



**REVISED**

**NORTH COUNTY TRANSIT DISTRICT**

**MEETING of the  
NORTH COUNTY TRANSIT DISTRICT  
Board Room  
810 Mission Avenue  
Oceanside, CA 92054**

**THURSDAY  
June 19, 2008  
1:15 P.M. – Special  
Meeting/Closed Session  
2:00 P.M. – Regular Meeting**

**NCTD's Mission**

***Deliver safe, convenient, reliable, and user-friendly public transportation services.***

***The NCTD Board of Director's purpose is to use our diverse perspectives, knowledge, leadership and community sensitivity to provide advocacy and guidance that enables NCTD to deliver the highest quality intermodal public transportation for our region.***

*For individuals with disabilities, we will provide assistive services. To obtain such services or copies of documents in an alternate format, please call or write, a minimum of 72 hours prior to the event, to request these needed reasonable modifications. We will make every attempt to accommodate requests that do not give 72 hour notice. Please contact our Customer Service Supervisor at (760) 966-6503.*

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**Board Members**

*Ed Gallo  
Chairman  
City of Escondido*

*Dave Roberts  
Vice-Chair  
City of Solana Beach*

*Julianne Nygaard  
City of Carlsbad*

*David Druker  
City of Del Mar*

*Jerome Stocks  
City of Encinitas*

*Rocky Chavez  
City of Oceanside*

*Chris Orlando  
City of San Marcos*

*Bob Campbell  
City of Vista*

*Bill Horn  
County of San Diego*

**Executive Director**

*Karen King*

**General Counsel**

*C. Michael Cowett*

**For more information on NCTD,  
please check out our web page at:**

[www.gonctd.com](http://www.gonctd.com)



The NCTD office located at 810 Mission Avenue, Oceanside, CA is accessible by the COASTER (NCTD Commuter Rail), the SPRINTER (NCTD Light Rail System) and the BREEZE (NCTD Bus). Please log onto [www.gonctd.com](http://www.gonctd.com) to check current routes and schedules, or call 1-800-COMMUTE.

## **SPECIAL MEETING / CLOSED SESSION AGENDA**

- **CALL TO ORDER**
- **ROLL CALL OF BOARD MEMBERS**

### **A. CLOSED SESSION**

- i. Closed Session Pursuant to Government Code Section 54954.5 – Conference with Real Property Negotiators – Location of Property is Portion of Assessor Parcel Number 162-050-08. Negotiator: NCTD: Tom Lichterman and Paula C.P. de Sousa – Negotiating Party: Mark L. Collins Separate Property Trust
- ii. Closed Session Pursuant to Government Code Section 54954.5 – Conference with Real Property Negotiators – Property is the San Diego County Reserved Rail Freight Easement. Negotiator: NCTD: Tom Lichterman and C. Michael Cowett – Negotiating Parties: Burlington Northern and Santa Fe Railroad
- iii. Closed Session Pursuant to Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Two Potential Cases

## **REGULAR MEETING BEGINNING AT 2:00 PM**

- **CALL TO ORDER**
- **ROLL CALL OF BOARD MEMBERS**
- **PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG**
- **CHANGES TO THE AGENDA**
- **PRESENTATION OF COMMENDATIONS**

#### **∅ Presentation of May 2008 Employees of the Month Commendations to:**

- \* Ms. Gwendolyn M. Demerson-Hassen, General Services Worker
- \* Mr. Alberto Gastelum, Coach Operator

- **PUBLIC COMMUNICATIONS**

*There is a time limit of 15 minutes for this section of Public Communications and each speaker is limited to three minutes for their presentation.*

*All persons wishing to address the Board during the meeting must complete a "Request to Speak" form. These forms are provided in a box at the table in the hallway, and must be completed and given to the Clerk of the Board before that agenda item is called.*

	<b>RECOMMENDED ACTION</b>
<b>B. MINUTES FOR SPECIAL MEETING FOR MAY 12, 2008</b> (Pages 6 – 12)	Approve
<b>C. MINUTES FOR REGULAR MEETING FOR MAY 15, 2008</b> (Pages 13 – 18)	Approve
<b>D. MINUTES FOR SPECIAL MEETING FOR MAY 22, 2008</b> (Page 19)	Approve
<b>E. MINUTES FOR SPECIAL MEETING FOR JUNE 5, 2008</b> (Page 20)	Approve

*All matters listed under CONSENT are considered by the Board to be routine and will be enacted by one motion. There will be no separate discussion on these items prior to the time the Board votes on the motion, unless members of the Board, the Executive Director, or the public, request specific items to be discussed and/or removed from the Consent Calendar for separate action. A request from the public to discuss an item must be filed with the Clerk of the Board on the "Request to Speak" form before that agenda item is called.*

