIONS

##### 5.01 Independent Contractor

No relationship of employer and employee is created by this Contract. In the performance of its work and duties, Contractor is at all times acting and performing as an independent contractor in the practice of its profession. District shall neither have nor exercise control or direction over the methods by which Contractor performs services pursuant to this Contract (including, without limitation, its officers, shareholders, and employees); provided, however, that Contractor agrees that all work performed pursuant to this Contract shall be in strict accordance with currently approved methods and practices in its profession, and in accordance with this Contract. The sole interest of District is to ensure that such services are performed and rendered in a competent and cost effective manner

##### 5.02 Benefits

Contractor (including, without limitation, its officers, shareholders, subcontractors and employees) has no claim under this Contract or otherwise against the District for social security benefits, workers' compensation benefits, disability benefits, unemployment benefits, vacation pay, sick leave, or any other employee benefit of any kind

#### 6. INDEMNIFICATION FOR DAMAGES, TAXES AND CONTRIBUTIONS

##### 6.01 Scope

Contractor shall exonerate, indemnify, defend, and hold harmless District (which for the purpose of Articles 6 and 7 shall include, without limitation, its officers, agents, employees and volunteers) from and against:

6.01 01 Any and all claims, demands, losses, damages, defense costs, or liability of any kind or nature which District may sustain or incur or which may be imposed upon it for injury to or death of persons, or damage to property as a result of, or arising out of, or in any manner connected with the Contractor's performance under the provisions of this Contract. Such indemnification includes any damage to the person(s) or property (ies) of Contractor and third persons.

6.01 02 Any and all Federal, state and local taxes, charges, fees, or contributions required to be paid with respect to Contractor, Contractor's officers, employees and agents engaged in the performance of this Contract (including, without limitation, unemployment insurance, social security, and payroll tax withholding)

#### 7. INSURANCE

##### 7.01 General

Contractor, at its sole cost and expense, for the full term of this Contract (and any extensions thereof), shall obtain and maintain at minimum all of the following insurance coverage. Such insurance coverage shall be primary coverage as respects District and any insurance or self-insurance maintained by District shall be excess of Contractor's insurance coverage and shall not contribute to it



7.02 Types of Insurance and Minimum Limits

Contractor shall obtain and maintain during the term of this Contract:

- (1) Worker's Compensation and Employer's Liability Insurance in conformance with the laws of the State of California (not required for Contractor's subcontractors having no employees)
- (2) Contractor's vehicles used in the performance of this Contract, including owned, non-owned (e.g. owned by Contractor's employees), leased or hired vehicles, shall each be covered with Automobile Liability Insurance in the minimum amount of \$1,000,000.00 combined single limit per accident for bodily injury and property damage.
- (3) Contractor shall obtain and maintain Comprehensive General Liability Insurance coverage in the minimum amount of \$1,000,000.00 combined single limit, including bodily injury, personal injury, and property damage. Such insurance coverage shall include, without limitation:
  - (a) Contractual liability coverage adequate to meet the Contractor's indemnification obligations under this contract
  - (a) Full Personal Injury coverage
  - (a) Broad form Property Damage coverage
  - (a) A cross-liability clause in favor of the District.
- (4) Contractor shall obtain and maintain Professional Liability Insurance coverage in the minimum amount of \$1,000,000.00

7.03 Other Insurance Provisions

- (1) As to all insurance coverage required herein, any deductible or self-insured retention exceeding \$5,000.00 shall be disclosed to and be subject to written approval by District
- (2) If any insurance coverage required hereunder is provided on a "claims made" rather than "occurrence" form, Contractor shall maintain such insurance coverage for three (3) years after expiration of the term (and any extensions) of this Contract.
- (3) All required Automobile Liability Insurance and Comprehensive or Commercial General Liability Insurance shall contain the following endorsement as a part of each policy: "The Santa Cruz Metropolitan Transit District is hereby added as an additional insured as respects the operations of the named insured."
- (4) All the insurance required herein shall contain the following clause: "It is agreed that this insurance shall not be canceled until thirty (30) days after the District shall have been given written notice of such cancellation or reduction."
- (5) Contractor shall notify District in writing at least thirty (30) days in advance of any reduction in any insurance policy required under this Contract
- (6) Contractor agrees to provide District at or before the effective date of this Contract with a certificate of insurance of the coverage required.
- (6) All insurance shall be obtained from brokers or carriers authorized to transact business in California and are satisfactory to the District.

9. NO DISCRIMINATION

In connection with the performance of services provided under this Contract, Contractor shall not on the grounds of race, color, creed, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition or disability discriminate or permit discrimination against any person or group of persons in any manner prohibited by Federal, State, or local laws.

10. DISADVANTAGED BUSINESS ENTERPRISES

The Board of Directors of the Santa Cruz Metropolitan Transit District has adopted a Disadvantaged Business Enterprise Policy to promote the participation of disadvantaged business enterprises (DBE's) in all areas of District contracting to the maximum extent practicable. Consistent with the DBE Policy, the Contractor shall take all necessary and reasonable steps to ensure that DBE firms have the maximum practicable opportunity to participate in the performance of this project and any subcontracting opportunities thereof

11. PROMPT PAYMENT

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from District. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the District. This applies to both DBE and non-DBE subcontractors.

Prime subcontractors must include the prompt payment language of paragraph 1 in all subcontracts, regardless of subcontractor's DBE status. Failure of a prime contractor to uphold prompt payment requirements for subcontractors will result in District withholding reimbursement for completed work.

12. RESERVED

13. MISCELLANEOUS PROVISIONS

13.01 Successors and Assigns

The Contract shall inure to the benefit of, and be binding upon, the respective successors and assigns, if any, of the parties hereto, except that nothing contained in this Article shall be construed to permit any attempted assignment which would be unauthorized or void pursuant to any other provision of this Contract.

13.02 Survival of Rights and Obligations

In the event of termination, the rights and obligations of the parties which by their nature survive termination of the services covered by this Contract shall remain in full force and effect after termination. Compensation and revenues due from one party to the other under this Contract shall be paid; loaned equipment and material shall be returned to their respective owners; the duty to maintain and allow inspection of books, accounts, records and data shall be extended as provided in Section 13.15; and the hold harmless agreement contained in Article 6 shall survive.

13.03 Limitation on District Liability

The District's liability is, in the aggregate, limited to the total amount payable under this Contract.

13.04 Drug and Alcohol Policy

Contractor shall not use, possess, manufacture, or distribute alcohol or illegal drugs during the performance of the Contract or while on District premises or distribute same to District employees.

13 05 Publicity

Contractor agrees to submit to District all advertising, sales promotion, and other public matter relating to any service furnished by Contractor wherein the District's name is mentioned or language used from which the connection of District's name therewith may, within reason, be inferred or implied. Contractor further agrees not to publish or use any such advertising, sales promotion or publicity matter without the prior written consent of District

13 06 Consent to Breach Not Waiver

No provision hereof shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

13 07 Attorneys' Fees

In the event that suit is brought to enforce or interpret any part of this Contract, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, a reasonable attorney's fee to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment. A party not entitled to recover its costs shall not recover attorney's fees. No sum for attorney's fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to recover its costs or attorney's fees

13.08 No Conflict of Interest

Contractor represents that it currently has no interest, and shall not have any interest, direct or indirect, that would conflict in any manner with the performance of services required under this Contract

13.09 Prohibition of Discrimination against Qualified Handicapped Persons

Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in federally-assisted programs

13 10 Cal OSHA/Hazardous Substances

13.10.01 Contractor shall comply with California Administrative Code Title 8, Section 5194, and shall directly (1) inform its employees of the hazardous substances they may be exposed to while performing their work on District property, (2) ensure that its employees take appropriate protective measures, and (3) provide the District's Manager of Facility Maintenance with a Material Safety Data Sheet (MSDS) for all hazardous substances to be used on District property.

13 10 02 Contractor shall comply with Cal OSHA regulations and the Hazardous Substance Training and Information Act. Further, said parties shall indemnify the District against any and all damage, loss, and injury resulting from non-compliance with this Article.

13.10.03 Contractor will comply with the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) California Health and Safety Code Section 25249.5 - 25249.13. Contractor will ensure that clear and reasonable warnings are made to persons exposed to those chemicals listed by the State of California as being known to cause cancer or reproductive toxicity.

13.10.04 Contractor shall be solely responsible for any hazardous material, substance or chemical released or threatened release caused or contributed to by Contractor. Contractor shall be solely responsible for all clean-up efforts and costs

13.11 Non-Assignment of Contract

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the Contract or Contractor's right, title or interest in or to the same or any part thereof without previous written consent by the District; and any such action by Contractor without District's previous written consent shall be void.

13.12 No Subcontract

Contractor shall not subcontract or permit anyone other than Contractor or its authorized staff and subcontractors to perform any of the scope of work, services or other performance required of Contractor under this Contract without the prior written consent of the District. Any such action by Contractor without District's previous consent shall be void.

13.13 Severability

If any provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect, and shall in no way be affected, impaired or invalidated.

13.14 All Amendments in Writing

No amendment to this Contract shall be effective unless it is in writing and signed by duly authorized representatives of both parties.

13.15 Audit

This Contract is subject to audit by Federal, State, or District personnel or their representatives at no cost for a period of four (4) years after the date of expiration or termination of the Contract. Requests for audits shall be made in writing, and Contractor shall respond with all information requested within ten (10) calendar days of the date of the request. During the four-year period that the Contract is subject to audit, Contractor shall maintain detailed records substantiating all costs and expenses billed against the Contract.

13.16 Smoking Prohibited

Contractor, its employees and agents shall not smoke in any enclosed area on District premises or in a District vehicle.

13.17 Responsibility for Equipment

13.17.01 District shall not be responsible nor held liable for any damage to person or property consequent upon the use, or misuse, or failure of any equipment used by Contractor, or any of its employees, even though such equipment be furnished, rented or loaned to Contractor by District

13.17.02 Contractor is responsible to return to the District in good condition any equipment, including keys, issued to it by the District pursuant to this Agreement. If the contractor fails or refuses to return District-issued equipment within five days of the conclusion of the contract work the District shall deduct the actual costs to repair or replace the equipment not returned from the final payment owed to contractor or take other appropriate legal action at the discretion of the District.

13.18 Grant

Contracts

13.18.01 Contractor shall ensure throughout the terms of this Agreement that all federal, state and local laws and requirements are met including any requirements District is obligated to perform because of receipt of grant funding. Contractor shall also be required to fulfill its obligation as a federal and/or state and/or local sub-recipient of grant funding

13.19 Time of the Essence

13.19.01 Time is of the essence in this Contract

## PART V

### CONTRACT FOR STATE LEGISLATIVE REPRESENTATIVE SERVICES (05-08)

THIS CONTRACT is made effective on \_\_\_\_\_, 2005 between the SANTA CRUZ METROPOLITAN TRANSIT DISTRICT, a political subdivision of the State of California ("District"), and \_\_\_\_\_ ("Contractor").

#### 1. RECITALS

##### 1.01 District's Primary Objective

District is a public entity whose primary objective is providing public transportation and has its principal office at 370 Encinal Street, Suite 100, Santa Cruz, California 95060.

##### 1.02 District's Need for State Legislative Representative Services

District has the need for State Legislative Representative Services. In order to obtain these services, the District issued a Request for Proposals, dated October 27, 2005, setting forth specifications for such services. The Request for Proposals is attached hereto and incorporated herein by reference as Exhibit "A".

##### 1.03 Contractor's Proposal

Contractor is a firm/individual qualified to provide State Legislative Representative Services and whose principal place of business is \_\_\_\_\_. Pursuant to the Request for Proposals by the District, Contractor submitted a proposal for State Legislative Representative Services, which is attached hereto and incorporated herein by reference as Exhibit "B".

##### 1.04 Selection of Contractor and Intent of Contract

On \_\_\_\_\_, District selected Contractor as the offeror whose proposal was most advantageous to the District, to provide the State Legislative Representative Services described herein. This Contract is intended to fix the provisions of these services.

District and Contractor agree as follows:

#### 2. INCORPORATED DOCUMENTS AND APPLICABLE LAW

##### 2.01 Documents Incorporated in this Contract

The documents below are attached to this Contract and by reference made a part hereof. This is an integrated Contract. This writing constitutes the final expression of the parties' contract, and it is a complete and exclusive statement of the provisions of that Contract, except for written amendments, if any, made after the date of this Contract in accordance with Section 13.14.

##### A. Exhibit "A"

Santa Cruz Metropolitan Transit District's "Request for Proposals" dated October 27, 2005

##### B. Exhibit "B" (Contractor's Proposal)

Contractor's Proposal to the District for State Legislative Representative Services, signed by Contractor and received on November 23, 2005.

2 02 Conflicts

Where in conflict, the provisions of this writing supersede those of the above-referenced documents, Exhibits "A" and "B". Where in conflict, the provisions of Exhibit "A" supercede Exhibit "B".

2 03 Recitals

The Recitals set forth in Article 1 are part of this Contract

3. DEFINITIONS

3 01 General

The terms below (or pronouns in place of them) have the following meaning in the contract:

3.01.01 CONTRACT - The Contract consists of this document, the attachments incorporated herein in accordance with Article 2, and any written amendments made in accordance with Section 13.14

3.01.02 CONTRACTOR - The Contractor selected by District for this project in accordance with the Request for Proposals issued October 27, 2005.

3.01.03 CONTRACTOR'S STAFF - Employees of Contractor.

3.01.04 DAYS - Calendar days

3.01.05 OFFEROR - Contractor whose proposal was accepted under the terms and conditions of the Request for Proposals issued October 27, 2005.

3.01.06 PROVISION - Any term, agreement, covenant, condition, clause, qualification, restriction, reservation, or other stipulation in the contract that defines or otherwise controls, establishes, or limits the performance required or permitted by either party

3.01.07 SCOPE OF WORK (OR "WORK") - The entire obligation under the Contract, including, without limitation, all labor, equipment, materials, supplies, transportation, services, and other work products and expenses, express or implied, in the Contract

4. TIME OF PERFORMANCE

4.01 Term

The term of this Contract will be for a period not to exceed one (1) year and shall commence upon the issuance of the contract by the District

At the option of the District, this contract agreement may be renewed for four (4) additional one (1) year terms upon mutual written consent.

5. COMPENSATION

5.01 Terms of Payment

District shall compensate Contractor in an amount not to exceed the amounts/rates agreed upon by the District. District shall reasonably determine whether work has been successfully performed for purposes of

payment Compensation shall be made within forty-five (45) days of District written approval of Contractor's written invoice for said work Contractor understands and agrees that if he/she exceeds the \$ \_\_\_\_\_ maximum amount payable under this contract, that it does so at its own risk

5.02 Invoices

Contractor shall submit invoices with a project number provided by the District on a monthly basis. Contractor's invoices shall include detailed records showing actual time devoted, work accomplished, date work accomplished, personnel used, and amount billed per hour Expenses shall only be billed if allowed under the Contract Telephone call expenses shall show the nature of the call and identify location and individual called. Said invoice records shall be kept up-to-date at all times and shall be available for inspection by the District (or any grantor of the District, including, without limitation, any State or Federal agency providing project funding or reimbursement) at any time for any reason upon demand for not less than four (4) years after the date of expiration or termination of the Contract. Under penalty of law, Contractor represents that all amounts billed to the District are (1) actually incurred; (2) reasonable in amount; (3) related to this Contract; and (4) necessary for performance of the project.

6. NOTICES

All notices under this Contract shall be deemed duly given upon delivery, if delivered by hand; or three (3) days after posting, if sent by registered mail, receipt requested; to a party hereto at the address hereinunder set forth or to such other address as a party may designate by notice pursuant hereto.

DISTRICT

Santa Cruz Metropolitan Transit District  
370 Encinal Street  
Suite 100  
Santa Cruz, CA 95060  
Attention: General Manager

CONTRACTOR

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_



7. AUTHORITY

Each party has full power and authority to enter into and perform this Contract and the person signing this Contract on behalf of each has been properly authorized and empowered to enter into this Contract. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

Signed on \_\_\_\_\_

DISTRICT  
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

\_\_\_\_\_  
Leslie R. White  
General Manager

CONTRACTOR

By \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Margaret Rose Gallagher  
District Counsel

## PART VI

### FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS FOR NON-CONSTRUCTION CONTRACTS

#### 1.0 GENERAL

This Contract is subject to the terms of a financial assistance contract between the Santa Cruz Metropolitan Transit District and the Federal Transit Administration (FTA) of the United States Department of Transportation

#### 2.0 INTEREST TO MEMBERS OF OR DELEGATES TO CONGRESS

In accordance with 18 U.S.C. 431, no member of, nor delegates to, the Congress of the United States shall be admitted to a share or part of this Contract or to any benefit arising therefrom

#### 3.0 INELIGIBLE CONTRACTORS

Neither Contractor, subcontractor, nor any officer or controlling interest holder of Contractor or subcontractor, is currently, or has been previously, on any debarred bidders list maintained by the United States Government.