**ITEMS PULLED FROM CONSENT WILL BE MOVED TO THE END OF THE AGENDA**

	<b>RECOMMENDED ACTION</b>
<b>F. CONSENT ITEMS (Tabs 1 – 10)</b> Items reviewed and recommended for approval by the Governance Committee (G), Planning Committee (P), Monitoring Committee (M), Staff (S ) or Board (B)	
1. Support for Bridge Replacement Project Geological Investigation (M)	Approve
2. Replacement Upgrade of Three COASTER Road Channel Base Station Radios (M)	Approve
3. Signal System and Grade Crossing Equipment Spare Parts for the Escondido Subdivision (M)	Approve
4. Workers Compensation Litigation Legal Service Providers (M)	Approve
5. Ticket Vending Machine Maintenance Service Contract (M)	Approve
6. FEMA Flood Plain Compliance and Map Revisions for SPRINTER Permitting and Mitigation (M)	Approve
7. FY 2009 Annual Disadvantaged Business Enterprise (DBE) Goal (M)	Approve
8. Customer Service Relocation (M)	Approve
9. Replenish Executive Director's Change Order Authority Pool for SPRINTER Construction Contracts (M)	Approve

- |  |         |
|--|---------|
| 10. FY 2008 Regional Transportation Improvement Program and FY 2009-2013 Capital Improvement Program (P) (Attachments 10A, 10B, 10C, 10D, 10E and 10F) | Approve |
|--|---------|

**OTHER BUSINESS (Tabs 11 – 14)**

- |  |         |
|--|---------|
| 11. Conduct Public Hearing and Adopt FY 09 Budget and FY 2009-2013 Capital Improvement Program (P) (Attachments 11A and 11B) | Approve |
| 12. Executive Director Recruitment   | Approve |
| 13. Delegation of Authority to Execute Grants (Attachment 13A)   | Approve |
| 14. SPRINTER Revenue Service Report (Report to be given at meeting)  | Receive |

- **SANDAG AGENDA REVIEW AND LEGISLATIVE ACTIVITIES UPDATE**

- **BOARD MEMBER REPORTS, COMMENTS AND CORRESPONDENCE**

- **EXECUTIVE DIRECTOR'S REPORT**

- **REMAINING PUBLIC COMMUNICATIONS**

For any remaining speakers who have completed a "Request to Speak" form before the start of the meeting.

- **ADJOURNMENT**

- **CERTIFICATIONS AND RULES (FOR BOARD AND PUBLIC INFORMATION)**

- ∅ Posting of Board Agenda (Page 42)

- ∅ Rules for Public Speakers at meetings of the North County Transit District (Page 43)

***The next regularly scheduled Board meeting will be held at  
2:00 p.m. on Thursday, July 17, 2008  
at 810 Mission Avenue, Oceanside, CA***

**MINUTES OF THE SPECIAL MEETING OF NORTH COUNTY TRANSIT DISTRICT HELD  
MAY 12, 2008**

CALL TO ORDER

Chairman Ed Gallo called the meeting to order at 2:30 p.m. He stated that NCTD has a very difficult economic environment with unprecedented budget challenges for public transportation. He stated that the reasons for this budget challenge include: the state keeps taking transit money; there's a dip in sales tax revenue (TransNet funding); fuel prices are going out of sight. Mr. Gallo added that NCTD is faced with a huge deficit this year and has to make some extremely difficult choices. He said that NCTD's mission is to provide residents with the best possible transit service and these changes are going to be very difficult. Mr. Gallo stated that no decisions would be made at this meeting and that the Board is here to listen to public input. He said that this hearing is an opportunity for riders to talk to the Board of Directors so they can get some input so that when they go to SANDAG on May 16, 2008 they can present all this information to the SANDAG Transportation Committee. Mr. Gallo said that each speaker would have two minutes to address the Board.

ROLL CALL OF BOARD MEMBERS

Ed Gallo (City of Escondido); Julianne Nygaard (City of Carlsbad); Dave Druker (City of Del Mar); Chris Orlando (City of San Marcos); Dave Roberts (City of Solana Beach); Rocky Chavez (City of Oceanside); Bob Campbell (City of Vista); Bill Horn (County of San Diego).

Jerome Stocks (City of Encinitas) arrived at 2:36 p.m.

PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG

Ed Gallo led the Board, staff and the public in the Pledge of Allegiance to the American Flag.

CHANGES TO THE AGENDA

None

PUBLIC COMMUNICATIONS

None

**OTHER BUSINESS**

1. Public Hearing on August 2008 and January 2009 BREEZE and FAST Service Changes

Kurt Luhrsen, Principal Planner, reviewed: proposed service changes for fiscal year 2009; today's objectives; timeline for review and implementation; budgetary position NCTD is in, including a decline in sales tax revenue due to the general downturn in the economy, about \$7.5 million less in FY 09 than we expect in FY 08; the state shift of about \$4 million in spill-over funds from the gasoline sales tax that was previously dedicated towards transit; the state recently redefining how mass transportation accounts can be spent, to include home-to-school

transportation for about a \$4.1 million hit to the budget; the recent run-up in the price of diesel fuel and that we had to budget about \$3.5 million more in FY 09 than we spent in FY 08. He said these are principal items in the NCTD budget that we have no control over, and they total just over \$19 million in additional costs or lower revenue that will be worse next year than they are this year. Mr. Luhrsen stated that our service reduction strategy in proposing these cuts are guided by the Board adopted service standards for productivity and coverage. He said NCTD is proposing to discontinue low ridership routes or segments, or reduce weekend service levels, in order to try to minimize the impacts to as many passengers as possible. Mr. Luhrsen stated that the main categories proposed for elimination or modification include weekday routes affecting Routes 311/312, 324, 338/339, 341/442, 347, 348, 349, 365, 386 east of the Wild Animal Park, 397, 403, 415, 447, Encinitas COASTER Connection, and all four FAST zones. He said NCTD is proposing to eliminate or reduce some Saturday and Sunday service, including Routes 311/312, 313, 324, 325, 338/339, 341, 347, 348/349, 358/359, 365 and would take the 351 and 352 to hourly each. Mr. Luhrsen stated that there are a number of routes that are proposed for elimination for Saturday service that do not currently operate on Sunday, including Routes 304/404, 321, 334/335 and 386. He said that NCTD is proposing to reduce the Saturday level of service to Sunday/Holiday levels on some routes, including Routes 101, 308/309, 350, 354 and 356.

Mr. Luhrsen added that the Board had previously discussed the possibility of discontinuing Route 101 south of Del Mar, but that is not part of staff's proposal and staff is not recommending moving forward with that. He reviewed a summary of comments received as of today's meeting. Mr. Luhrsen stated that the route that received the most comments was Route 347, and that a petition from riders of FAST services that had nearly 900 signatures on it, for a service that carries 345 passengers a day. He said that he received 136 comments from riders that talked about various routes and received the one petition and that at this point, staff is recommending the Board receive and consider public comment and adopt a service plan proposal either today or at the June 19, 2008 Board meeting, making any changes that the Board deems appropriate.

Chris Orlando requested that Karen King discuss other steps the District is taking to address the budget challenges because it's important that everyone understand that it is not just service that is being looked at.

Karen King, Executive Director, stated that there has been a convergence of a number of things that have impacted the NCTD revenue picture. She said that Chairman Gallo mentioned these earlier: the economic downturn resulting in lower sales tax receipts; the rising cost of fuel which has been extreme; and the fact that the state has a budget crisis and has, over the last five years or so, been taking money away from public transit to solve its general fund deficit. Ms. King said that NCTD has nibbled around the edges of service and the budget over the last several years trying to maintain the greatest levels of service possible and trying to become more efficient in order to do that, but this year we really are at rock bottom. She stated that there are no longer any easy solutions and NCTD has really had to look at very difficult decisions. Ms. King added that NCTD has gone through the budget from top to bottom looking for ways to increase revenues and reduce costs to become more efficient and to eliminate things that are not absolutely mission critical for the day-to-day delivery of service from our budget. She stated that this includes laying off some of NCTD's staff. Ms. King said they have looked at all levels of the organization, and that clearly, if service is reduced, it will mean that some bus operators and maintenance employees will need to be laid off. She stated that they have also looked at the rest

of the staffing levels and, as of last week, have started laying people off. Ms. King said that in total, about 10% of the existing employees may need to be laid off in order to achieve a balanced budget.

Chair Gallo opened the Public Hearing.

Bill Horn requested that speakers state their name, address and indicate what route they are addressing.

Mr. Joseph Nimhoff spoke on his concerns regarding Routes 311/312 and funding issues.

Mr. David Pio, Escondido, CA spoke on his concerns regarding Route 386 and suggested the route run twice in the morning and twice in the evening.

Ms. Claire Fortiscue spoke on her concerns regarding Routes 358/359, increasing fuel costs, and suggested an interline bus once an hour.

Mrs. Florence Kenny, Escondido, CA suggested ways to save routes, jobs and money.

Mr. Peter Whitmarsh, San Marcos, CA spoke on his concerns regarding Route 347 and the size of the buses.

Mr. Phillip Gomez, Escondido, CA spoke on his concerns regarding Route 347.