#### 4.0 EQUAL EMPLOYMENT OPPORTUNITY (Not applicable to contracts for standard commercial supplies and raw materials)

In connection with the execution of this Contract, the Contractor shall not discriminate against any employee or application for employment because of race, religion, color, sex, age (40 or over), national origin, pregnancy, ancestry, marital status, medical condition, physical handicap, sexual orientation, or citizenship status. The Contractor shall take affirmative action to insure that applicants employed and that employees are treated during their employment, without regard to their race, religion, color, sex national origin, etc. Such actions shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and, selection for training including apprenticeship. Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials

#### 5.0 TITLE VI CIVIL RIGHTS ACT OF 1964

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

##### 5.1 Compliance with Regulations

The Contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Contract.

##### 5.2 Nondiscrimination

The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited in Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the regulations

5.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age or national origin.

5.4 Information and Reports

The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the District or the Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information is required or a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the District, or the Federal Transit Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

5.5 Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the District shall impose such contract sanctions as it or the Federal Transit Administration may determine to be appropriate, including, but not limited to:

- (a) Withholding of payments to the Contractor under the Contract until the Contractor complies; and/or,
- (b) Cancellation, termination or suspension of the Contract, in whole or in part.

5.6 Incorporation of Provisions

The Contractor shall include the provisions of Paragraphs (1) through (6) of this section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the District or the Federal Transit Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may require the District to enter into such litigation to protect the interests of the District, and, in addition, the Contractor may request the services of the Attorney General in such litigation to protect the interests of the United States.

6.0 CLEAN AIR AND FEDERAL WATER POLLUTION CONTROL ACTS (Applicable only to contracts in excess of \$100,000)

Contractor shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 USC 1857[h]), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 CFR, Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Contractor shall report all violations to FTA and to the USEPA Assistant Administrator for Enforcement (EN0329).

## 7.0 CONSERVATION

Contractor shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC Section 6321, et seq.)

## 8.0 AUDIT AND INSPECTION OF RECORDS (Applicable only to sole source or negotiated contracts in excess of \$10,000)

Contractor agrees that the District, the Comptroller General of the United States, or any of their duly authorized representatives shall, for the purpose of audit and examination, be permitted to inspect all work, materials, payrolls and other data and records with regard to the project, and to audit the books, records and accounts with regard to the project. Further, Contractor agrees to maintain all required records for at least three years after District makes final payments and all other pending matters are closed.

## 9.0 LABOR PROVISIONS (Applicable only to contracts of \$2,500.00 or more that involve the employment of mechanics or laborers)

### 9.1 Overtime Requirements

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1 1/2) times the basic rate of pay for all hours worked in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such work week, whichever is greater.

### 9.2 Violation; Liability for Unpaid Wages; Liquidated Damages

In the event of any violation of the clause set forth in subparagraph (b)(1) of 29 CFR Section 5.5, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such district or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (b)(1) of which such individual was required or permitted to work in excess of eight (8) hours in excess of the standard work week of forty (40) hours without payment of the overtime wages required by the clause set forth in subparagraph (b)(1) of 29 CFR Section 5.5.

### 9.3 Withholding for Unpaid Wages and Liquidated Damages

DOT or the District shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b)(2) of 29 CFR Section 5.5.

### 9.4 Nonconstruction Grants

The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of

the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid. Further, the District shall require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying or transcription by authorized representatives of DOT and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

9 5 Subcontracts

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (5) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (5) of this paragraph.

10 0 CARGO PREFERENCE (Applicable only to Contracts under which equipment, materials or commodities may be transported by ocean vehicle in carrying out the project)

The Contractor agrees:

- 10 1 To utilize privately owned United States-flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, materials or commodities pursuant to this section, to the extent such vessels are available at fair and reasonable rates for United States- flag commercial vessels.
- 10.2 To furnish within 30 days following the date of loading for shipments originating within the United States, or within thirty (30) working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) above, to the District (through the prime Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, 400 Seventh Street, S.W., Washington D. C. 20590, marked with appropriate identification of the project.
- 10 3 To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Contract.

11.0 BUY AMERICA PROVISION

This procurement is subject to the Federal Transportation Administration Buy America Requirements in 49 CFR 661. A Buy America Certificate, if required format (see Form of Proposal or Bid Form) must be completed and submitted with the proposal. A proposal that does not include the certificate shall be considered non-responsive. A waiver from the Buy America Provision may be sought by the District if grounds for the waiver exist. Section 165a of the Surface Transportation Act of 1982 permits FIA participation on this Contract only if steel and manufactured products used in the Contract are produced in the United States. In order for rolling stock to qualify as a domestic end product, the cost of components produced in the United States must exceed sixty percent (60%) of the cost of all components, and final assembly must take place in the United States.

## 12.0 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

### 12.1 Policy

It is the policy of the U.S. Department of Transportation that Disadvantaged Business Enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this Agreement.

### 12.2 DBE Obligation

District and Contractor agree to insure that Disadvantaged Business Enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts under this Agreement. In this regard, District and Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to insure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform Contracts. District and Contractor shall not discriminate on the basis of race, creed, color, national origin, age or sex in the award and performance of DOT-assisted Contracts.

### 12.3 Transit Vehicle Manufacturers

Transit vehicle manufacturers must certify compliance with DBE regulations.

## 13.0 CONFLICT OF INTEREST

No employee, officer or agent of the District shall participate in selection, or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when (1) the employee, officer or agent; (2) any member of his or her immediate family; (3) his or her partner; or (4) an organization that employs, or is about to employ, has a financial or other interest in the firm selected for award. The District's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, potential Contractors or parties of sub agreements.

## 14.0 MOTOR VEHICLE EMISSION REQUIREMENTS (Applicable only to Contracts involving the purchase of new motor vehicles)

The Contractor must provide a certification that:

- (a) The horsepower of the vehicle is adequate for the speed, range, and terrain in which it will be required and also to meet the demands of all auxiliary equipment.
- (b) All gases and vapors emanating from the crankcase of a spark-ignition engine are controlled to minimize their escape into the atmosphere.
- (c) Visible emission from the exhaust will not exceed No. 1 on the Ringlemann Scale when measured six inches (6") from the tail pipe with the vehicle in steady operation.
- (d) When the vehicle has been idled for three (3) minutes and then accelerated to eighty percent (80%) of rated speed under load, the opacity of the exhaust will not exceed No. 2 on the Ringlemann Scale for more than five (5) seconds, and not more than No. 1 on the Ringlemann Scale thereafter.

## 15.0 MOTOR VEHICLE SAFETY STANDARDS (Applicable only to contracts involving the purchase of new motor vehicles)

The Contractor will assure that the motor vehicles purchased under this contract will comply with the Motor Vehicle Safety Standards as established by the Department of Transportation at 49 CFR Parts 390 and 571.

## 16 0 DEBARRED BIDDERS

The Contractor, including any of its officers or holders of a controlling interest, is obligated to inform the District whether or not it is or has been on any debarred bidders' list maintained by the United States Government. Should the Contractor be included on such a list during the performance of this project, Contractor shall so inform the District.

## 17 0 PRIVACY (Applicable only to Contracts involving the administration of any system of records as defined by the Privacy Act of 1974, on behalf of the Federal Government)

### 17.1 General

The District and Contractor agree:

- (a) To comply with the Privacy Act of 1974, 5 U S C. 552a (the Act) and the rules and regulations issued pursuant to the Act when performance under the Contract involves the design, development or operation of any system of records on individuals to be operated by the District, its contractors or employees to accomplish a Government function
- (b) To notify the Government when the District or Contractor anticipates operating a system of records on behalf of the Government in order to accomplish the requirements of this Agreement, if such system contains information about individuals which information will be retrieved by the individual's name or other identifier assigned to the individual. A system of records subject to the Act may not be employed in the performance of this Agreement until the necessary approval and publication requirements applicable to the system have been carried out. The District or Contractor, as appropriate, agrees to correct, maintain, disseminate, and use such records in accordance with the requirements of the Act, and to comply with all applicable requirements of the Act.
- (c) To include the Privacy Act Notification contained in this Agreement in every subcontract solicitation and in every subcontract when the performance of Work under the proposed subcontract may involve the design, development or operation of a system of records on individuals that is to be operated under the Contract to accomplish a Government function; and
- (d) To include this clause, including this paragraph in all in subcontracts under which Work for this Agreement is performed or which is awarded pursuant to this Agreement or which may involve the design, development, or operation of such a system of records on behalf of the Government

### 17.2 Applicability

For purposes of the Privacy Act, when the Agreement involves the operation of a system of records on individuals to accomplish a Government function, the District, third party contractors and any of their employees are considered to be employees of the Government with respect to the Government function and the requirements of the Act, including the civil and criminal penalties for violations of the Act, are applicable except that the criminal penalties shall not apply with regard to contracts effective prior to September 27, 1975. In addition, failure to comply with the provisions of the Act or of this clause will make this Agreement subject to termination.

### 17.3 Definitions

The terms used in this clause have the following meanings:

- (a) "Operation of a system of records" means performance of any of the activities associated with maintaining the system of records on behalf of the Government including the collection, use and dissemination of records.
- (b) "Records" means any item, collection or grouping of information about an individual that is maintained by the District or Contractor on behalf of the Government, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol or other identifying particular assigned to the individual, such as a finger or voice print or a photograph
- (c) "System of records" on individuals means a group of any records under the control of the District or Contractor on behalf of the Government from which information is retrieved by the name of the individual or by some identifying number, symbol or other identifying particular assigned to the individual

18.0 PATENT RIGHTS (Applicable only to research and development contracts)

If any invention, improvement or discovery of the District or contractors or subcontractors is conceived or first actually reduced to practice in the course of or under this project which invention, improvement, or discovery may be patentable under the Patent Laws of the United States of America or any foreign country, the District (with appropriate assistance of any contractor or subcontractor involved) shall immediately notify the Government (FIA) and provide a detailed report. The rights and responsibilities of the District, third party contractors and subcontractors and the Government with respect to such invention will be determined in accordance with applicable Federal laws, regulations, policies and any waivers thereof

19.0 RIGHTS IN DATA (Applicable only to research and development contracts)

The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents, machine forms such as punched cards, magnetic tape or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information. The term does not include financial reports, cost analyses and similar information incidental to contract administration.

All "subject data" first produced in the performance of this Agreement shall be the sole property of the Government. The District and Contractor agree not to assert any rights at common law or equity and not to establish any claim to statutory copyright in such data. Except for its own internal use, the District and Contractor shall not publish or reproduce such data in whole or in part, or in any manner or form, nor authorize others to do so, without the written consent of the Government until such time as the Government may have released such data to the public. This restriction, however, does not apply to Agreements with academic institutions.

The District and Contractor agree to grant and do hereby grant to the Government and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, non-exclusive and irrevocable license throughout the world:

- (a) To publish, translate, reproduce, deliver, perform, use and dispose of, in any manner, any and all data not first produced or composed in the performance of this Contract but which is incorporated in the work furnished under this Contract; and
- (b) To authorize others so to do.

District and Contractor shall indemnify and save and hold harmless the Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the District and Contractor of proprietary rights, copyrights or



rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any data furnished under this Contract.

Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent

The third and fourth paragraphs under Section 19.0 above are not applicable to material furnished to the District or Contractor by the Government and incorporated in the work furnished under the Contract, provided that such incorporated material is identified by the District or Contractor at the time of delivery of such work.

In the event that the project, which is the subject of this Agreement, is not completed, for any reason whatsoever, all data generated under that project shall become subject data as defined in the Rights in Data clause in this Contract and shall be delivered as the Government may direct. This clause shall be included in all subcontracts under this Contract

## 20.0 NEW RESTRICTIONS ON LOBBYING

### 20.1 Prohibition

- (a) Section 1352 of Title 31, U.S. Code, provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) The prohibition does not apply as follows:
  - (i) Agency and legislative liaison by Own Employees.
  - (ii) Professional and technical services by Own Employees
  - (iii) Reporting for Own Employees
  - (iv) Professional and technical services by Other than Own Employees.

### 20.2 Disclosure

- (a) Each person who requests or receives from an agency a Federal contract shall file with that agency a certification, included in Form of Proposal or Bid Forms, that the person has not made, and will not make, any payment prohibited by Section 20.1 of this clause.
- (b) Each person who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, Standard Form-L.L.L., "Disclosure of Lobbying Activities," if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under Section 20.1 of this clause if paid for with appropriated funds
- (c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph (c)(2) of this section. An event that materially affects the accuracy of the information reported includes:

- (i) a cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
  - (ii) a change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
  - (iii) a change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- (d) Any person who requests or receives from a person referred to in paragraph (c)(i) of this section a subcontract exceeding \$100,000 at any tier under a Federal contract shall file a certification, and a disclosure form, if required, to the next tier above
- (e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraph (c)(i) of this section. That person shall forward all disclosure forms to the agency.

### 20.3 Agreement

In accepting any contract resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

### 20.4 Penalties.

- (a) Any person who makes an expenditure prohibited under Section 20.1 of this clause shall be subject to a civil penalty of not less than \$10,000 for each such expenditure
- (b) Any person who fails to file or amend the disclosure form to be filed or amended if required by this clause, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (c) Contractors may rely without liability on the representations made by their sub-contractors in the certification and disclosure form

### 20.5 Cost allowability

Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of Part 31 of the Federal Acquisition Regulation.

## PART VII

### SANTA CRUZ METROPOLITAN TRANSIT DISTRICT PROTEST PROCEDURES

#### PROCUREMENT PROTESTS

All protests shall be filed, handled and resolved in a manner consistent with the requirements of Federal Transit Administration (FTA) Circular 4220.1E Third Party Contracting Guidelines dated June 19, 2003 and the Santa Cruz Metropolitan Transit District's (DISTRICT) Protest Procedures which are on file and available upon request.

Current FTA Policy states that: "Reviews of protests by FTA will be limited to:

- (1) a grantee's failure to have or follow its protest procedures, or its failure to review a complaint or protest; or
- (2) violation of Federal law or regulation.

An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester learned or should have learned of an adverse decision by the grantee or other basis of appeal to FTA" (FTA Circular 4220.1E, Section 7, paragraph 1, Written Protest Procedures)

Protests relating to the content of this Request for Proposal (RFP) package must be filed within ten (10) calendar days after the date the RFP is first advertised. Protests relating to a recommendation for award solicited by this RFP must be filed by an interested party within five (5) calendar days after the staff's written recommendation and notice of intent to award is issued to the offerors. The date of filing shall be the date of receipt of protests or appeals by the DISTRICT

All Protests shall be filed in writing with the Assistant General Manager, Santa Cruz Metropolitan Transit District, 370 Encinal Street, Suite 100, Santa Cruz, CA 95060 **No other location shall be acceptable.** The DISTRICT will respond in detail to each substantive issue raised in the protest. The Assistant General Manager shall make a determination on the protest normally within ten (10) working days from receipt of protest. Any decision rendered by the Assistant General Manager may be appealed to the Board of Directors. The Protester has the right within five (5) working days of receipt of determination to file an appeal restating the basis of the protest and the grounds of the appeal. In the appeal, the Protester shall only be permitted to raise factual information previously provided in the protest or discovered subsequent to the Assistant General Manager's decision and directly related to the grounds of the protest. The Board of Directors has the authority to make a final determination and the Board of Director's decision shall constitute the DISTRICT's final administrative remedy.

In the event the protestor is not satisfied with the DISTRICT's final administrative determination, they may proceed within 90 days of the final decision to State Court for judicial relief. The Superior Court of the State of California for the County of Santa Cruz is the appropriate judicial authority having jurisdiction over Proposal Protest(s) and Appeal(s). Bid includes the term "offer" or "proposal" as used in the context of negotiated procurements.

The Offeror may withdraw its protest or appeal at any time before the DISTRICT issues a final decision

Should the DISTRICT postpone the date of proposal submission owing to a protest or appeal of the solicitation specifications, addenda, dates or any other issue relating to this procurement, the DISTRICT shall notify, via addendum, all parties who are on record as having obtained a copy of the solicitation documents that an appeal/protest had been filed, and the due date for proposal submission shall be postponed until the DISTRICT has issued its final decision.

A letter of protest must set forth the grounds for protest and shall be fully supported with technical data, test results, or other pertinent information related to the subject being protested. The Protestor is responsible for adhering to the DISTRICT's protest procedures

An Offeror may seek FTA review of the DISTRICT's decision. A protest appeal to the FTA must be filed in accordance with the provisions of FTA circular 4220.1E. Any appeal to the FTA shall be made not later than five (5) working days after a final decision is rendered under the DISTRICT's protest procedure. Protest appeals should be filed with:

Federal Transit Administration  
Regional Administrator Region IX  
201 Mission Street, Suite 2210  
San Francisco, CA 94105-1839



**SHAW / YODER, inc**  
LEGISLATIVE ADVOCACY

**PROPOSAL FOR SERVICES  
OF A  
STATE LEGISLATIVE REPRESENTATIVE**

**(PROPOSAL DATE: WEDNESDAY, NOVEMBER 23, 2005)**

\* \* \* \* \*

**SUBMITTED TO THE  
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT  
DISTRICT RFP NO. 05-08**

**Submitted by**

**Shaw / Yoder, Inc.**

**November 23, 2005**

TEL: 916.446.4656  
FAX: 916.446.4318  
1414 K STREET, SUITE 320  
SACRAMENTO, CA 95814

PART II  
GENERAL INFORMATION FORM  
SERVICES OF A STATE LEGISLATIVE REPRESENTATIVE  
(To be completed by the offeror and placed at the front of your proposal)

Shaw/Yoder, Inc

November 23, 2005

**Legal Name of Firm**

**Date**

1414 K Street, Suite 320, Sacramento, CA 95814

**Firm's Address**

(916) 446-4656

(916) 446-4318

**Telephone Number**

**FAX Number**

Corporation

94-2703086

**Type of Organization (Partnership, Corporation, etc.)**

**Tax ID Number**

Offeror understands and agrees that, by his/her signature, if awarded the contract for the project, he/she is entering into a contract with the District that incorporates the terms and conditions of the entire Request for Proposals package, including the General Conditions section of the Request for Proposals. Offeror understands that this proposal constitutes a firm offer to the District that cannot be withdrawn for ninety (90) calendar days from the date of the deadline for receipt of proposals. If awarded the contract, offeror agrees to deliver to the District the required insurance certificates within ten (10) calendar days of the Notice of Award.