Ms. Elizabeth Hart, Escondido, CA spoke on her concerns regarding ridership and taxes that go toward public transportation.

Ms. Deborah Huff, Fallbrook, CA spoke on her concerns regarding the FAST bus in Fallbrook and submitted a petition from other Fallbrook riders.

Ms. Sue Brown, Activities Coordinator for Hacienda Vallecitos and Casa Vallecitos senior communities, spoke on her concerns regarding Routes 347 and 305.

Mr. Darren Cooper, Escondido, CA spoke on his concerns regarding Route 347, fuel costs, and the costs of operating the SPRINTER.

Mr. Randy Cardian, Vista, CA spoke on his concerns regarding fuel costs.

Ms. Jan Roder, Vista, CA spoke on her concerns regarding the FAST bus in Vista.

Mr. Rick I kovich, Oceanside, CA spoke on his concerns regarding Routes 311/312, 321 and the 386.

Mr. Jeffrey Clark, San Diego, CA spoke on his concerns regarding Routes 358/359 and bike crowding on the SPRINTER.

Ms. Harriet Clark, Escondido, CA spoke on her concerns regarding Routes 358/359, 347, 351/352 and SPRINTER connections with the buses.

A speaker for Ms. Sherrie Rohter spoke about her concerns regarding the FAST bus and handicapped service in Ramona and provided a petition of 200 signatures.

Mr. Paul Shadin, Fallbrook, CA spoke about his concerns regarding the FAST bus.

Ms. Marion Smythe, Fallbrook, CA spoke about her concerns regarding the FAST bus.

Ms. Carol Donovan, Escondido, CA spoke about a petition she put together regarding Routes 320 and 350, bus sizes and fare increases.

Ms. Amy Ettinger spoke about her concerns regarding Routes 333, 318 and the LIFT bus.

Ms. Becky Yaeloff spoke about her concerns regarding discontinuation of the Padre bus service from Escondido.

Ms. Laura Orchid, representing ARC of San Diego, spoke about her concerns regarding the FAST bus.

Ms. Jean Leanie, Encinitas, CA spoke about her concerns regarding the FAST bus.

Ms. Margaret Hanbey, Fallbrook, CA spoke about her concerns regarding the FAST bus.

Ms. Betty Timmons, Encinitas, CA spoke about her concerns regarding the FAST bus.

Ms. Nanette Stater, Vista, CA spoke about her concerns regarding the Vista and Encinitas FAST buses.

Ms. Tina Wellenstein, Fallbrook, CA spoke about her concerns regarding the FAST bus.

Ms. Martha Dias, spoke about her concerns regarding Routes 341 and 321.

Mr. John Heard, Carlsbad, CA spoke about his enjoyment riding the SPRINTER.

Ms. Mary Ralph spoke about her concerns regarding Routes 347 and 351/352.

Ms. Virginia Gimerson, San Marcos, CA spoke about her concerns regarding routes 341 and 347.

Ms. Daniella DeFlores spoke about her concerns regarding the Ramona FAST bus, Route 386, the size of buses and increasing bus fares.

Ms. Mary Leonard spoke about her concerns regarding money spent on the SPRINTER.

Ms. Lorraine Leighton, El Cajon, CA spoke on using smaller buses and realignment of routes.

Mr. Chris Pacheco, Oceanside, CA spoke about his concerns regarding Routes 313 and 397 and the proposed fare increase.

Mr. Thomas Lee Ray, San Marcos, CA spoke about his concerns regarding Routes 347 and 341.

Ms. Jennifer Knapic, San Marcos, spoke about her concerns regarding the safety of Rex Industries riders crossing Mission Road and the elimination of routes 347 and 341.

Ms. Laurie Brown, ARC of San Diego, spoke about her concerns regarding Route 447, FAST service, and her clients having to cross the SPRINTER tracks.

Mr. Arlin Cane, Fallbrook CA spoke about his concerns regarding Route 306 and the FAST bus.

Mr. Leroy Rehurek spoke about his concerns regarding Routes 341 and 347.

Mr. Roy Caldwell, San Marcos, CA spoke about his concerns regarding Route 347.

Mr. Joseph Madeo, Escondido, CA spoke about his concerns regarding Routes 349, 347 and the SPRINTER train.

Ms. Gail Banks, Oceanside, CA spoke about her concerns regarding Routes 409, 315, 397, 309 and 350.

Mr. Jonathan Rouse spoke about his concerns regarding Routes 325, 309 and Vista FAST.

Mr. Andy Tranie, speaking on behalf of Community Calis of California, a non-profit organization providing services for individuals with disabilities, spoke about his concerns regarding Routes 311/312, 324, 338, 339, 341, 442, and 347.