**Signature of Authorized Principal**

Joshua W. Shaw, Partner

**Name of Principal-in-Charge and Title**

Same as above

**Name of Project Manager and Title**

Same as above

**Name, Title, Email Address and Phone Number of Person To Whom Correspondence Should be Directed**

Same as above

**Addresses Where Correspondence Should Be Sent**

Legislative Advocacy

**Areas of Responsibility of Prime Contractor**

Listing of major sub consultants proposed (if applicable), their phone numbers, and areas of responsibility (indicate which firms are DBE's):

None Proposed

## A. CONSULTANT'S EXPERIENCE AND QUALIFICATIONS

Shaw / Yoder, Inc. is a Sacramento-based firm which provides lobbying, intergovernmental representation and consulting services on a broad range of government programs. Our specialty is representation of public transit interests. **We are pleased to have served the Santa Cruz Metropolitan Transit District as its primary Sacramento legislative advocate since 1995.**

Shaw / Yoder, Inc., previously known as Gerber, Shaw & Yoder, Inc., offers a long and outstanding record of providing excellent representation services to transit agencies specifically, and to local public agencies generally. The experience of our professional team and the range of our current and past clients makes Shaw / Yoder, Inc. the firm best suited to accomplish the District's legislative goals.

Our firm is currently registered to provide lobbying services for the following clients:

- Access Services, Inc.
- California Chapters of the Solid Waste Association of North America
- California Mental Health Directors Association
- California Transit Association
- California Yacht Brokers Association
- Fluor Enterprises, Inc.
- Fresno County
- Independent Cities Association
- Manhattan Beach, City of
- San Mateo County Transit District
- Santa Cruz Metropolitan Transit District
- Santa Monica, City of
- Solano County
- Solano Transportation Authority
- Sonoma County and the Sonoma County Water Agency
- Yuba County and the Yuba County Water Agency

The firm also provides management services for the California Transit Finance Corporation (CTFC) and the California Transit Insurance Pool (CalTIP).

Our firm has achieved a number of very significant successes in the enactment, defeat or amendment of legislation for all our clients. Following is a brief summary of our previous experience on similar or related engagements with the District, which we believe demonstrates that we are well-qualified to continue serving the District:

**We are very pleased that we were able to secure \$7,750,000 in capital funds for the Santa Cruz Metropolitan Transit District** in the 2000 comprehensive transportation finance reform package. These dollars were used to purchase new alternative fuel buses, and allowed the District to pursue rehabilitation and reconstruction of the Downtown Metro Center.



**We are also very proud that in 1999 we were able to secure passage of AB 1218 (Keeley) on behalf of the District.** This measure, which created a "yield to bus" program in several demonstration counties, faced many tough hurdles in the legislative process, but ultimately reflected the support of the Legislature, Governor and the California Highway Patrol. The District successfully implemented the demonstration program.

Shortly after those two accomplishments, the District retained Shaw / Yoder, Inc. under the latest (i.e. expiring) contract. Since that time, our experience with the District includes the following:

In 2001 we were able to **amend into the Assembly Transportation Committee's "Omnibus" bill (AB 1706) language requested by the District making a technical amendment to the District's enabling legislation.** This section expanded the existing statutory definition of "transit," but only for the Santa Cruz Metropolitan Transit District. The effect was to provide needed powers with regard to land use decisions, and to ensure that the District is a potential operator of rail service. The bill was signed by the Governor.

In 2001 we worked to **support and enact SB 465 (McPherson), relating to the powers of the Santa Cruz County Regional Transportation Commission,** the acquisition of the Union Pacific right-of-way, and the composition of the Commission's governing board.

We then worked to **secure passage and enactment of AB 629 (Oropeza) in 2002, to extend the "yield to bus" program.** The bill extended for one year the demonstration program originally set up by AB 1218 (Keeley). This extension gave the Legislature adequate time to review the CHP report and determine whether to extend the program.

For the last two years, we have worked closely with District staff to **educate Assembly Budget Committee Chair John Laird and the staff and members of the California Transportation Commission about the District's future funding needs.** Our focus has been on preserving state funding slotted for the MetroBase project. The CTC recently approved the financing request developed by the District, and, while the District General Manager and leaders on the District Board of Directors ultimately performed most of the heavy lifting on this project, our groundwork in Sacramento prepared the way for the successful resolution of this effort.

Our record of accomplishment demonstrates our ability to successfully work with legislators, their staff, the Governor's office, state departments and other interest groups to achieve success in the legislative and regulatory environment. We have regular access to and success in working with the leadership of both parties and both Houses of the Legislature, and plan on utilizing this experience and access to continually benefit the District.

The same experienced team of professionals that has been serving the District under the current contract, with specific knowledge and abilities in the transit field, is proposed to deliver the services called for in the District's request for proposals:

**Mr. Joshua W. Shaw** has extensive experience and knowledge in public transit and local government advocacy. Since the inception of the District's legislative advocacy program, Mr. Shaw has been the District's primary legislative advocate. He is also the Executive Director of the California Transit Association, and has been the primary advocate for the Association for nearly 14 years. He is also the primary advocate for the San Mateo County Transit District and the City of Santa Monica. Mr. Shaw has been with the firm since 1989, and is now a co-owner of Shaw / Yoder, Inc. **Mr. Shaw would continue under this proposal to be the District's day-to-day contact and lead advocate**

**Mr. Paul J. Yoder** has over 15 years of local government and public agency advocacy experience. He lobbied for the County of San Diego for over three years, and has been the lead county advocate in the firm of Shaw / Yoder, Inc. since early 1993. Mr. Yoder has been substantively involved in several public transit issues that have arisen in recent years. He is now a co-owner of the firm. Mr. Yoder would be available to assist the District as necessary.

**Mr. Tony Rice** joined the firm as a legislative advocate in 1999. He worked for several years in the Legislature, on transportation policy for a previous Senate President Pro Tem, David Roberti, and most recently for Assembly Appropriations Committee Chair Carole Migden. Mr. Rice is primarily involved in serving the firm's transportation-related clients, and has supported Mr. Shaw's advocacy efforts on behalf of the District. He would continue to support the District as necessary under this proposal.

More than any other firm or individual in Sacramento, Shaw / Yoder, Inc. can deliver years of experience in effective transit policy making to the District. **While our Association experience not only makes us the best transit "generalists" in Sacramento, we also offer a demonstrated ability as "specialists" that can work effectively on behalf of individual agencies.** Our success is due in large part to our ability to work cooperatively with the legislators, committees and staff that have primary responsibility for transit and transportation policy issues. We are particularly familiar with the chairs and members of the Senate and Assembly Transportation Committees, and we enjoy excellent relationships with the primary staff persons for these two Committees.

Shaw / Yoder, Inc., as a long-established business, is financially stable and able to provide the required services. Our latest financial statement can and will be made available upon request.

## **B. UNDERSTANDING OF THE SCOPE OF WORK**

The District's request for proposals outlines a minimum of eleven major tasks that will be involved in the delivery of effective state legislative representation services. **Shaw / Yoder, Inc. currently provides all of these services to the District**, and we propose to continue to undertake and deliver each of these services over the course of our next engagement with the District.

Our proposed program of legislative services includes the following, which reflects our approach to and incorporation and delivery of the eleven tasks outlined in the District's RFP:

1. We will continue to hold meetings with your General Manager, members of the District's Board of Directors, and department heads and other key staff as necessary, to discuss the current political situation in Sacramento, review legislation of interest to the District and outline the District's desired legislative program, continue the 2005 legislative program, and to define 2006 objectives.
2. We will continue to meet with your legislative delegation and other key officials to provide ongoing education to them on all issues of importance to the District.
3. We will work with your staff to translate your 2006 legislative program into specific objectives, such as introduction of amendments to bills to further the goals of the District, and the adoption of official District positions on existing legislation. If necessary, we will obtain authors for your original legislative proposals and provide necessary support to your authors to obtain passage of your legislation in the 2005-06 legislative session.
4. As bills of interest to the District move through the legislative process, we will continue to communicate the District's official position on legislation to the appropriate legislators, committees and staff, including preparing and distributing letters and communiques, preparing and delivering testimony before committees, and through personal contact with and lobbying of appropriate legislators and staff. This process will include preparing District staff and/or Board of Directors members for carrying out similar activities, such as testifying before committees and meeting with legislators. Our emphasis, especially in terms of direct lobbying of legislators, will be on legislation identified by the District as high priority. As bills move to the Governor's desk, we will communicate with the appropriate staff regarding the District's position on the bills.
5. On a daily basis we will continue to review every individual piece of legislation, as it is introduced or amended. Legislation potentially impacting the District will be referred to the appropriate District staff for further analysis and response. We will provide advice and analysis as necessary on these bills. As the District adopts positions on these introduced and amended bills, we will carry out the activities identified above. We will track these bills in a computer database and will generate regular reports to the District, upon request, regarding the status of each of your tracked bills (see 10. below).

6. We will continue to monitor and attend as necessary legislative committee and administrative agency hearings to assess the impact on the District of actions taken by these groups regarding legislation or regulations.
7. We will continue to assist you in developing strategies and assessing political considerations, and will provide recommendations to respond to legislative issues as they arise, whether in the form of specific bills or as broad policy issues.
8. We will continue to assist you in working with other public agencies and organizations to develop support for District policies, such as participation in coalition efforts to generate additional public transit funding.
9. We will continue to maintain necessary formal and informal ongoing communications with your delegation and state officials on the District's behalf. This continuing contact will ensure that legislators and staff understand that the District should be of vital concern to them, and that the District is an active participant in state transit policy making.
10. We will continue to provide necessary written and oral reports on issues of importance to the District, including regular written reports reflecting the latest status of each bill being monitored by the District.
11. We will continue to adhere to all regulations governing the activities of registered lobbyists in California, including preparing necessary Fair Political Practices Commission lobbying reports for execution by the District.

In our opinion, a successful program of lobbying for the District will continue to require participation and involvement by the District's Board of Directors, General Manager and District staff.

### **C. REFERENCES**

Following are three clients for whom Shaw / Yoder, Inc. has performed services similar in nature and complexity to those contained in this proposal to the Santa Cruz Metropolitan Transit District:

California Transit Association  
1414 K Street, Suite 320  
Sacramento CA 95814  
Chester Moland, CEO, Golden Empire Transit District;  
Chair, California Transit Association  
(661)324-9874

San Mateo County Transit District  
1250 San Carlos Avenue  
San Carlos CA 94070-1306  
Mike Scanlon, General Manager / CEO  
(650)508-6221

City of Santa Monica  
1685 Main Street  
Santa Monica CA 90401  
Kate Vernez, Manager, Intergovernmental Relations  
(310)458-8301

### **D. CONFLICT OF INTEREST**

We have determined that neither Shaw / Yoder, Inc. nor any of its employees has a financial, business or other relationship with the District or any of its officers or officials that may have an impact upon the outcome of the work proposed herein.

We have also determined that there are no current clients of Shaw / Yoder, Inc. that may have a financial interest in the outcome of the work.

We have also reviewed our client list and, based on past experience, do not anticipate any policy-related conflicts. Specifically, we believe the goals and policies of the California Transit Association, SamTrans and the Santa Cruz Metropolitan Transit District will be mutually supportive. However, in the event that a conflict occurs, we propose the following:

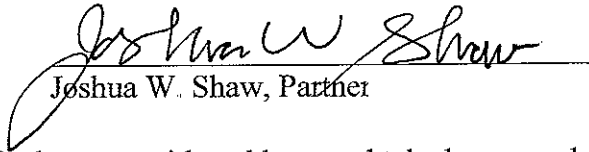
- Immediate notification to you and an attempt to resolve the conflict.
- In the event of an unresolved conflict, our primary loyalty rests with the client contracting with us prior in time. We would make every effort to assist the District in providing for its needs under such a circumstance, including identification of alternative resources. For clients acquired after the effective date of the proposed contract per this RFP, our primary loyalty rests with the District.

**E. PROFESSIONAL SERVICES AGREEMENT**

This proposal is based on the requirements set forth in the "Professional Services Agreement" included in the District's request for proposals. If awarded this contract, we will make every effort to meet the District's needs in developing the final form of the agreement.

**F. SIGNATURE**

This statement shall attest that the proposal for state legislative representation services contained herein shall remain in effect for ninety (90) days from November 23, 2005.

  
Joshua W. Shaw, Partner

Following is the name, title, address and telephone number of the proposing consultant:

Joshua W. Shaw, Partner  
Shaw / Yoder, Inc.  
1414 K Street, Suite 320  
Sacramento CA 95814  
Phone: (916)446-4656 Fax:(916)446-4318

**G. PAST, PRESENT AND PENDING LEGAL ACTION**

There are none.

**H. PROPOSED FEE**

For the services described in this proposal Shaw / Yoder, Inc. proposes a flat monthly retainer of \$2,500, all expenses included. We propose to bill the District based on the terms and conditions contained in the "Contract for State Legislative Representative Services" contained in the request for proposals.



**SHAW / YODER, inc.**  
LEGISLATIVE ADVOCACY  
ASSOCIATION MANAGEMENT

## Legislative Advocacy

### SHAW / YODER LEGISLATIVE ADVOCACY SERVICES

Proficient in navigating the California political process and identifying optimum leverage points to influence policy-makers, Shaw / Yoder, Inc. provides their long-standing clients lobbying services resulting in the enactment, defeat or amendment of legislation.

**“I’ve worked with the principals of Shaw / Yoder for several years on a variety of issues, everything from transportation to water policy. They do an excellent job representing their clients. They are very creative in their approaches to complex issues. They give me the information I need, and when I need it. Most importantly, I trust them.”**

Patricia Wiggins,  
Assemblywoman, 7<sup>th</sup> District,  
1998-2004

**For more information about our services contact:**

Joshua W. Shaw, [josh@shawyoder.org](mailto:josh@shawyoder.org)  
Paul J. Yoder, [paul@shawyoder.org](mailto:paul@shawyoder.org)  
1414 K Street, Suite 320  
Sacramento, California 95814  
(916) 446-4656

### SHAW / YODER CLIENT LIST

\*California Coalition on Workers’ Compensation  
California Yacht Brokers Association  
Fluor Corporation  
Solid Waste Association of North America  
Independent Cities Association  
Santa Monica, City of  
Southern California Association of Governments  
\*California Transit Association  
San Mateo County Transit District  
Santa Cruz Metropolitan Transit District  
Solano Transportation Authority  
Butte County  
Fresno County  
Madera County  
Mariposa County  
Siskiyou County  
Solano County  
Sonoma County  
Tulare County  
Yolo County  
Yuba County  
California Mental Health Directors Association  
Access Services, Inc.  
\*California Alcohol and Drug Program Administrators of California  
\*California Association of County Treasurers and Tax Collectors  
San Joaquin Valley Unified Air Pollution Control District

*\* Shaw/Yoder is pleased to provide both legislative advocacy and association management services to these clients.*



**SHAW/YODER, INC.**  
LEGISLATIVE ADVOCACY  
ASSOCIATION MANAGEMENT

## Association Management

### SHAW / YODER ASSOCIATION MANAGEMENT SERVICES

Shaw / Yoder, Inc. offers clients full service association management solutions. From day-to-day operations to executive leadership, Shaw / Yoder combines political savvy with association expertise.

**"These guys are great. Our association needed managers who could bring new energy, provide sound financial management and help advise us on political strategies. Shaw / Yoder has delivered. They strengthened our association and I absolutely recommend them to you."**

John Dunlap, Chair  
California Travel Industry  
Association (CalTIA)

**For more information about our services contact:**

Joshua W. Shaw, [josh@shawyoder.org](mailto:josh@shawyoder.org)  
Paul J. Yoder, [paul@shawyoder.org](mailto:paul@shawyoder.org)  
1414 K Street, Suite 320  
Sacramento, California 95814  
(916) 446-4656

### SHAW / YODER CLIENT LIST

- \*California Coalition on Workers' Compensation
- \*California Transit Association
- California Travel Industry Association (CalTIA)
- California Transit Finance Corporation
- California Transit Insurance Pool (CalTIP)
- \*California Alcohol and Drug Program Administrators of California (CADPAAC)
- \*California Association of County Treasurers and Tax Collectors
- State Association of California Retirement Systems (SACRS)

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*Additionally our staff gained expertise in the management of the following:*

- Active 20/30 International
- American Desalting Association
- Building Owners & Management Association
- California Association of Mortgage Brokers
- California Cleaners Association
- California Manufacturers Association
- California Society of Association Executives
- California Special Districts Association
- California Water Reuse Association
- Meeting Professionals International
- Sacramento Hotel Association
- Western Textile Association

*\* Shaw/Yoder is pleased to provide both legislative advocacy and association management services to these clients.*





**SHAW / YODER** INC.  
LEGISLATIVE ADVOCACY  
ASSOCIATION MANAGEMENT

Shaw / Yoder is a full service legislative advocacy, association management and consulting firm. We offer an extensive portfolio of services that can be tailored to each client's specific needs.