Ms. Joanne Reed spoke about her concerns regarding Routes 356, 351 and SPRINTER service.

Ms. Mary Oliver, Escondido, CA spoke about her concerns regarding Routes 350, 351, 356 and 341.

Ms. Michelle Dachesni, Fallbrook, CA spoke about her concerns regarding Route 397 and the FAST Fallbrook bus service.

Name Unknown, Fallbrook, CA spoke on her concerns regarding loss of bus service.

Ms. Linda Chen, Escondido, CA spoke about her concerns regarding Routes 347, 356 and 351.

Mr. Brian Demada, Vista, CA spoke about his concerns regarding bus services for the ARC riders.

Ms. Alice Anderson, Encinitas, CA spoke about her concerns regarding the FAST bus service.

Ms. Kathleen Morehead, San Marcos, CA spoke about her concerns regarding Routes 341 and 347.

Ms. Cecelia Maurice spoke about her concerns regarding Routes 348 and 347.

Mr. Warren Barney, Pauma Valley, CA spoke about his concerns regarding the SPRINTER service and Route 386.

Ms. Misty Bolier, Carlsbad, CA spoke about her concerns regarding loss of service.

Mr. Robert Elmore, Escondido, CA spoke about his concerns regarding Route 386.

Ms. Tracy Baxter spoke about her concerns regarding Routes 356, 350, 341 and 342.

Mr. Frank Pendleton, Vista, CA spoke about his concerns regarding Route 334.

Ms. Ellie Durand, Escondido, CA spoke about her concerns regarding Routes 358/359.

Mr. Ed Jollie, spoke on a letter his wife sent to NCTD.

Mr. Bob Radicker, Fallbrook, CA spoke about his concerns regarding the FAST bus service in Fallbrook, Routes 306, 397 and ridership.

Ms. Nina Hall, Vista, CA spoke about her concerns regarding the FAST bus service.

Name and address unknown, spoke about her concerns regarding Route 404.

Ms. Maria Campos spoke about her concerns regarding Routes 305 and 404.

Mr. Patrick McIntosh, Carlsbad, CA spoke about his concerns regarding Routes 309, 101 and FAST bus service.

Mr. Gilbert Neil, Escondido, CA spoke in support of public transportation and the services NCTD provides.

Mr. Cody Walker spoke about his concerns on how riders are treated.

Name and address unknown, spoke about her concerns about possibly having to move to be able to access public transit.

Mr. David Denner, San Marcos, CA spoke about his concerns regarding Routes 341/342, 347 and 101.

Chair Gallo closed the Public Hearing. He stated that the purpose of the Public Hearing was to receive public input and that staff took notes of the public comments.

Dave Druker left at 5:00 p.m.

Dave Roberts requested staff put together a Question and Answer sheet that Board members can use to explain to their constituents why these service changes are being recommended. He stated that this is not a NCTD budget caused problem, that NCTD is the recipient that runs this system and it is subsidized between 60-93% of the cost to operate the service.

- **REMAINING PUBLIC COMMUNICATIONS**

None

- **ADJOURNMENT**

The meeting adjourned at 5:05 p.m. Submitted by Jill McNaughton, Clerk of the Board for North County Transit District.

CHAIRMAN: \_\_\_\_\_

CLERK OF THE BOARD: \_\_\_\_\_

DATE: \_\_\_\_\_

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**MINUTES OF THE SPECIAL MEETING/CLOSED SESSION AND THE REGULAR MEETING  
OF NORTH COUNTY TRANSIT DISTRICT HELD MAY 15, 2008** **PAGE 1**

**CALL TO ORDER**

Chairman Ed Gallo called the meeting to order at 1:30 p.m.

**ROLL CALL OF BOARD MEMBERS**

Ed Gallo (City of Escondido); Julianne Nygaard (City of Carlsbad); Dave Druker (City of Del Mar); Jerome Stocks (City of Encinitas); Rocky Chavez (City of Oceanside); Chris Orlando (City of San Marcos); Dave Roberts (City of Solana Beach); Bob Campbell (City of Vista).

Bill Horn (County of San Diego) arrived at 1:35 p.m.

**CLOSED SESSION**

Karen King, Executive Director, requested that Closed Session items be heard in order of i, iii and then ii, in the event they run over in time, they would be able to hear item ii at the end of the meeting.

The Board went into Closed Session at 1:31 p.m. to discuss items i, ii and iii:

- ii. Closed Session Pursuant to Government Code Section 54956.9 – Conference with Legal Counsel – Existing Litigation – Elizabeth Luke, Paul Shick and Michael Ward v. NCTD, Consolidated Superior Court Case No. GIN 051359
- iii. Closed Session Pursuant to Government Code Section 54957.6 – Conference with Labor Negotiators – Employee Organization: Teamsters Local 542 and Unrepresented Employees. Negotiating parties: Karen King
- iii. Closed Session Pursuant to Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – One Potential Case

The Board returned from Closed Session at 2:22 p.m. Michael Cowett, General Counsel, stated that the Board met in Closed Session to discuss items i and iii and had nothing to report and that the Board would meet in Closed Session after the regular meeting to discuss item ii.

**ROLL CALL OF BOARD MEMBERS**

Ed Gallo (City of Escondido); Julianne Nygaard (City of Carlsbad); Dave Druker (City of Del Mar); Jerome Stocks (City of Encinitas); Rocky Chavez (City of Oceanside); Chris Orlando (City of San Marcos); Dave Roberts (City of Solana Beach); Bob Campbell (City of Vista); Bill Horn (County of San Diego).

**PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG**

Rocky Chavez led the Board, staff, and the public in the Pledge of Allegiance to the American Flag.

CHANGES TO THE AGENDA

None

PRESENTATION OF COMMENDATIONS

Presentation of April 2008 Employees of the Month Commendations: Mr. Mike Wygant, Manager of Fleet Maintenance, recognized Mr. Troy W. Simon, Mechanic I; Ms. Kim Stone, Manager of Bus Operations, recognized Mr. Marcos F. Melecio, Coach Operator, as the April 2008 Employees of the Month, with the Board's congratulations.

PUBLIC COMMUNICATIONS

Chair Gallo referred speakers Mrs. Florence Kenny, Ms. Nita Williamson and Ms. Dina Smith to speak under Agenda Item 13.

APPROVAL OF MINUTES

MOTION BY JEROME STOCKS TO APPROVE THE MINUTES OF THE SPECIAL MEETING OF APRIL 17, 2008, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

MOTION BY JEROME STOCKS TO APPROVE THE MINUTES OF THE REGULAR MEETING OF APRIL 17, 2008, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

MOTION BY JEROME STOCKS TO APPROVE THE MINUTES OF THE SPECIAL MEETING OF APRIL 24, 2008, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

MOTION BY JEROME STOCKS TO APPROVE THE MINUTES OF THE SPECIAL MEETING OF MAY 6, 2008, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

Rocky Chavez requested Agenda Item 2 be pulled for discussion at the end of the meeting.

A member of the public requested Agenda Item 8 be pulled for discussion at the end of the meeting.

**CONSENT ITEMS**

1. License and Permit Fees Charged for Use of or Access to Railroad Property
3. Board's Administrative Rules of Procedure
4. West Division Automated Gates
5. Quarterly Project Status Report Update

Meeting Date: 6/19/08

6. FY 09 Transportation Development Act (TDA) 4.0 and 4.5 and State Transit Assistance (STA) Claims
7. Transit Security Grant Program Application and Resolution

MOTION BY JEROME STOCKS TO APPROVE AGENDA ITEMS 1, 3, 4, 5, 6 AND 7, SECONDED BY ROCKY CHAVEZ. MOTION CARRIED UNANIMOUSLY.

## **OTHER BUSINESS**

9. Public Hearing to Approve Web-Based Paratransit Certifications

Alane Haynes, Accessible Services Administrator, reviewed the current and proposed process for paratransit certification.

Mr. Art Hulscher of ADARide reviewed: members of the team and their qualifications; a sample of the website; confidentiality; web-based and paper applications; denial review process; trip-by-trip eligibility; regional approach to eligibility process; agency description and accessibility issues such as weather, terrain and local accessibility; benefits to NCTD.

CHAIR GALLO OPENED THE PUBLIC HEARING. THERE WERE NO SPEAKERS. CHAIR GALLO CLOSED THE PUBLIC HEARING.

MOTION BY JEROME STOCKS TO APPROVE AGENDA ITEM 9, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

10. Authorize Resolution, Memorandum of Understanding with SANDAG, and Remarketing Agreement to Restructure NCTD Auction Rate Securities

Richard Hannasch, Director of Fiscal and Support Services, stated that this item includes three attachments. He stated that the first attachment is a resolution and if that is approved, that would authorize the other two attachments, an MOU with SANDAG and a remarketing agreement, to be executed. Mr. Hannasch reviewed the project that began in 2003.

MOTION BY JEROME STOCKS TO APPROVE AGENDA ITEM 10, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

11. Fixed-Route Program for Persons Certified to Use LIFT

Alane Haynes stated that this program was a result of the paratransit improvement study in 2005.

MOTION BY DAVE ROBERTS TO APPROVE AGENDA ITEM 11, SECONDED BY ROCKY CHAVEZ. MOTION CARRIED UNANIMOUSLY.