## Exceeding Client Expectations

Shaw / Yoder has offered legislative advocacy and association management services in California for over a quarter of a century. Shaw / Yoder provides a range of services to corporate and public sector clients. Our firm's substantial experience in legislative advocacy and association management means our clients benefit from both the depth and the breadth of our knowledge. Our expertise in these core areas consistently allows us to successfully exceed our clients' expectations and maintain long-standing relationships.

### LEGISLATIVE ADVOCACY SERVICES

- State and Federal Legislative Advocacy
- Regulatory Agency Liaison and Lobbying
- Policy Research and Analysis
- Legislative Monitoring and Analysis
- Grassroots Strategies and Activation
- Political Action Committee Consulting
- Strategic Planning
- Expert Testimony

### ASSOCIATION MANAGEMENT SERVICES

- Conference and Event Planning
- Board of Directors and Committee Support
- Membership Services, Recruitment and Retention
- Strategic Planning
- Membership Dues, Invoicing and Collection
- Publication Creation and Distribution
- Database Management
- Website Development and Maintenance

### PRIMARY AREAS OF EXPERTISE

- Transportation
- Travel and Tourism
- Infrastructure Funding
- Corporate Governance
- Risk Management
- Solid Waste
- Energy
- Water
- Local Government, Finance and Operations
- Health, Mental Health and Social Services
- Land Use Planning and Housing

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**"SHAW / YODER DELIVERS EFFECTIVE LEGISLATIVE  
ADVOCACY ON BEHALF OF OUR ASSOCIATION, WITHOUT  
SACRIFICING INTEGRITY, THEIRS OR OURS.  
SHAW / YODER PRODUCES VALUE FOR EVERY MEMBER  
OF OUR ASSOCIATION."**

Jeanne Krieg Chair, California Transit Association  
General Manager, Tri Delta Transit

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## SHAW / YODER LEGISLATIVE ADVOCACY SERVICES

*With offices in the heart of Sacramento, just steps from the Capitol, Shaw / Yoder expertly performs legislative advocacy services for a variety of clients*

Shaw / Yoder constantly succeeds in the enactment, defeat, or amendment of legislation. By constantly searching for and creating leverage points, Shaw / Yoder exerts the maximum impact on the legislative process for our clients

### THE IMPORTANCE OF LEGISLATIVE ADVOCATES

The use of professional legislative advocates benefits almost every organization. Organizations not adequately covered in governmental relations are often harmed by unexpected and unfavorable legislation. Using a professional firm, such as Shaw / Yoder, helps organizations keep up-to-date on the latest legislative developments, better understand the potential impact of proposed laws and regulations, and obtain positive outcomes

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**“SHAW / YODER HAS BEEN WELL WORTH THE MONEY. THEIR WORK HAS BROUGHT IN MILLIONS AND MILLIONS OF DOLLARS IN THE TIME THAT THEY’VE REPRESENTED SOLANO COUNTY. I HIGHLY RECOMMEND THEM TO ANYONE LOOKING TO STAY AHEAD OF THE CURVE IN SACRAMENTO.”**

**Darby Hayes**, Deputy Administrative Officer, Solano County

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### SHAW / YODER OFFERS DECADES OF EXPERIENCE

We successfully navigate the legislative process for our clients. We enjoy access to, and success in working with, the leadership of both parties in the California Legislature and the Governor’s Administration. Our relationships with legislators and executive branch officials allow us to ensure our clients’ priorities receive attention from the right decision-makers at the right times. In the era of term-limited legislators, our expertise in understanding how to package messages, and deliver those messages to the right policy-makers, makes us invaluable to our clients in the following ways:

#### State and Federal Legislative Advocacy

Shaw / Yoder protects and advances the interests of our clients. Our firm is known for working hard to ensure our clients’ issues are viewed as bipartisan before each committee and the Legislature as a whole. Shaw / Yoder’s clients succeed by virtue of our ability to work cooperatively with legislators, committees and staff, as well as key Administration officials and the bureaucracy

### Regulatory Agency Liaison and Lobbying

Shaw / Yoder offers creative approaches to assist clients in effectively interacting with local or state governments. Our deep understanding of the complexities and inner workings of local and state regulatory agencies and familiarity with key decision-makers provide myriad opportunities for our clients to benefit

### Policy Research and Analysis

Our firm provides accurate and informed legislative analysis based on decades of experience and review of legislative histories, committee analyses and institutional memory

### Legislative Monitoring and Analysis

Shaw / Yoder effectively monitors every piece of legislation introduced or amended during the legislative session. We provide clients with regular reports on bill status and up-to-the-minute events relevant to achieving the clients’ goals, including early warnings of political developments most likely to affect their organizations’ interests

### Grassroots Strategies and Activation

Shaw / Yoder mobilizes its clients’ local resources to leverage maximum political gains. Our firm provides the resources to recruit and activate local support for our clients’ objectives

**At Shaw / Yoder we strive to exceed our clients’ expectations and provide maximum value. Our extensive knowledge of the legislative process and our dedication to our clients distinguishes us and contributes to our firm’s first-rate reputation.**

## SHAW / YODER ASSOCIATION MANAGEMENT SERVICES

*Shaw / Yoder combines day-to-day association management services with vision and leadership*

Shaw / Yoder is an affordable and smart alternative to managing your association operations. The costs of maintaining an in-house staff, offices, and equipment can consume valuable association resources and expend precious time and energy.

### EXPERIENCED AND DEDICATED

Shaw / Yoder is a valuable resource for handling the details of association management. We offer a variety of professionals and skill levels, so the right person is always available for the job. Whether you need financial management, hotel contract negotiations, meeting planning, educational development, copy writing and editing, strategic planning, marketing, fund-raising, or database management and information systems, Shaw / Yoder provides the right team member for your needs.

### YOUR OWN IDENTITY

Shaw / Yoder offers seamless services, so to the outside world we look like your staff. We take great care to ensure that phone calls, correspondence, and all outward signs of your organization utilize your identity and name. We consider ourselves your staff, and as such we are dedicated to your needs.

### WE WILL ENHANCE YOUR PROGRAM

With our many years of association management experience, we can swiftly analyze your current program and make recommendations for enhancing member value. Our dedicated association managers help increase membership, strengthen revenues and provide leadership and vision. We are especially qualified in the following areas:

#### **Membership Mobilization and Activation**

Because of our legislative advocacy expertise, Shaw / Yoder specializes in activating association members to influence state policy making at the grassroots level. We help our clients more effectively communicate their messages to state policy makers and assist association members to take actions that more fully support their association's position on pending legislation and regulations.

#### **Enhanced Membership Recruitment and Retention**

Shaw / Yoder offers expert membership director services to help recruit new members and to keep current members happy. We offer recruitment campaigns, marketing plans and work to enhance membership benefits.

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### **"SHAW / YODER HAS PROVIDED OUR ORGANIZATION COMPETENT, CREATIVE MANAGEMENT WHILE KEEPING ADMINISTRATIVE COSTS TO A MINIMUM."**

Frank J. Lichtanski, Chair, California Transit Insurance Pool (CalTIP),  
General Manager / CEO, Monterey-Salinas Transit

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#### **Membership Meetings and Conferences**

Shaw / Yoder's experienced, certified meeting planners will manage your annual meetings and conferences throughout the year. We help our clients generate additional revenue by securing sponsorships and increasing event attendance.

#### **Better Financial Management**

Shaw / Yoder strengthens association financial structures through proper alignment of membership dues categories and levels. In addition, we look beyond membership rosters to seek outside organizations and individuals that should be participating and funding your association. We recruit non-dues paying sources to help subsidize association finances, including vendor participation.

#### **Accounting**

We retain credentialed professionals to manage accounting and bookkeeping. We provide balance sheets, produce profit and loss statements, create budgets, process accounts payable and accounts receivable, dues collection, and ensure compliance with all federal and state tax laws. We also procure and oversee financial audits.

Shaw / Yoder blends political savvy with a broad array of association management experience. Our two areas of expertise dovetail to provide our clients with the unparalleled opportunity to leverage the best Shaw / Yoder has to offer.

## EXCEEDING CLIENT EXPECTATIONS

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If you would like to talk with us about legislative advocacy, association management or a consulting need, please e-mail either Joshua W. Shaw at [josh@shawyoder.org](mailto:josh@shawyoder.org) or Paul J. Yoder at [paul@shawyoder.org](mailto:paul@shawyoder.org). You may also contact either of us by phoning 916-446-4656. Please find additional information by going to our website located at [www.shawyoder.org](http://www.shawyoder.org).

### THE SHAW / YODER PARTNERS

#### Joshua W. Shaw



With extensive experience in legislative advocacy, campaign management and research, and association management, owner Joshua W. Shaw brings a unique blend of leadership, legislative understanding and practical experience to clients.

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We are proven experts in the legislative advocacy and association management services we provide and subject-matter specialists in the policy areas of interest to our clients.

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Because of our depth of experience and expertise, your program will be up and running in a short time.

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Our infrastructure costs are shared with other clients to the benefit of everyone.

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For our legislative advocacy clients we produce bottom-line results, and for our association management clients we generate new revenue.

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We offer a portfolio of services, so you never pay for more services than you request.

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We offer consultation and experience to our clients. We welcome the opportunity to educate and share the knowledge we have gained so your organization can make the best choices.

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Shaw / Yoder offers our clients peace of mind, knowing that highly experienced legislative advocates and association managers are looking out for their interests.

# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Leslie R. White, General Manager  
**SUBJECT:** **CONSIDERATION OF APPOINTMENT OF NOMINEES TO MEMBERSHIP OF THE METRO ADVISORY COMMITTEE (MAC).**

## I. RECOMMENDED ACTION

**That the Board of Directors appoint the individuals that they would like have serve as members of the Metro Advisory Committee (MAC) for two year terms commencing January 1, 2006.**

## II. SUMMARY OF ISSUES

- On December 19, 2003 the Board of Directors approved the creation and structure of the Metro Advisory Committee (MAC).
- As a result of the action taken by the Board of Directors the Bylaws for the MAC were created and adopted.
- The Board of Directors appointed the initial Members of the MAC on February 27, 2004.
- The first meeting of the MAC was held April 21, 2004.
- Article III of the Adopted MAC Bylaws outlines the criteria for committee membership.
- The initial Members of the MAC were appointed for terms ending December 31, 2005 and are all eligible for reappointment to a second two-year term.
- Staff is seeking guidance as to whether the Board of Directors wishes to reappoint the current Members of the MAC to second terms or solicit new candidates for membership. There is currently one vacancy on the MAC.

## III. DISCUSSION

For many years two citizen advisory committees served METRO. The Metro Accessible Transit Services Forum (MASTF) addressed issues of accessibility on the fixed route service, paratransit service, and facilities. The Metro Users Group focused on the overall service that was provided, the information distribution and marketing programs, and advised the Board on other matters that were referred to it for consideration.

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On December 19, 2003, after a significant amount of discussion and multiple meetings the Board approved the creation of a new Metro Advisory Committee (MAC) that would replace MUG. The Board approved the structure of the new committee and directed staff to prepare necessary modifications to the MAC Bylaws to reflect the decisions that were made with respect to committee size and structure.

In the time that has passed since the Board took action with respect to the formation of the MAC the Committee has met on a regular basis commencing with the first meeting that took place on April 21, 2004. The Committee attendance has been good and the discussions have been productive. The Committee has been working on many issues and has presented the General Manager and the Board with recommendations for the improvement of service to riders. The MAC has addressed specific routing needs in Watsonville and UCSC service, the use of folding bikes in buses, passenger conduct issues, and others. Currently the MAC Members, through a subcommittee, are working on developing recommendations regarding the responses that METRO will make to the Report of the Santa Cruz County Regional transportation Commission's Paratransit Coordination Task Force.

The current list of the Members of the MAC is attached to this Staff Report. Presently there is one vacancy on the MAC. The terms of all of the listed Members of the MAC expire December 31, 2005. In accordance with Article III of the Adopted MAC Bylaws (attached) all of the Members of the Mac are eligible for appointment to a second two-year term. Staff is seeking guidance as to whether the Board of Directors wishes to reappoint the current Members of the MAC to second terms or solicit new candidates for membership.

#### **IV. FINANCIAL CONSIDERATIONS**

Funds are available in the 2005/2006 METRO Operating Budget to support the activities of the Metro Advisory Committee.

#### **V. ATTACHMENTS**

- Attachment A:** Current MAC Members
- Attachment B:** Article III of the MAC Bylaws

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**MAC Members Effective 12-16-05**

1. **Dave Williams- Nominated by Director Skillicorn**
2. **Dennis Papadopulo- Nominated by Director Spence**
3. **Donald N. (Norm) Hagen Jr.- Nominated by Director Tavantzis**
4. **Vacant - Nominated by Vice-Chair Rotkin**
5. **R. Paul Marcelin-Sampson- Nominated by Director Norton (Harlan)**
6. **Mathew Melzer- Nominated by Director Reilly**
7. **Lesley Wright- Nominated by Director Hinkle**
8. **Robert Yount- Nominated by Chair Keogh**
9. **Mara Murphy- Nominated by Director Bustichi**
10. **Dan Alper- Nominated by Director Stone**
11. **Stuart Rosenstein- Nominated by Director Beautz**

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**Article III**  
**MEMBERSHIP**

**§3.1 Membership**

The Committee shall be composed of 11 members appointed by the Board of Directors as follows:

Each member of the METRO Board of Directors shall nominate 1 individual to serve as members of the METRO Advisory Committee. Appointments to the METRO Advisory Committee shall be made by the METRO Board of Directors.

All members shall be residents of the County of Santa Cruz. When making its appointments, the Board shall strive to balance the membership to reflect the ethnic, gender, and geographic diversity of the County. At least 4 of the individuals appointed to the Committee shall be persons with disabilities as evidenced by possession of a METRO Discount Photo Identification Card. No member of the Board of Directors or other elected public official shall be appointed to the Committee. No employee of METRO or any agency that provides funding to, or contracts with, METRO shall be appointed to the Committee. However, individuals that have been selected to participate on the ADA Appeals Panel or participate in the Bus Operator Sensitivity Training shall be exempt from the financial/contracting prohibition for Committee members outlined in this section.

**§3.2 Members' Terms**

The term of membership of each Committee member shall be two years, and members may be re-appointed for 2 successive terms for a total of 6 consecutive years. The term of each member shall commence on January 1.

**§3.3 Absences**

If a member accumulates total absences from Committee Meetings of four, without excuse, and two, with excuse, in any twelve-month period, the position shall automatically be declared vacant. The member of the Board of Directors that nominated such Committee member shall be notified of the vacancy so that they can nominate a successor to be appointed to fill the remainder of that Committee member's term.

**§3.4 Vacancies**

The member of the Board of Directors who nominated the original member shall nominate a replacement candidate to fill a position on the Committee that is

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declared vacant. The appointment of the replacement member shall be made by the Board of Directors.

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# SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

## STAFF REPORT

**DATE:** December 16, 2005  
**TO:** Board of Directors  
**FROM:** Margaret Gallagher, District Counsel  
**SUBJECT:** REVIEW NEW LEGISLATION (AB 1234) WHICH BECOMES EFFECTIVE JANUARY 1, 2006, REGARDING LOCAL PUBLIC AGENCIES' COMPENSATION AND ETHICS REQUIREMENTS INCLUDING TRAINING AND CONSIDERATION OF NECESSARY MODIFICATIONS TO METRO'S BYLAWS

### I. RECOMMENDED ACTION

**Review State Law Changes regarding Local Public Agencies' Compensation and Ethics Requirements including Ethics Training and Discuss Possible Modifications to METRO's Bylaws to Incorporate the New Law Therein.**

### II. SUMMARY OF ISSUES

- On October 7, 2005, Governor Schwarzenegger approved AB 1234, which clarifies the rules pertaining to compensation and reimbursements to members of a local public agency, and establishes provisions for ethics training for local government officials and designated employees.
- The purpose of this report is to bring to your attention the provisions of AB 1234 which are applicable to Santa Cruz METRO, its Directors and certain designated employees and to receive input regarding possible modifications to METRO's Bylaws pursuant to this new legislation.
- Thereafter, modifications to the Bylaws will be prepared pursuant to your instructions for further review and consideration for adoption.

### III. DISCUSSION

On October 7, 2005, Governor Swartzneggar approved AB 1234 (Attachment A), which clarifies the rules pertaining to compensation and reimbursements to members of a local public agency, and establishes provisions for ethics training for local government officials and designated employees. This legislation becomes effective on January 1, 2006.