12. SANDAG Smart Parking Study

Mr. Lance Schulte, Economic Development Administrator, stated that the study took place at all COASTER stations. He reviewed: study objectives; data collection to date; research study coordination that is occurring; implementation and next steps.

Chris Orlando stated that parking is an asset and suggested NCTD come up with a parking management plan to make sure that only transit riders are using the lots. He questioned if there are rider enhancements that could help generate revenue, like valet parking, and how we could look at revenue options within the facilities.

THE BOARD AGREED TO CONTINUE THIS STUDY AND TO BRING BACK A PLAN TO CHARGE NON-COASTER RIDERS.

13. Review FY 09 Proposed Budget

Richard Hannasch reviewed: overall financial environment; fuel costs; draft budget; fare assumptions; proposed service reductions; revenue sources, expenses; professional services; materials and supplies; and purchased transportation.

Chris Orlando asked if the JARC grant for the SPRINTER weekend service was worth it, considering NCTD would have to spend some money also to increase weekend SPRINTER service.

Julianne Nygaard requested that staff look at bringing back the Rail-2-Rail program in the future.

Ms. Dina Smith, Oceanside, CA spoke on her concerns regarding stopping Route 101 service south of Del Mar.

Mrs. Florence Kenny, Escondido, CA spoke on her concerns regarding Route 347 and FAST service to Fallbrook and Ramona,

Ms. Nita Williamson, Encinitas, CA presented a petition related to FAST service in Encinitas.

Mr. Robert Elmore, Escondido, CA spoke on his concerns regarding the senior monthly pass fare and Routes 386 and 347.

Ms. Lorraine Leighton, El Cajon, CA provided written comments for the record.

Karen King stated that the action is for the Board to approve the release of the draft budget for public comment and provide direction regarding the level of service reductions the Board wants included in the final budget. She said that on May 16, 2008 SANDAG will be reviewing Route 386 service because they have concluded that it has regional significance and they will make a determination as to whether that is consistent with the regional short-range transit plan or not, or if there is some overriding consideration that should be given to that service reduction. Ms. King added that on May 30, 2008 the SANDAG Transportation Committee would be holding a public

hearing on the fare increases that are assumed in this budget document, so until SANDAG has conducted that public hearing and adopted a new fare ordinance, the question of the revenue will still be in flux. She stated that what SANDAG is recommending regarding the fares is not exactly what NCTD has recommended or assumed in the NCTD budget.

**MOTION BY JEROME STOCKS TO RELEASE THE BUDGET IN THE CURRENT DRAFT FORM, SECONDED BY JULIANNE NYGAARD.**

Dave Roberts stated that he could not support the motion until the Board considers looking at moving the route changes from August 2008 to January 2009 to allow more time to resolve specific route concerns.

Bill Horn requested that staff provide specific cost information on BREEZE routes that were discussed at the Escondido Public Hearing on May 12, 2008.

**OPPOSED: ROBERTS. MOTION CARRIED.**

**14. SPRINTER Revenue Service Report**

The Board received the report. No action required.

The Board went into Closed Session at 4:53 pm to discuss Agenda Item ii.

Dave Druker and Jerome Stocks left at 5:03 pm. Bill Horn left at 5:14 pm.

- ii. Closed Session Pursuant to Government Code Section 54957.6 – Conference with Labor Negotiators – Employee Organization: Teamsters Local 542 and Unrepresented Employees. Negotiating parties: Karen King

Rocky Chavez left at 5:17 pm.

The Board returned from Closed Session at 5:17 p.m. Michael Cowett stated that the Board met in Closed Session to discuss item ii and had nothing to report.

**• SANDAG AGENDA REVIEW AND LEGISLATIVE ACTIVITIES UPDATE**

Ellen Roundtree, Intergovernmental Affairs Officer, reviewed the SANDAG agenda, and state and federal activity.

**2. Appoint Board Member and Alternate to Serve on the Airport Regional Policy Committee**

**MOTION BY CHRIS ORLANDO TO APPROVE AGENDA ITEM 2, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.**

8. Report on the May 1, 2008 Meeting of the Joint Committee on Regional Transit (JCRT)

Ms. Dina Smith, Oceanside, CA spoke on her concerns regarding discontinuance of Route 101 south of Del Mar.

MOTION BY JULIANNE NYGAARD TO APPROVE AGENDA ITEM 8, SECONDED BY DAVE ROBERTS. MOTION CARRIED UNANIMOUSLY.

**• BOARD MEMBER REPORTS, COMMENTS AND CORRESPONDENCE**

Dave Roberts spoke on the check NCTD received for \$900,000 from California’s Director of Homeland Security to be used for security upgrades.