#### A. New Rules Related to Compensation

The new law adds Government Code Section 53232 et seq. which is applicable to Santa Cruz METRO and provides that when compensation is otherwise authorized by statute, a

local public agency may pay such compensation to members of its legislative body for attendance at the following occurrences:

1. A meeting of the legislative body;
2. A meeting of an advisory body; and
3. A conference or organized education activity conducted in compliance with Government code Section 54952.2(c) including ethics required by Government Code Section 53234.

The new law also authorizes a local public agency to pay compensation for attendance at occurrences not specifically set forth within this legislation only if the agency has adopted in a public meeting a written policy specifying other types of occasions that constitute the performance of official duties for which a member of the governing body may receive payment.

Public Utilities Code Section 99156 specifically authorizes a Transit District to compensate a member of its governing board for attendance at a meeting of its Board of Directors. Additionally, this statute authorizes Directors to be compensated for each day the member is engaged in "other district business", however pre-authorization must first be obtained for reimbursement of travel expenses or other compensation before engaging in that business and a report thereof must be submitted to the Board for all expenditures.

Santa Cruz METRO's Bylaws (effective December 17, 2004) Section 5.05 authorizes each Director to receive \$50 for attendance at a meeting of the Board of Directors, a Committee meeting if a member, an Advisory Meeting if a member, an American Public Transit Association meeting, a California Transit Association meeting or when performing District business in lieu of attendance at any of the above-stated meetings up to a maximum of \$100 per month. Section 5.06(a) provides that a District Director shall obtain Board authorization to perform or participate in District business prior to actual attendance if such involves the expenditure of District funds.

**It is recommended that Section 5.05 be amended to include reimbursement of \$50 when a Director participates in an organized educational training activity including the newly required ethics training sessions and that this section be reworded to specifically identify other types of occasions that constitute "performance of official duties".**

#### **B. New Rules Related to Reimbursement**

Additionally, AB1234 provides that when reimbursement is otherwise authorized by statute, a local agency may reimburse members of the legislative body for actual and necessary expenses incurred in the performance of official duties including but not limited to the ethics training required by the new law. A local public agency that allows for reimbursement of its members for actual and necessary expenses incurred in the performance of official duties, is required to adopt a written policy, in a public meeting

specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging and other actual and necessary expenses.

According to the new legislation, the written policy may also specify the reasonable reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses. If the policy does not set forth the rates of reimbursement then the local agency is required to use the Internal Revenue Service rates for reimbursement of travel, meals, lodging and other actual and necessary expenses as established in Publication 463 or any successor publication. Specific requirements in the statute limit the amount of money that is allowed for reimbursement for lodging that is required because of a conference or educational activity. The statute further provides that the members of the legislative body shall use government and group rates offered by a provider of transportation or lodging service for travel and lodging when available. According to the new legislation, any reimbursable expense that does not fall within the adopted travel reimbursement policy or the IRS reimbursable rates as provided shall be approved by the governing body, in a public meeting before the expense is incurred.

AB 1234 requires the submission of expense reports that document that the incurred expense meets the existing policy for expenditure of public resources. Such reports must be submitted within a reasonable period of time and include the receipts documenting each expense.

Santa Cruz METRO's enabling statute specifically authorizes Board Members to be allowed necessary traveling and personal expenses incurred in performance of duties authorized by the Board. However, METRO's Bylaws do not set forth the rates to be utilized by the Director for the expenses.

**It is recommended that the Expense List set forth in Exhibit B to the Bylaws be modified to include specific reasonable rates of reimbursement.**

#### **C. New Rules Related to Brief Reports Following Attendance at Certain Meetings**

Any member of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

**It is recommended that METRO's Bylaws be modified to include a provision which would require that any Board member who attended a METRO paid meeting, excluding Board Meetings, would provide a brief report regarding the meeting. An item could be added to the regular meeting agenda's to fulfill this requirement.**

#### **D. Penalties**

AB 1234 provides for specific penalties for misuse of public resources or falsifying expense reports in violation of expense reporting policies which include the loss of

reimbursement privileges, restitution to the local agency, civil penalties for misuse of public resources and prosecution pursuant to Penal Code Section 424.

#### **E. Ethics Training**

Government Code Section 53235 requires specific ethics training be provided to the members of the legislative body and designated employees if the local agency provides any type of compensation, salary or stipend to such officials and employees, or provides reimbursement for actual and necessary expenses incurred by a member of the body. The training shall consist of at least two hours of training in general ethic principles and ethics laws relevant to his or her public service every two years. Each individual who is required to receive such training on January 1, 2006 must do so before January 1, 2007. It is the responsibility of the local entity to provide information regarding the ethics training courses that are available and to maintain records documenting the date the training occurred and who provided the training. If a member of a legislative body is also a member of another local agency, the individual can fulfill both agencies' training obligations through one two-hour course.

**It is recommended that METRO's Bylaws be modified to include the ethics training requirements including all related obligations. Additionally, METRO's records retention policy should also be modified to include retention requirements of the ethics training records for a minimum period of 5 years following the training.**

#### **IV. FINANCIAL CONSIDERATIONS**

Financial considerations are unknown at this time. It is anticipated that expenses will be incurred related to the training courses.

#### **V. ATTACHMENTS**

**Attachment A:** AB 1234

**Attachment B:** Santa Cruz METRO's Bylaws

Assembly Bill No. 1234

CHAPTER 700

An act to amend Sections 25008 and 36514.5 of, and to add Article 2.3 (commencing with Section 53232) and Article 2.4 (commencing with Section 53234) to Chapter 2 of Part 1 of Division 2 of Title 5 of, the Government Code, to amend Sections 6060 and 7047 of the Harbors and Navigation Code, to amend Sections 2030, 2851, 4733, 4733.5, 6489, 9031, 13857, 13866, and 32103 of the Health and Safety Code, to amend Section 1197 of the Military and Veterans Code, to amend Sections 5536, 5536.5, 5784.15, and 9303 of the Public Resources Code, to amend Sections 11908, 11908.1, 11908.2, 16002, and 22407 of the Public Utilities Code, and to amend Sections 20201, 21166, 30507, 30507.1, 34741, 40355, 50605, 55305, 56031, 60143, 70078, 71255, and 74208 of, and to add Section 20201.5 to, the Water Code, relating to local agencies.

[Approved by Governor October 7, 2005. Filed with  
Secretary of State October 7, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1234, Salinas. Local agencies: compensation and ethics.

Existing law provides for the establishment and operations of cities, counties, cities and counties, districts, and other local government agencies, the composition of their governing bodies, and the payment of governing body members for attending meetings and performing other duties, and prescribes conflicts of interest.

This bill would require a local agency that provides reimbursement for expenses to members of its legislative body to adopt a written policy on the duties for which legislative body members may receive compensation, other than meetings of the legislative body or an advisory body or attendance at a conference or organized educational activity. The bill would require such a governing body to adopt a written policy concerning what occurrences qualify a member to receive reimbursement of expenses for travel, meals, and lodging and would impose related requirements, including the filing of expense reports, which would be public records.

This bill would also require that if a local agency provides any type of compensation, salary, or stipend to, or reimburses the expenses of, a member of the legislative body, all local agency officials, except a member whose term of office ends before January 1, 2007, in local agency service as of January 1, 2006, or thereafter receive training in ethics, as specified. This bill would provide that if any entity develops criteria for the ethics training, then the Fair Political Practices Commission and the Attorney General shall be consulted regarding any proposed course content. This bill would specify, with respect to certain special districts, how a director's

activities on a specific day are determined to be compensable and would make related changes.

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

SECTION 1. Section 25008 of the Government Code is amended to read:

25008. Members shall be allowed their actual expenses in going to, attendance upon, and returning from state association meetings and their actual and necessary traveling expenses when traveling outside their counties on official business. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3.

SEC. 2. Section 36514.5 of the Government Code is amended to read:

36514.5. City council members may be reimbursed for actual and necessary expenses incurred in the performance of official duties. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3.

SEC. 3. Article 2.3 (commencing with Section 53232) is added to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 2.3. Compensation

53232. For the purposes of this article, the following terms have the following meanings:

(a) "Governing body" means the board of supervisors in the case of a county or a city and county, the city council or board of trustees in the case of a city, and the board of directors or other governing body in the case of a special district.

(b) "Legislative body" has the same meaning as specified in Section 54952.

(c) "Local agency" means a city, county, city and county, charter city, charter county, charter city and county, or special district.

(d) "Meeting" has the same meaning as specified in subdivision (a) of Section 54952.2.

53232.1. (a) When compensation is otherwise authorized by statute, a local agency may pay compensation to members of a legislative body for attendance at the following occurrences:

(1) A meeting of the legislative body.

(2) A meeting of an advisory body.

(3) A conference or organized educational activity conducted in compliance with subdivision (c) of Section 54952.2, including, but not limited to, ethics training required by Article 2.4 (commencing with Section 53234).

(b) A local agency may pay compensation for attendance at occurrences not specified in subdivision (a) only if the governing body has adopted, in

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a public meeting, a written policy specifying other types of occasions that constitute the performance of official duties for which a member of the legislative body may receive payment.

(c) This section shall not apply to any local agency that pays compensation in the form of a salary to members of a legislative body, including, but not limited to, those local agencies whose legislative bodies' compensation is subject to Section 36516 or 36516.1, subparagraph (B) or (C) of paragraph (2) of subdivision (a) of Section 21166 or Section 22840 of the Water Code, Section 11908.1 of the Public Utilities Code, Section 6060 of the Harbors and Navigation Code, or subdivision (b) of Section 1 or Section 5 of Article XI of the California Constitution.

53232.2. (a) When reimbursement is otherwise authorized by statute, a local agency may reimburse members of a legislative body for actual and necessary expenses incurred in the performance of official duties, including, but not limited to, activities described in Article 2.4 (commencing with Section 53234).

(b) If a local agency reimburses members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then the governing body shall adopt a written policy, in a public meeting, specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses.

(c) The policy described in subdivision (b) may also specify the reasonable reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses. If it does not, the local agency shall use the Internal Revenue Service rates for reimbursement of travel, meals, lodging, and other actual and necessary expenses as established in Publication 463, or any successor publication.

(d) If the lodging is in connection with a conference or organized educational activity conducted in compliance with subdivision (c) of Section 54952.2, including, but not limited to, ethics training required by Article 2.4 (commencing with Section 53234), lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the member of a legislative body at the time of booking. If the group rate is not available, the member of a legislative body shall use comparable lodging that is consistent with the requirements of subdivisions (c) and (e).

(e) Members of the legislative body shall use government and group rates offered by a provider of transportation or lodging services for travel and lodging when available.

(f) All expenses that do not fall within the adopted travel reimbursement policy or the Internal Revenue Service reimbursable rates as provided in subdivision (c), shall be approved by the governing body, in a public meeting before the expense is incurred, except as provided in subdivision (d).

(g) This section shall not supersede any other laws establishing reimbursement rates for local agencies.

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53232.3. (a) If a local agency reimburses members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then a local agency shall provide expense report forms to be filed by the members of the legislative body for reimbursement for actual and necessary expenses incurred on behalf of the local agency in the performance of official duties. Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel.

(b) Expense reports shall document that expenses meet the existing policy, adopted pursuant to Section 53232.2, for expenditure of public resources.

(c) Members of a legislative body shall submit expense reports within a reasonable time after incurring the expense, as determined by the legislative body, and the reports shall be accompanied by the receipts documenting each expense.

(d) Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

(e) All documents related to reimbursable agency expenditures are public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

53232.4. Penalties for misuse of public resources or falsifying expense reports in violation of expense reporting policies may include, but are not limited to, the following:

(a) The loss of reimbursement privileges.

(b) Restitution to the local agency.

(c) Civil penalties for misuse of public resources pursuant to Section 8314.

(d) Prosecution for misuse of public resources, pursuant to Section 424 of the Penal Code.

SEC. 4. Article 2.4 (commencing with Section 53234) is added to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 2.4. Ethics Training

53234. For the purposes of this article, the following terms have the following meanings:

(a) "Legislative body" has the same meaning as specified in Section 54952.

(b) "Local agency" means a city, county, city and county, charter city, charter county, charter city and county, or special district.

(c) "Local agency official" means the following:

(1) Any member of a local agency legislative body or any elected local agency official who receives any type of compensation, salary, or stipend

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or reimbursement for actual and necessary expenses incurred in the performance of official duties.

(2) Any employee designated by a local agency legislative body to receive the training specified under this article.

(d) "Ethics laws" include, but are not limited to, the following:

(1) Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.

(2) Laws relating to claiming prerequisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.

(3) Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.

(4) Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.

53235. (a) If a local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all local agency officials shall receive training in ethics pursuant to this article.

(b) Each local agency official shall receive at least two hours of training in general ethics principles and ethics laws relevant to his or her public service every two years.

(c) If any entity develops curricula to satisfy the requirements of this section, then the Fair Political Practices Commission and the Attorney General shall be consulted regarding the sufficiency and accuracy of any proposed course content. When reviewing any proposed course content the Fair Political Practices Commission and the Attorney General shall not preclude an entity from also including local ethics policies in the curricula.

(d) A local agency or an association of local agencies may offer one or more training courses, or sets of self-study materials with tests, to meet the requirements of this section. These courses may be taken at home, in-person, or online.

(e) All providers of training courses to meet the requirements of this article shall provide participants with proof of participation to meet the requirements of Section 53235.2.

(f) A local agency shall provide information on training available to meet the requirements of this article to its local officials at least once annually.

53235.1. (a) Each local agency official in local agency service as of January 1, 2006, except for officials whose term of office ends before January 1, 2007, shall receive the training required by subdivision (a) of

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Section 53235 before January 1, 2007. Thereafter, each local agency official shall receive the training required by subdivision (a) of Section 53235 at least once every two years.

(b) Each local agency official who commences service with a local agency on or after January 1, 2006, shall receive the training required by subdivision (a) of Section 53235 no later than one year from the first day of service with the local agency. Thereafter, each local agency official shall receive the training required by subdivision (a) of Section 53235 at least once every two years.

(c) A local agency official who serves more than one local agency shall satisfy the requirements of this article once every two years without regard to the number of local agencies with which he or she serves.

53235.2. (a) A local agency that requires its local agency officials to complete the ethical training prescribed by this article shall maintain records indicating both of the following:

(1) The dates that local officials satisfied the requirements of this article.

(2) The entity that provided the training.

(b) Notwithstanding any other provision of law, a local agency shall maintain these records for at least five years after local officials receive the training. These records are public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

SEC. 6. Section 6060 of the Harbors and Navigation Code is amended to read:

6060. The commissioners shall serve without salary until the yearly gross income of the district, exclusive of taxes levied by the district, exceeds twenty thousand dollars (\$20,000) per year, when the board may, by ordinance, fix their salaries, which shall not exceed the sum of six hundred dollars (\$600) per month each.

In addition to any salary received pursuant to this section, the commissioners shall be allowed any actual and necessary expenses incurred in the performance of their duties. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 7. Section 7047 of the Harbors and Navigation Code is amended to read:

7047. Each director shall receive a sum as may be fixed by the board, not exceeding fifty dollars (\$50) for each meeting of the board attended by him or her, for not exceeding four meetings in any calendar month. A director may also receive traveling and other expenses incurred by him or her when performing duties for the district other than attending board meetings. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement

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for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 8. Section 2030 of the Health and Safety Code is amended to read:

2030. (a) The members of the board of trustees shall serve without compensation.

(b) The members of the board of trustees may receive their actual and necessary traveling and incidental expenses incurred while on official business. In lieu of paying for actual expenses, the board of trustees may by resolution provide for the allowance and payment to each trustee a sum not to exceed one hundred dollars (\$100) per month for expenses incurred while on official business. A trustee may waive the payments permitted by this subdivision.

(c) Notwithstanding subdivision (a), the secretary of the board of trustees may receive compensation in an amount determined by the board of trustees.

(d) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 9. Section 2851 of the Health and Safety Code is amended to read:

2851. The members of the district board shall hold office at the pleasure of the board of supervisors. They shall serve without compensation, but shall be allowed their necessary traveling and other expenses incurred in performance of their official duties. In lieu of expenses, the district board may, by resolution, provide for the allowance and payment to each member of the board of a sum not exceeding one hundred dollars (\$100) as expenses incurred in attending each business meeting of the board. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 10. Section 4733 of the Health and Safety Code is amended to read:

4733. (a) The district board may fix the amount of compensation per meeting to be paid each member of the board for services for each meeting attended by the member. Subject to subdivision (b), the compensation shall not exceed one hundred dollars (\$100) for each meeting of the district board attended by the member or for each day's service rendered as a member by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incident thereto.

(b) The district board, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the compensation received by the district board members above the amount of one hundred dollars (\$100) per day.

(c) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

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(d) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 11. Section 4733.5 of the Health and Safety Code is amended to read:

4733.5. Where two or more county sanitation districts have joined in the purchase, ownership, use, construction, maintenance, or operation of a sewerage system, or sewage disposal or treatment plant, or refuse transfer or disposal system, or both, either within or without the districts, or have so joined for any combination of these purposes, as provided in Section 4742, and the districts hold their meetings jointly, and one or more of the directors serve as a director on more than one of these districts meeting jointly, the districts may, by joint resolution approved by each district, limit the compensation of a director to compensation equal to not more than fifty dollars (\$50) for each jointly held meeting attended by him or her, not to exceed one hundred dollars (\$100) in any one month for attendance at jointly held meetings. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 12. Section 6489 of the Health and Safety Code is amended to read:

6489. (a) Subject to subdivision (b), each of the members of the board shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incident thereto.

(b) The district board, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the compensation received by board members above the amount of one hundred dollars (\$100) per day.

(c) The secretary of the sanitary board shall receive compensation to be set by the sanitary district board, which compensation shall be in lieu of any other compensation to which he or she may be entitled by reason of attendance at the meeting or meetings of the sanitary board.

(d) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 13. Section 9031 of the Health and Safety Code is amended to read:

9031. (a) The board of trustees may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for attending each

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meeting of the board. A member of the board of trustees shall not receive compensation for more than four meetings of the board in a month.

(b) The board of trustees, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation received for attending meetings of the board.

(c) In addition, members of the board of trustees may receive their actual and necessary traveling and incidental expenses incurred while on official business other than a meeting of the board.

(d) A member of the board of trustees may waive any or all of the payments permitted by this section.

(e) For the purposes of this section, a meeting of the board of trustees includes, but is not limited to, regular meetings, special meetings, closed sessions, emergency meetings, board field trips, district public hearings, or meetings of a committee of the board.

(f) For purposes of this section, the determination of whether a trustee's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(g) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 14. Section 13857 of the Health and Safety Code is amended to read:

13857. (a) Subject to subdivision (b), each member of the district board may receive compensation in an amount set by the district board not to exceed one hundred dollars (\$100) for attending each meeting of the district board. The number of meetings for which a member of the board of directors may receive compensation shall not exceed four meetings in any calendar month.

(b) The district board, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the compensation received by the district board members above the amount prescribed by subdivision (a).

(c) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 15. Section 13866 of the Health and Safety Code is amended to read:

13866. A district may authorize its directors and employees to attend professional or vocational meetings and pay their actual and necessary traveling and incidental expenses while on official business. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 16. Section 32103 of the Health and Safety Code is amended to read:

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32103. The board of directors shall serve without compensation except that the board of directors, by a resolution adopted by a majority vote of the members of the board, may authorize the payment of not to exceed one hundred dollars (\$100) per meeting not to exceed five meetings a month as compensation to each member of the board of directors.

Each member of the board of directors shall be allowed his or her actual necessary traveling and incidental expenses incurred in the performance of official business of the district as approved by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 17. Section 1197 of the Military and Veterans Code is amended to read:

1197. The board shall consist of five members who shall be registered electors residing within the district or proposed district at the time of their election and shall be elected by the qualified electors of the district. A majority of the seats on the board shall be designated for veterans, as defined in Section 940. Any board seat that is so designated, but is not currently filled by a qualifying individual, shall be filled by a qualified individual at the next election at which that seat is to be filled. Members shall serve without compensation, but shall be entitled to actual and necessary expenses incurred in the performance of duties. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 18. Section 5536 of the Public Resources Code is amended to read:

5536. (a) The board shall establish rules for its proceedings.

(b) The board may provide, by ordinance or resolution, that each of its members may receive an amount not to exceed one hundred dollars (\$100) per day for each attendance at a meeting of the board. For purposes of this section, a meeting of the board includes, but is not limited to, closed sessions of the board, board field trips, district public hearings, or meetings of a committee of the board. The maximum compensation allowable to a board member on any given day shall be one hundred dollars (\$100). Board members shall not receive any other compensation for meetings, and no board member shall receive more than five hundred dollars (\$500) compensation under this section in any one calendar month, except that board members of the East Bay Regional Park District may receive compensation for not more than 10 days in any one calendar month. A board member may elect to waive the per diem. In addition, the board may provide, by ordinance or resolution, that each of its members not otherwise eligible for an employer-paid or partially employer-paid group medical or group dental plan, or both, may participate in any of those plans available to permanent employees of the district on the same terms available to those district employees or on terms and conditions as

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the board may determine. A board member who elects to participate in any plan may also elect to have the premium for the plan charged against his or her per diem and may further elect to waive the balance of the per diem.

(c) All vacancies on the board shall be filled in accordance with the requirements of Section 1780 of the Government Code, except that, in the case of vacancies caused by the creation of new wards or subdistricts, the directors shall, prior to the vacancies being filled, determine by lot, for the purpose of fixing the terms of the first directors to be elected to the wards or subdistricts, which ward or subdistrict shall have a four-year term and which ward or subdistrict shall have a two-year term. The persons who fill the vacancies caused by the establishment of new wards or subdistricts shall hold office until the next general election and until their successors are elected and qualified for the terms previously determined by lot.

(d) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 19. Section 5536.5 of the Public Resources Code is amended to read:

5536.5. Members of the board of directors may be allowed actual necessary traveling and incidental expenses incurred in the performance of official business of the district as approved by the district board. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 20. Section 5784.15 of the Public Resources Code is amended to read:

5784.15. (a) The board of directors may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for attending each meeting of the board. The board of directors, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation received for attending meetings of the board.

(b) The maximum compensation in any calendar month shall be five hundred dollars (\$500).

(c) In addition, members of the board of directors may receive their actual and necessary traveling and incidental expenses incurred while on official business.

(d) A member of the board of directors may waive the compensation.

(e) For the purposes of this section, a meeting of the board of directors includes, but is not limited to, regular meetings, special meetings, closed sessions, emergency meetings, board field trips, district public hearings, or meetings of a committee of the board.

(f) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

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(g) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 21. Section 9303 of the Public Resources Code is amended to read:

9303. The directors shall receive no compensation for their services as such, but each shall be allowed reasonable and necessary expenses incurred in attendance at meetings of the directors or when otherwise engaged in the work of the district at the direction of the board of directors. The directors shall fix the amount allowed for necessary expenses, but no director shall be appointed to any position for which he or she would receive compensation as a salaried officer or employee of the district. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 22. Section 11908 of the Public Utilities Code is amended to read:

11908. The board shall establish rules for its proceedings and may provide, by ordinance or resolution, that each member shall receive for each attendance at the meetings of the board, or for each day's service rendered as a director by request of the board, the sum of one hundred dollars (\$100). No director shall receive any other compensation, nor receive pay for more than six days in any one calendar month. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 23. Section 11908.1 of the Public Utilities Code is amended to read:

11908.1. (a) Notwithstanding Section 11908, a district with a board having seven directors may provide, by resolution or ordinance, that each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at public meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, or, in lieu of that compensation, a salary of not to exceed six hundred dollars (\$600) per month subject to annual adjustments pursuant to subdivision (b), together with any expenses incurred in the performance of his or her duties required or authorized by the board. No resolution or ordinance establishing compensation pursuant to this subdivision shall provide for any automatic increase in that compensation.

(b) Any district which adopts salaries for directors pursuant to subdivision (a) may increase those salaries by not more than 5 percent for each calendar year following the operative date of the last adjustment, commencing with the calendar year following adoption of the salary or increase.

(c) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

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SEC. 24. Section 11908.2 of the Public Utilities Code is amended to read:

11908.2. Notwithstanding Section 11908, the board of a district which has owned and operated an electric distribution system for at least eight years and has a population of 250,000 or more may provide, by ordinance or resolution, that each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at public meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of 10 days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. The board may, by resolution or ordinance, increase the compensation per day by not more than 5 percent for each calendar year following the operative date of the last adjustment, commencing with the 1988 calendar year. No resolution or ordinance establishing compensation pursuant to this subdivision shall provide for any automatic increase in that compensation. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 25. Section 16002 of the Public Utilities Code is amended to read:

16002. Each member of the board shall receive the compensation that the board by ordinance provides, not exceeding four thousand eight hundred dollars (\$4,800) a year. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 26. Section 22407 of the Public Utilities Code is amended to read:

22407. Each member of the board of directors shall receive compensation in an amount not to exceed one hundred dollars (\$100) for each attendance at the meeting of the board held within the district, which amount shall be fixed from time to time by the board. No director, however, shall receive pay for more than four meetings in any calendar month.

Each director shall be allowed, with the approval of the board, all traveling and other expenses necessarily incurred by the member in the performance of the member's duties. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

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SEC. 27. Section 20201 of the Water Code is amended to read:

20201. Notwithstanding any other provision of law, the governing board of any water district may, by ordinance adopted pursuant to this chapter, provide compensation to members of the governing board, unless any compensation is prohibited by its principal act, in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board, or for each day's service rendered as a member of the board by request of the board, and may, by ordinance adopted pursuant to this chapter, in accordance with Section 20202, increase the compensation received by members of the governing board above the amount of one hundred dollars (\$100) per day.

It is the intent of the Legislature that any future increase in compensation received by members of the governing board of a water district be authorized by an ordinance adopted pursuant to this chapter and not by an act of the Legislature.

For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 28. Section 20201.5 is added to the Water Code, to read:

20201.5. Reimbursement for expenses of members of a governing board of a water district is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 29. Section 21166 of the Water Code is amended to read:

21166. Notwithstanding any other provision of law, a director, for sitting on the board or acting under its orders, shall receive both of the following:

(a) (1) Except as specified in paragraphs (2) and (3), compensation not to exceed one hundred dollars (\$100) per day, not exceeding six days in any calendar month.

(2) In districts that produce or distribute electric power, one of the following methods of compensation:

(A) Compensation not to exceed one hundred dollars (\$100) per day.

(B) A monthly salary of not to exceed six hundred dollars (\$600) per month.

(C) Annual compensation not to exceed fifteen thousand dollars (\$15,000). Any annual compensation pursuant to this subparagraph shall be fixed by the adoption of an ordinance pursuant to Sections 20203 to 20207, inclusive.

(3) Districts containing 500,000 acres or more are governed by Section 22840.

(b) Actual and necessary expenses when acting under the orders of the board.

For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these

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expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 30. Section 30507 of the Water Code is amended to read:

30507. Each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 31. Section 30507.1 of the Water Code is amended to read:

30507.1. Each director of the Contra Costa Water District shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board and for each day's service rendered as a director by request of the board, not exceeding a total of 10 days in any calendar month, together with any expenses incurred in the performance of duties required or authorized by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 32. Section 34741 of the Water Code is amended to read:

34741. Until their compensation is fixed by the adoption of bylaws, the officers shall receive the following compensation for their services:

(a) The secretary, tax collector, treasurer, and assessor, such sums as shall be fixed by the board.

(b) Each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 33. Section 40355 of the Water Code is amended to read:

40355. (a) A director, when sitting on the board or acting under its orders, shall receive not exceeding:

(1) One hundred dollars (\$100) per day, not exceeding six days in any calendar month.

(2) Ten cents (\$0.10) per mile for each mile traveled from his place of residence to the office of the board.

(3) Actual and necessary expenses while engaged in official business under the order of the board.

(b) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(c) Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 34. Section 50605 of the Water Code is amended to read:

50605. (a) Each member of the board shall receive such compensation for services actually and necessarily performed as the board determines to be just and reasonable, and shall be reimbursed for expenses necessarily incurred in the performance of his duties as trustee.

(b) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 35. Section 55305 of the Water Code is amended to read:

55305. (a) The board of directors may fix the compensation of its members for their services as directors not to exceed ten dollars (\$10) for each meeting attended, not exceeding two meetings in any calendar month. If allowed by the board, a director shall also receive for performing duties for the district other than attending board meetings the following:

(1) An amount not to exceed one hundred dollars (\$100) for each day performing such duties.

(2) Traveling and other expenses incurred by him or her in performing his duties.

(b) For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 36. Section 56031 of the Water Code is amended to read:

56031. The district board shall have power to fix the amount of compensation per meeting to be paid each member of the board for his or her services for each meeting attended by him or her; provided, that the compensation shall not exceed ten dollars (\$10) for each meeting of the district board attended by him or her, together with expenses necessarily incurred by him or her in traveling between his or her place of residence and the place of meeting. However, no member shall receive

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compensation for attending more than three meetings of the board during any calendar month. This compensation shall be in addition to any other fees or compensation allowed by law for the other official positions specified in Section 56030 that are occupied by members of the district board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 37. Section 60143 of the Water Code is amended to read:

60143. Each director shall receive compensation in an amount not exceeding one hundred dollars (\$100) for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 38. Section 70078 of the Water Code is amended to read:

70078. Each member of the board shall receive compensation for services actually and necessarily performed, as the board determines to be just and reasonable, and shall be reimbursed for expenses necessarily incurred in the performance of his or her duties as director. The salaries of all officers and employees of the district shall be fixed and determined by the directors. The board of directors shall fix the compensation that the election officers shall receive for district elections. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 39. Section 71255 of the Water Code is amended to read:

71255. Each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

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SEC. 40. Section 74208 of the Water Code is amended to read:

74208. Each director shall receive compensation in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

SEC. 41. The Legislature finds and declares that transparency in the activities of local governments is a matter of statewide concern and not merely a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to charter cities, charter counties, and charter cities and counties.

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RESOLUTION NO. 69-2-1  
Amended 1-21-83, 6-16-89, 8-21-92,  
4-15-94, 4-21-95, 4-27-97, 9-18-98,  
4-16-99, 11-19-99, 6-16-00, 6-08-01,  
6-15-01, 9-21-01, 02-15-02, 06-21-02,  
09-27-02, 10-10-03, 12-19-03; 09-24-04  
On the Motion of Director:  
Duly Seconded by Director:  
Is Hereby Amended: 12-17-04

**A RESOLUTION OF THE  
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT BOARD OF DIRECTORS  
ESTABLISHING RULES, REGULATIONS, AND PROCEDURES FOR,  
AND THE TIME AND PLACE OF MEETINGS OF THE BOARD; AND  
CREATION OF OTHER OFFICES**

**I. REGULAR MEETINGS**

**1.01 Regular Meetings; Time**

- (a) Regular meetings of the Board of Directors shall be held on the second Friday of each month from 9:00 a.m. to not later than 11:00 a.m. and on the fourth Friday of each month from 9:00 a.m. to not later than noon. The Board of Directors may extend the meeting times as necessary through Board action. Notwithstanding the foregoing, if a regular meeting falls within 5 working days of a recognized District holiday, i.e., Thanksgiving, Christmas or New Year's Day, the Board of Directors shall reschedule the meeting to a more convenient date. The regular meeting schedule shall be published for the upcoming year and approved by the Board of Directors during October of each year.
- (b) The regular meeting on the second Friday of the month shall primarily be in a workshop format to review matters that may be agendized for the Regular Board Meeting scheduled for the fourth Friday of the month. However, the Board of Directors may take action at either regular Board meeting pursuant to the agenda prepared in accordance with California law and these Bylaws.

**1.02 Regular Meetings; Place**

- (a) The Regular meeting of the Board of Directors on the second Friday of the month shall be convened in the Encinal Conference Room at Santa

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Cruz Metropolitan Transit District, 370 Encinal Street, Suite 100, Santa Cruz, CA 95060. The Regular meetings of the Board of Directors on the fourth Friday of the month shall be convened in the Santa Cruz City Council Chambers, City Hall, 809 Center Street, Santa Cruz, California, except that in the following months the meetings will be held at the specified locations: May: Capitola City Council Chambers located at 420 Capitola Avenue, Capitola, California; November: Watsonville City Council Chambers located at 250 Union Street, Watsonville, California.

- (b) If, by reason of fire, flood, earthquake or other emergency, it shall be unsafe to meet in the place designated above, the meeting shall be held for the duration of the emergency or unsafe condition at the place designated by the Chair of the Board of Directors in a notice to the local media that have requested notice in writing, by the most rapid means of communication available at the time. A notification advising the public of the changed meeting location during the emergency or unsafe condition shall be posted on the door of the regular meeting room by the Secretary/General Manager, unless circumstances prevent her/him from doing so.
- (c) The Board of Directors shall not conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, sex, age, marital status, sexual orientation, veteran status, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase.

**1.03 Regular Meetings; Open to the Public**

- (a) Meetings of the Board of Directors shall be open and public and all persons shall be permitted to attend except as otherwise allowed by law or when a closed session is authorized pursuant to applicable state law and properly noticed in accordance therewith.
- (b) A Spanish-bilingual interpreter shall be present and available for translations at the Regular Board Meeting held on the fourth Friday of the month.

**1.04 Closed Sessions: State Reasons and Legal Authority; Scope of Coverage; Notice; Reporting Out**

- (a) Prior to holding any closed session, the Board of Directors shall disclose,

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in an open meeting, the item or items to be discussed in the closed session. The disclosures may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the Board of Directors may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

- (b) After any closed session, the Board of Directors shall convene into open session prior to adjournment and shall make any disclosures required by state law of action taken in the closed session.

## II. AGENDA

### 2.01 Agenda; Notification and Posting

- (a) In order to facilitate the orderly conduct of the business of the Board of Directors, all reports, communications, resolutions, or other matters to be submitted to the Board of Directors shall be submitted to the Secretary/General Manager not later than 12:00 noon on the Friday two weeks prior to the date of the regular Board of Director's meeting scheduled for the second Friday of the month.
- (b) The Chair, in consultation with the Secretary/General Manager, shall arrange the agenda and shall furnish a copy of it to each member of the Board, to the District Counsel, to the County Administrative Officer, and to the City Manager of Santa Cruz, Capitola, Watsonville and Scotts Valley not later than the Tuesday in the week of a Regular Board meeting; the agenda shall be posted on the Official Bulletin Board for the public at the Administrative Office of the Santa Cruz Metropolitan Transit District at least 72 hours preceding each regular Board meeting.
- (c) The agenda shall contain a brief description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

### 2.02 Agenda; Public Input

Every agenda for regular open meetings shall provide an opportunity for members of the public to directly address the Board of Directors on items of interest to the public, before or during the Board's consideration of the item, that

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is within the subject matter jurisdiction of Santa Cruz Metropolitan Transit District, provided that no action shall be taken on any item not appearing on the agenda unless the Board complies with Section 2.03 below.

**2.03 Agenda; Action Taken Not on Agenda**

- (a) No action or discussion shall be taken on any item not appearing on the posted agenda except that members of the Board of Directors present at the meeting or District staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights. In addition, on their own initiative, or in response to questions posed by the public, Directors or District staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a Director or the Board itself may, subject to the District's rules and regulations, provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or, take action to direct staff to place a matter of business on a future agenda.
- (b) Notwithstanding subdivision (a) above, the Board of Directors may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this section, the Chair of the Board of Directors shall publicly identify the item.
  - (i) Upon a determination by a majority vote of the Board of Directors that an emergency situation exists, as defined in Section 4.01(b) herein;
  - (ii) Upon a determination by a two-thirds vote of the Directors present at the meeting, or, if less than two-thirds of the members present at the meeting, a unanimous vote of those member present, that there is a need to take immediate action and that the need for action came to the attention of the District subsequent to the agenda being posted; or
  - (iii) The item was posted pursuant to a prior meeting of the Board of Directors occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

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**2.04 Agenda; Other Distributed Writings**

- (a) Agendas and any other writings when distributed to all or a majority of all, the members of the Board of Directors by any person in connection with a matter subject to discussion or consideration at a public meeting are public records and shall be made available without delay unless the writing is exempt from disclosure pursuant to the Public Records Act.
- (b) Writings which are public records as set forth above and which are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the District or a Director or after the meeting if prepared by some other person.

**III. SPECIAL MEETINGS**

**3.01 Special Meetings; Notice and Purpose**

- (a) A special meeting may be called at any time by the Chair or by a majority of the members of the Board of Directors, by delivering personally or by any other means, at least 24 hours in advance, written notice to each member of the Board of Directors, and to each local newspaper of general circulation, radio or television station requesting notice in writing. The call and written notice shall specify the time and place of the special meeting and the business to be transacted and discussed.
- (b) No other business shall be considered at the special meeting. The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.
- (c) Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the Board of Directors concerning that item prior to action on that item.

The written notice may be dispensed with by any member of the Board of Directors, who at or prior to the time of the meeting convenes, files with the Secretary/General Manager a written waiver of notice. The waiver may be given by telegram. Written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

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#### IV. EMERGENCY MEETINGS

##### 4.01 Emergency Meetings; Notice and Purpose

- (a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, the Board of Directors may hold an emergency open meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 3.01 herein.
- (b) For purposes of this section, "emergency situation" means any of the following:
  - (i) An Emergency means a work stoppage, crippling disaster or other activity, which severely impairs public health, safety, or both, as determined by a majority of the members of the Board of Directors.
  - (ii) A dire emergency means a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring the Board of Directors to provide one-hour notice before holding an emergency meeting may endanger the public health, safety, or both, as determined by a majority of the members of the Board of Directors.
- (c) Although no notice to the public is required, each local newspaper of general circulation and radio or television station which has requested notice of special meetings shall be notified by the presiding Chair of the Board of Directors, or designee thereof, one hour prior to the emergency meeting by telephone or in the case of a dire emergency, at or near the time that the Chair or designee notifies the directors of the emergency meeting. All telephone numbers provided in the most recent request of such newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the Chairperson of the Board of Directors, or designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting and any action taken at the meeting as soon after the meeting as possible.

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**4.02 Emergency Meetings; Open to the Public**

Emergency meetings are always open meetings regardless of the subject matter except that if agreed to by a two-third vote of the Directors present or if less than two-thirds of the Directors are present, by a unanimous vote of those present, the Board of Directors may hold a closed session with the Attorney General, District Attorney, District Counsel or Chief of Police or their respective deputies, or a security consultant or a security operation manager on matters posing a threat to the security of public buildings, a threat to the security of essential public services, or a threat to the public's right of access to public service or public facilities.

**4.03 Emergency Meetings; Requirements**

All special meetings requirements, as prescribed in Section 3.01 herein, shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

**4.04 Emergency Meetings; Minutes**

The minutes of a meeting called pursuant to this section, a list of persons who the presiding chair of the Board of Directors, or its designee notified or attempted to notify, a copy of the roll call vote and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

**V. DIRECTORS**

**5.01 The Board of Directors**

The District shall be governed by a Board of Directors of eleven members because such membership is necessary to insure adequate representation to all of the areas in the County of Santa Cruz.

**5.02 Appointment**

The membership of the Board of Directors shall be composed of one member appointed by each City Council of Santa Cruz, Capitola, Scotts Valley, Watsonville and any other incorporated area of the District to represent the incorporated area and one member appointed by the Board of Supervisors of the County of Santa Cruz to represent the unincorporated area. Other appointments shall be made in accordance with the proportionate population within the District. The apportionment shall be based upon the population

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distribution within the District and the Board shall reapportion its membership whenever any part of the District is excluded or new territory is added or unincorporated territory within the District incorporates and as a result of the exclusion, annexation, or incorporation, representation on the Board no longer reflects the population distribution within the District. The Board shall also reapportion whenever the County Clerk advises the Board that the latest official census indicates a need for reapportionment.

**5.03 Term of Office**

- (a) The term of office for each Director shall be four years.
- (b) If the appointee of any legislative body is one of its own members the appointee may serve only as long as the appointee is a member of the legislative body.
- (c) An appointment to fill a vacancy on the Board or an appointment made after the expiration of the preceding term shall be for the unexpired portion of the term.
- (d) The failure of a Board member to attend three consecutive meetings of the Board without good cause shall create a vacancy in the office of the Board member.

**5.04 Directors' Code of Ethics**

A Directors' Code of Ethics is attached as Exhibit A to these Bylaws and shall serve as a guideline for the Directors in the work that they perform on behalf of the District.

**5.05 Director Compensation**

Each Director shall receive \$50 for attendance at a meeting of the Board of Directors, attendance as a committee member at a committee meeting of the Board of Directors, attendance as a Board member at an Advisory Committee, attendance at an American Public Transit Association meeting, attendance at a California Transit Association meeting or when performing District business in lieu of attendance at any of the above-stated meetings, up to a maximum of \$100 per month.

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**5.06 District Travel And Personal Expenditures**

- (a) A District Director shall obtain Board authorization to perform or participate in District business prior to actual attendance if such involves the expenditure of District funds. A Director shall receive reimbursement for meals, transportation and other expenses incurred on behalf of the District in accordance with the District's expense list, which is attached hereto as Exhibit B.
- (b) Invoices shall be submitted to the Chair of the Board of Directors for approval. After approval is obtained from the Chair the reimbursement request shall be forwarded to the Finance Department for reimbursement. Reimbursement shall not be necessary when a District staff member pays directly for a Director's expenses.
- (c) Advances based on internal revenue service rates will be made upon a director's request, however, receipts of expenditures must be provided to the Chair of the Board of Directors for approval. All advanced funds shall be returned to the Administrative Services Coordinator if the trip is cancelled or the funds are not used.
- (d) A complete report of all expenses incurred by the Director while engaging in District business shall be submitted by the Director to the Board of Directors for review. Such report may be prepared by District staff upon request.
- (e) District Directors shall not include any expenditure for spouses, friends, or others as a District expense.
- (f) The District's Administrative Services Coordinator shall schedule all conferences, hotel accommodations and transportation for a Director.

**VI. PRESIDING OFFICERS**

**6.01 Election**

- (a) The Directors shall at the first meeting in January nominate members of the Board of Directors to serve as Chair and as Vice-Chair. Nominations may be received until final selections occur. The Board of Directors shall, at its second regular meeting in January (generally televised) of each year, choose one of its members to serve as Chair and one of its members to serve as Vice-Chair to serve for the balance of the calendar year or

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until the selection of their successors. The officer election shall be agendized at the second meeting immediately following the roll call and shall not be paired with any other item.

- (b) Should the office of the Chair become vacant during the calendar year, the Vice-Chair shall assume the office of Chair. Should the office of Vice-Chair become vacant, the nomination and selection of Vice-Chair shall be agendized and acted upon by the Board of Directors.
- (c) In the event of a vacancy of both the Chair and Vice-Chair positions, the Directors shall meet in order to nominate members of the Board of Directors for the vacant positions and make final selections.

#### 6.02 Chair to Preside

The Chair shall preside at all meetings of the Board of Directors. The Chair shall have authority to preserve order at all meetings and to remove or cause the removal of any person from any meeting of the Board of Directors for disorderly conduct, to enforce the rules of the Board of Directors and to determine the order of business under the rules of the Board of Directors.

#### 6.03 Absence of Chair

If the Chair is absent or unable to act, the Vice-Chair shall serve until the Chair returns or is able to act. The Vice-Chair has all of the powers and duties of the Chair while acting as Chair. In the absence of both the Chair and the Vice-Chair, the Directors shall nominate and elect a director to serve as chair pro tempore during such absences.

### VII. CONDUCT OF MEETING

#### 7.01 Call to Order

The Chair shall at the hour appointed for the meeting, immediately call the Board of Directors to order when a quorum is present. The Chair shall preserve strict decorum at all meetings. She/he shall state every question coming before the Board of Directors, call for the vote, announce the decisions of the Board of Directors, and decide all questions of order, subject, however, to an appeal to the Board of Directors, in which a majority vote of the Board of Directors shall govern and conclusively determine such question of order.

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**7.02 Rights of Chair**

The Chair, or such other member of the Board as may be presiding, may second and debate, subject only to such limitation of debates as are by these rules imposed on all members; the Chair shall not be deprived of any of the rights and privileges of a Director by reason of holding the position of Chair.

**7.03 Rules of Debate**

- (a) Every Director desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall be confined to the question under debate, avoiding all references to personalities and indecorous language.
- (b) A Director, once recognized, shall not be interrupted when speaking unless it is to call her/him to order. If a Director, while speaking, is called to order, she/he shall cease speaking until a question of order is determined and, if in order, she/he shall be permitted to proceed.
- (c) A Director may request, through the presiding officer, the privilege of having an abstract of her/his statement on any subject under consideration by the Board of Directors entered into the minutes. If the Board of Directors consents thereto, such statement shall be entered; provided, however, that any Director, without the Board's consent, shall have the right to have the reasons for her/his dissent from, or protest against, any action of the Board of Directors entered into the minutes.
- (d) The Secretary/General Manager may be directed by the Chair, with the consent of the Board, to enter in the minutes a synopsis of the discussion of any question coming properly before the Board of Directors.

**7.04 Rules of Procedure**

Rules of Procedure, which are attached hereto as Exhibit C and incorporated herein by reference shall be followed by the Board of Directors. A complete copy of the Bylaws shall be included in each Director's Board packet and made available for members of the public at Board of Directors' meetings.

**7.05 Disruption of Meeting; Clearing Room**

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and

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order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the Board of Directors conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. In order to readmit individuals who were not disruptive, the following procedure shall be used:

- (a) When a meeting is disrupted to the point that it cannot be continued, the Chair shall order those persons causing the disruption to leave the meeting.
- (b) If those causing the disruption fail or refuse to leave the meeting, the Chair shall recess the meeting, order the meeting room cleared and summon law enforcement.
- (c) Upon the arrival of law enforcement, the Chair shall reconvene the meeting.
- (d) District Staff shall be directed to readmit those members of the public who did not engage in the disorderly conduct on an individual and intermittent basis.
- (e) If the meeting is again disrupted, the Chair shall cause the meeting room to be cleared and the meeting will continue with only the press in attendance if they have not engaged in any disruption.

## VIII. QUORUM

### 8.01 Transaction of Business; Quorum

A six-member majority of the regular members of the Board of Directors shall constitute a quorum for the transaction of business.

## IX. ADJOURNMENT/CONTINUANCES

### 9.01 Adjournment of Meeting

- (a) The Board of Directors may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment.

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- (b) Less than a quorum may adjourn any meeting.
- (c) In the absence of all Directors from any meeting, the Secretary/General Manager may declare the meeting adjourned to a stated day and hour. If she/he does, she/he shall then cause written notice of the adjournment to be given in the same manner as provided for Special Meetings set forth herein.
- (d) A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regularly adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of adjournment.
- (e) When a regular or adjourned regular meeting is adjourned as provided herein, the resulting adjourned meeting is a regular meeting for all purposes.
- (f) When an order of adjournment of any meeting fails to state the hour that the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings of the Board of Directors.
- (g) Any hearing being held, or noticed or ordered to be held, by the Board of Directors at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the Board of Directors in the same manner and to the same extent set forth above for the adjournment of meetings; provided that, if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

## X. MINUTES

### 10.01 Minute Book Record of Open Sessions

- (a) The Secretary/General Manager, or her/his designee, shall attend all open meetings of the Board of Directors and record and maintain a full and true record of all of the proceedings of the Board of Directors in books that shall bear appropriate titles and be devoted to such purpose. Such books shall have a general index sufficiently comprehensive to enable a person readily to ascertain matters contained therein.

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- (b) Unless the reading of the minutes of a Board of Directors meeting is requested by the Board of Directors by a majority vote, such minutes may be approved without reading if the Secretary/General Manager has previously furnished each member with a synopsis thereof.

**10.02 Minute Book Record of Closed Sessions**

The Secretary/General Manager shall attend each closed session of the Board of Directors unless otherwise directed by the Board of Directors and shall keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The closed session minute book is not a public record and shall be kept confidential. This minute book shall be available only to members of the Board of Directors of Santa Cruz Metropolitan Transit District or, if a violation of the Ralph M. Brown Act is alleged to have occurred at a closed session, to a court of general jurisdiction.

**10.03 Protests and Dissents by Directors Entered in Minutes**

Any Director shall have the right to have the reasons for the Director's dissent from, or protest against any action of the Board entered in the minutes.

**XI. PUBLIC'S ROLE IN MEETINGS/PUBLIC HEARINGS**

**11.01 Public Addressing the Board**

- a. Every agenda for regular meeting shall provide an opportunity for members of the public to directly address the Board of Directors on any item of interest to the public, before or during the Board's consideration of the item, that is within the subject matter jurisdiction of District. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the Board of Directors concerning any item that has been described in the notice for the meeting before or during consideration of that item.
- b. The Chair of the Board of Directors may, depending on the circumstances, limit the total amount of time allocated for public testimony on particular issues and/or for each individual speaker. However, any restrictions placed on public testimony shall be reasonable and not an effort to suppress expression merely because of the content of the speaker's view.
- c. All remarks shall be addressed to the Board of Directors as a body and not to any member thereof. No person, other than the Chair and the person having the floor, shall be permitted to enter into any discussion,

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either directly or through a member of the Board, without permission of the Chair. Additionally, any person may submit written materials to the Board of Directors for its consideration.

### 11.02 Public Hearings

- a) Requests for public hearings shall be in writing and shall be submitted to the Administrative Services Coordinator no later than five (5) days before the last day permitted for announcing the public hearing. All public hearings shall be noticed in local newspaper(s) of general circulation by the Administrative Services Coordinator at the direction of the Secretary/General Manager.
- b) The department manager requesting the public hearing shall investigate all applicable requirements for posting of public hearing notices and shall communicate such requests to the Administrative Services Coordinator to ensure that all public hearings are noticed sufficiently in advance of the date of consideration by the Board of Directors.
- c) A public hearing will be held before the Board of Directors when required by federal, state, or local laws or regulations or when it is asked to take action on any of the following projects:
  - (i) A change in 25% or more to the service mileage of any route.
  - (ii) A change in District fares.
  - (iii) Adoption of a Resolution authorizing application for federal funds, state or local funds when required by the funding source.
  - (iv) Adoption of any action taken relating to the adoption of any plan, environmental document, property acquisition, resolution, condemnation resolution or other action relating to a project or property where such public hearing is required by state, federal or local law.
  - (v) Adoption of the Annual Budget.
  - (vi) Adoption of the Short Range Transit Plan.
  - (vii) Adoption of an Ordinance.

## XII. RESOLUTIONS, ORDINANCES AND MOTIONS

### 12.01 Acts of Board

The acts of the Board of Directors shall be expressed by Motion, Resolution or Ordinance. No Ordinance, Resolution or Motion shall have any validity or

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effect unless passed by the affirmative votes of six directors. The Board of Directors shall not take action by secret ballot, whether preliminary or final in an open or closed session.

#### 12.02 Resolution

No resolution shall be adopted by the Board unless it is presented before the Board in writing or read aloud. Where copies of the resolution have been presented to each Director, the reading of the resolution is automatically waived unless a Director specifically requests that it be read. Resolutions must be adopted by a roll call vote; however, routine resolutions may be placed on the consent agenda. In the event that a Director wishes to dissent or abstain, the resolution will be removed from the consent agenda and be placed on the Regular Agenda. Resolutions may also be passed by unanimous voice vote.

#### 12.03 Ordinance

- (a) No ordinance shall be passed until a public hearing has been held on it, which hearing shall be advertised in a newspaper of general circulation or posted in at least three public places at least 15 days prior to the hearing. No ordinance shall be adopted by the Board of Directors on the day of introduction. Ordinances must be adopted by a roll call vote.
- (b) All ordinances shall be printed after passage, and maintained in the District Administrative Offices.
- (c) The enacting clause of all ordinances shall be as follows:  
  
"Be it enacted by the Board of Directors of the Santa Cruz Metropolitan Transit District:....".
- (d) All ordinances shall be signed by the Chair of the Board or Vice-Chair and attested by the Secretary/General Manager.

### XIII. METHOD OF VOTING

#### 13.01 Voice Vote

Unless a roll call vote is specifically requested by a Director, all matters, except the voting on Resolutions and Ordinances, shall be decided by voice vote. All actions of the Board of Directors shall be approved by affirmative vote of a minimum of six voting members of the Board of Directors unless otherwise

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specifically required.

**13.02 Silence Recorded as Affirmative Vote**

A member's silence shall be recorded as an affirmative vote.

**13.03 Duty to Vote**

Each Director has a duty to vote when present at a meeting on matters coming before the Board of Directors or a Board Committee unless he/she has notified the Board of Directors of a legal conflict of interest in accordance with California state law and has made a full public disclosure regarding such conflict of interest. If a conflict of interest is disclosed, the Director shall abstain from voting, unless otherwise required by law to vote.

**13.04 Unanimous Voice Votes in Lieu of Roll Call for Resolutions**

A Director can move the passage of a Resolution by a unanimous voice vote in lieu of a roll call. If a dissent is registered then a roll call vote shall be taken.

**XIV. COMMITTEES AND APPOINTMENTS**

**14.01 Creation of Committees**

- (a) The Board of Directors may establish committees for a stated purpose. If required by California Law, committees and their members shall comply with the Ralph M. Brown Open Meeting Act. Committees are required to comply with these Rules and Regulations. The Secretary/General Manager shall provide adequate staffing to assist the committees in doing their work. Directors who are not committee members may attend committee meetings as long as they attend only as observers when a majority of the Board of Directors is in attendance at the committee meeting. Appointees to committees serve at the pleasure of the Board of Directors, except that no appointee will be removed from office for an illegal reason including the exercise of his/her right to speak about matters of public concern. The committees shall include the following:
  - (i) Working committees or subcommittees of the Board of Directors analyze, review, and make recommendations to the Board of Directors on items to be presented to the full Board. The Chair of the Board shall appoint members of the Board to such committees or subcommittees and shall also appoint a Board member to chair

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the committees or subcommittees. If a vacancy occurs, the Board Chair shall appoint a Director to fill the vacancy. Minutes shall be taken at each committee and shall be prepared and distributed to the Directors at least two days prior to the regular Board meeting.

- (ii) The Board of Directors may from time to time create advisory committees who shall be charged with giving advice to the Board of Directors regarding an issue relevant to the Transit District's business. Appointments to advisory committees may be made by the Chair, or the Board of Directors. Directors, employees or members of the public may sit on an advisory committee. The following are permanent advisory committees of the Board of Directors:
    - (iii) The Metro Advisory Committee (MAC) is the official advisory committee of the Santa Cruz Metropolitan Transit District. Its purpose is to advise the Board of Directors on matters of METRO policy and operations referred to the committee by the Board or the Secretary/General Manager and to perform such additional duties as assigned. The committee may also address issues which committee members or the public raise with respect to the quantity and quality of services provided by METRO. MAC shall be composed of 11 members appointed by the Board of Directors. Each director shall nominate one individual to serve as members of the MAC. The Board of Directors shall approve bylaws to be followed by MAC.
- (b) Metro Accessible Services Transit Forum (MASTF)
- (i) The Metro Accessible Services Transit Forum (MASTF) is an independent volunteer organization that provides advice to the Santa Cruz Metropolitan Transit District Board of Directors and District management and staff regarding the best methods and resources for providing accessible transportation services to the public. MASTF reviews Metro programs for compliance with §504 of the Vocational Rehabilitation Act of 1973, Americans with Disabilities Act of 1990 and all other appropriate local, state and federal laws and regulations.
  - (ii) The District shall regularly send one staff member to the MASTF meetings and this person shall share information from the District and gather concerns from MASTF. The District shall help in the

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preparation and distribution of meeting notices and agendas. Information on MASTF will remain in the Headways publication.

**14.02 Appointment to Santa Cruz County Regional Transportation Commission**

- (a) The Board of Directors shall each year in January appoint three representatives and three alternates (in order of priority) to the Santa Cruz County Regional Transportation Commission (SCCRTC) who must be members of the Board of Directors. The Board Chair shall submit nominations of three representatives and three alternates for the first Board meeting in January. At that first meeting in January, the Chair shall entertain other nominations for SCCRTC representatives and alternates from the Directors. Nominations may be received until final selections occur. Thereafter at the second meeting in January, the Board of Directors shall vote on the nominations via a motion and a second. To be appointed a nomination shall receive at least six affirmative votes. A Director may move a slate of three representatives or a slate of three alternates for appointment.
- (b) The Board of Directors may provide its SCCRTC representatives with guidance on issues coming before the Commission to assist the director/commissioner in serving the best interests of the Transit District.

**XV. OFFICIAL BULLETIN BOARD**

**15.01 Posting of Notices**

- (a) For purposes of posting official notices of the Board of Directors, notices of public hearings, and any other official papers of the Santa Cruz Metropolitan Transit District where posting is required by the law, the Official Bulletin Board of the Santa Cruz Metropolitan Transit District shall be the bulletin board at the entrance of the District Administrative Office. Should the Board of Directors hold a public hearing at any location other than its regular place of meeting, then, in addition to the posting of the notice on the Official Bulletin Board above listed, posting shall also be made upon or near the door of the place of meeting.
- (b) All advisory committees created by the Board of Directors are required to post any and all official notices including those notices required by law at the official bulletin board so designated for that purpose at the Santa Cruz Metro Center, 920 Pacific Avenue, Santa Cruz, CA 95060.

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## XVL OTHER OFFICES

### 16.01 General Manager; Powers and Duties

In addition to the powers, duties and obligations of the General Manager, as set forth above, and the applicable Public Utilities Code pertaining to the Santa Cruz Metropolitan Transit District, the powers and duties of the General Manager shall include the following:

- (a) To have charge, subject to the direction and control of the Board of Directors, of the acquisition, construction, maintenance, and operation of the facilities of the District.
- (b) To have charge, subject to the direction and control of the Board of Directors, of the administration of the business affairs of the District.
- (c) To insure that all ordinances of the District are enforced.
- (d) To administer the personnel system and collective bargaining agreements adopted by the Board of Directors and, except for officers appointed by the Board, to appoint, discipline or remove all officers and employees subject to the rules and regulations adopted by the Board, and the applicable provisions of any adopted collective bargaining agreement.
- (e) To prepare and submit or cause to be prepared and submitted to the Board of Directors within 90 days after the end of each fiscal year a complete report of the finances and the administrative activities of the District for the preceding year, and the financial status of the District on the last day thereof.
- (f) To keep the Board of Directors advised as to the needs of the District.
- (g) To formulate and present to the Board of Directors all plans and specifications for the construction of the works of the District and the means to finance them.
- (h) To have no business interest which interferes with his/her duties and responsibilities to the District.
- (i) To cause to be installed and maintained a system of auditing and accounting which shall completely and at all times show the financial condition of the District.

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- (j) Attend meetings of the Board of Directors as directed by the Board, and act as Secretary to the Board.
- (k) To perform such other and additional duties as the Board may require.

**16.02 General Manager; Qualifications and Experience**

The General Manager shall be chosen on the basis of his/her qualifications with special reference to his/her actual experience in or knowledge of accepted practices and respect to the duties of his/her office as herein above set forth.

**16.03 General Manager; Pro Tempore Appointments**

The Board of Directors may appoint a General Manager pro tempore during any absence or disability of the General Manager.

**16.04 General Manager; Resident Requirement**

The General Manager need not be a resident of this State at the time of his/her appointment, however /he/she shall establish a California residency within 30 days of the commencement of his or her duties with the Transit District.

**16.05 District Counsel; Appointment, Powers and Duties**

The District Counsel shall be admitted to the practice of law in all courts of this State. The District Counsel shall have the power and be required to:

- (a) Represent and advise, if authorized and directed by the Board of Directors, the Board of Directors and all District officers, committees or departments in all matters pertaining to their office.
- (b) Represent and appear, if authorized and directed by the Board of Directors, for the District and any officer or employee, in any and all actions and proceedings in which the District or any officer or employee, in or by reason of their official capacity, is concerned or is a party; however, the Board of Directors shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter, or to assist the District Counsel therein.
- (c) Attend all meetings of the Board of Directors as directed by the Board of Directors and give legal advice or opinions in writing whenever requested

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to do so by the Board of Directors, or by any of the committees or officers of the District.

- (d) Review all contracts to be made by the District and provide the Board of Directors, its officers and staff with legal advice regarding same.
- (e) Prepare any and all proposed ordinances or resolutions for the District and amendments thereto.
- (f) Perform such other acts relating to the office as the Board of Directors shall require; and
- (g) On vacating the office, surrender all books, papers, files, and documents pertaining to the District's affairs.

**PASSED AND ADOPTED** this 17th day of December 2004, by the following vote:

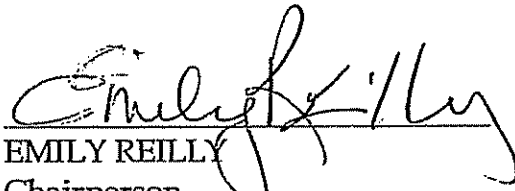
**AYES:** Directors - Beautz, Bustichi, Hinkle, Keogh, Norton, Reilly, Rotkin, Skillicorn, Spence and Stone

**NOES:** Directors - None

**ABSTAIN:** Directors - None

**ABSENT:** Directors - Tavantzis

**APPROVED**

  
EMILY REILLY  
Chairperson

**ATTEST**

  
LESLIE R. WHITE  
General Manager

**APPROVED AS TO FORM:**

  
MARGARET GALLAGHER, District Counsel

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Regulation Number: 1004

Computer Title: Director's Code of Ethics

Effective Date: April 16, 1999

Pages: 4

**TITLE: Santa Cruz Metropolitan Transit District Director's Code of Ethics**

REVISION DATE	SUMMARY OF REVISION	APPROVED
April 16, 1999	Policy Implemented	J.B.

**I. POLICY**

1.01 District Directors are public servants and, as such, are expected to be impartial and responsible in fulfilling the public trust placed in them. The public expects the highest standard of ethical conduct from all those in public service. District Directors are expected to demonstrate personal integrity, honesty, and truthfulness in all their public activities in order to inspire public confidence and trust in the District.

**II. APPLICABILITY**

2.01 This policy is applicable to all District Directors.

2.02 Notwithstanding any provision of this Code every District Director shall comply with applicable Federal, State and local laws.

**III. RESPONSIBILITIES OF PUBLIC SERVICE**

3.01 District Directors are bound to discharge faithfully the duties of their offices, recognizing that the lives, safety, health, and welfare of the general public must be their primary concern. Their conduct in their official and private affairs should be above reproach to assure that their public office is not used for personal gain.

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#### IV. CONFLICT OF INTEREST

- 4.01 District Directors are prohibited from making, participating in, or in any way attempting to use their District offices to influence a District decision in which they know or have reason to know they have a financial interest.
- 4.02 District Directors shall not engage in outside employment, activities, or enterprises for compensation that are inconsistent with, incompatible to, or in conflict with their duties as District Directors. The outside employment, activities or enterprises inconsistent with, incompatible to, or in conflict with an Director's District duties include those which:
- (1) involve the use for private gain or advantage of (a) a Director's District work, District facilities, District equipment and District supplies; or (b) the influence or prestige of his or her position with the District; or
  - (2) involve receipt or acceptance by a District Director of any money or other consideration from anyone other than the District for the performance of an act which the Director would be required or expected to render in the regular course of his or her District obligations as a Director; or
  - (3) involve the performance of an act in other than his or her capacity as a District Director which act may later be subject directly or indirectly to control, inspection, review, audit, or enforcement by the District.
- 4.03 No District Director shall solicit or accept gratuities, favors or anything of monetary value including personal loans, from contractors, subcontractors, consultants, potential contractors, potential consultants, or potential subcontractors, except an unsolicited gift of nominal intrinsic value. "Nominal intrinsic value" for purposes of this section shall mean a value of less than \$250, within a twelve-month period from a single source.
- 4.04 No current or former District Director shall disclose, permit disclosure or otherwise use confidential information acquired by virtue of his or her position with the District for his or her or another person's private gain or for any purpose except in the performance of his/her official duties and responsibilities for the District or as may be required by law. No District Director shall reveal information received in a lawful closed session of the District's Board of Directors unless such information is required by law to

be disclosed. No District Director shall take any action or provide any information for or on behalf of any prospective contractor or vendor that interferes with free and open competition for District contracts.

- 4.05 No District Director shall engage in or permit the unauthorized use of District-owned property, including but not limited to facilities, vehicles, materials, equipment, licensed software and information. Use of District property for purposes other than District business shall be considered an unauthorized use unless a Director has received prior approval for such use by the Board of Directors. Use of District property for non-District business will only be authorized when the Board of Directors determines it is in the best interest of the District to do so.
- 4.06 District Directors shall immediately report to the Board of Directors the existence of a conflict of interest, including a financial interest in making or participating in making of any governmental decision, so that appropriate action be taken.

## V. POLITICAL ACTIVITY

- 5.01 Except as herein otherwise provided, or as necessary to meet requirements of federal or state law, no restriction shall be placed on the political activities of any District Director.
- 5.02 No District Director who holds, or who is seeking election or appointment to, any office or employment in a state or local agency shall, directly or indirectly, use, promise, threaten or attempt to use any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any person, or to aid, obstruct, or to prevent any person from securing, any position, nomination, confirmation, promotion, or change in compensation or position within the District.
- 5.03 No District Director shall directly or indirectly solicit a political contribution from a District employee, except if such solicitation is part of a solicitation made to a significant segment of the public, which may include District employees.
- 5.04 No District Director who holds, or is seeking election or appointment to, any office shall offer or arrange for any increase in compensation or salary for a District employee in exchange for, or promise of, a contribution or loan for the person who holds, or who is seeking election or appointment to

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such office.

5.05 No District Director shall engage in political activity while acting in his/her capacity as a Director for the District.

## VI. NONDISCRIMINATION

6.01 District Directors shall not, in the performance of their District responsibilities, engage in unlawful discrimination of any sort under any applicable federal, state, county or municipal law or ordinance, including without limitation discrimination against any person on the basis of race, sex, color, national origin, religion, disability, age, marital status, sexual orientation, or veteran status, and they shall make good faith efforts to support and comply with the District's equal opportunity and affirmative action goals and objectives.

## VII. STATEMENTS OF ECONOMIC INTEREST

7.01 Directors shall file assuming office statements, annual statements and leaving office statements of economic interests with the District as required by state law. Assuming office statements for Directors shall include disclosure of investments and interests in real property and business but also income, gifts and loans income received during the 12 months prior to the date of assuming office. Upon receipt of these statements the District shall make and retain a copy and forward the original of these statements to the appropriate public agency.

## VIII. REPORTING OF IMPROPER GOVERNMENT ACTIVITIES

8.01 District Directors are encouraged to serve the public interest by disclosing to the Board of Directors to the extent not in conflict with the attorney-client privilege or the physician-patient privilege, information concerning District activities where the Director has reasonable cause to believe that the information discloses a violation of state or federal statute, or violation or noncompliance with state or federal regulation. No Director of the District shall use or attempt to use his or her authority to interfere with such disclosure made by another Director or a District employee or to retaliate against a Director or District employee for such disclosure.

## Santa Cruz Metropolitan Transit District Expense List

Authorized
<b>Transportation:</b>
Airporter (e.g. shuttle)
Bridge tolls
Cab (to/from hotel)
Cab (to/from meetings & meals)
Parking at airport
Parking at hotel, conference center
Personal vehicle mileage to/from airport
Public transportation (e.g. bus, subway)
Rental Car with prior approval by General Manager
Transportation tickets (e.g. airline, train)
<b>Meals:</b>
Coffee break expenses
Meal beverages (non-alcoholic)
Reasonable cost meals for self
Tips for meals (15% maximum)
<b>Personal Sundries:</b>
Daily newspaper
Personal telephone calls (reasonable and customary, one per day)
Required seminar materials
Telephone calls (SCMTD business)
Traveler's check fee on travel advance
<b>Lodging:</b>
Self
Not Authorized
<b>Transportation:</b>
Baggage Claims
Cab (personal)
Tips to cabs
Tips for luggage handling
<b>Meals:</b>
Bar expenses
Meals for others (e.g. spouses, personal guests)
Meals upon return to Santa Cruz County
Snacks
Meals prior to departure
<b>Personal Sundries:</b>
Housekeeping tips
Clothes cleaning
Clothing
Entertainment (e.g. in room pay per view, movies, video rentals)
Hair care
Personal items (e.g. toothpaste)
Shoeshine
Souvenirs/Gifts
Trip Insurance
<b>Lodging:</b>
Other than self (e.g. spouse, personal guests)

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