**• EXECUTIVE DIRECTOR’S REPORT**

Karen King reported that she has resigned her position with NCTD effective June 20, 2008 and will be the new CEO of Golden Empire Transit in Bakersfield, CA.

Dave Roberts stated that the Board formed an Ad Hoc Committee, comprised of Ed Gallo, Bob Campbell, Dave Druker and himself, to search for Ms. King’s successor.

Julianne Nygaard and Ed Gallo thanked Ms. King for her outstanding service to NCTD and they wished her the very best.

**• REMAINING PUBLIC COMMUNICATIONS**

None.

**• ADJOURNMENT**

The meeting adjourned at 5:28 p.m. Submitted by Jill McNaughton, Clerk of the Board for North County Transit District.

CHAIRMAN: \_\_\_\_\_

CLERK OF THE BOARD: \_\_\_\_\_

DATE: \_\_\_\_\_

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**MINUTES OF THE SPECIAL MEETING OF NORTH COUNTY TRANSIT DISTRICT HELD  
MAY 22, 2008** **PAGE 1**

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CALL TO ORDER

Chairman Ed Gallo called the meeting to order at 7:40 a.m.

ROLL CALL OF BOARD MEMBERS

Ed Gallo (City of Escondido); Dave Druker (City of Del Mar); Jerome Stocks (City of Encinitas); Rocky Chavez (City of Oceanside); Chris Orlando (City of San Marcos); Dave Roberts (City of Solana Beach); Bob Campbell (City of Vista).

Absent: Julianne Nygaard (City of Carlsbad) and Bill Horn (County of San Diego).

CLOSED SESSION

The Board went into Closed Session at 7:41 a.m. to discuss:

- i. Closed Session Pursuant to Government Code Section 54957 – Conference with Executive Director Concerning Public Employment and Reorganization of Employees' Positions

The Board returned from Closed Session at 8:25 a.m. Michael Cowett, General Counsel, stated that the Board met in Closed Session to discuss item i and had nothing to report.

PUBLIC COMMUNICATIONS

None.

• **ADJOURNMENT**

The meeting adjourned at 8:26 a.m. Submitted by Jill McNaughton, Clerk of the Board for North County Transit District.

CHAIRMAN: \_\_\_\_\_

CLERK OF THE BOARD: \_\_\_\_\_

DATE: \_\_\_\_\_

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**MINUTES OF THE SPECIAL MEETING OF NORTH COUNTY TRANSIT DISTRICT HELD  
JUNE 5, 2008** **PAGE 1**

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CALL TO ORDER

Chairman Ed Gallo called the meeting to order at 4:03 p.m.

ROLL CALL OF BOARD MEMBERS

Ed Gallo (City of Escondido); Dave Druker (City of Del Mar); Jerome Stocks (City of Encinitas); Chris Orlando (City of San Marcos); Dave Roberts (City of Solana Beach); Bob Campbell (City of Vista).

Absent: Julianne Nygaard (City of Carlsbad), Rocky Chavez (City of Oceanside) and Bill Horn (County of San Diego).

CLOSED SESSION

The Board went into Closed Session at 4:04 p.m. to discuss:

- i. Closed Session Pursuant to Government Code Section 54957 – Conference with Executive Director Concerning Public Employment and Reorganization of Employees' Positions

The Board returned from Closed Session at 4:30 p.m. Michael Cowett, General Counsel, stated that the Board met in Closed Session and took unanimous action to approve an agreement between NCTD and Ray Patchett to serve as a consultant in the capacity of Interim Executive Director.

PUBLIC COMMUNICATIONS

None.

• **ADJOURNMENT**

The meeting adjourned at 4:31 p.m. Submitted by Jill McNaughton, Clerk of the Board for North County Transit District.

CHAIRMAN: \_\_\_\_\_

CLERK OF THE BOARD: \_\_\_\_\_

DATE: \_\_\_\_\_

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MONITORING COMMITTEE REPORT

TITLE: SUPPORT FOR BRIDGE REPLACEMENT PROJECT GEOLOGICAL INVESTIGATION

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors authorize the Executive Director to award a purchase order in the amount of \$69,890 under the terms of RFP 05023 to TransitAmerica Services, Inc. for right-of-way maintenance support for the geological investigation for the Bridge Replacement Project – Sorrento Valley.

BACKGROUND INFORMATION:

For the first three weekends in April 2008, Southern California Regional Railroad R Authority (SCRRA) conducted major track and structure work north of the San Diego County line. As a consequence, on these weekends, there was no Amtrak or Metrolink service and no freight traffic. The last time SCRRA scheduled one of these “weekend blitzes”, the District used the opportunity to re-rail the Miramar Hill section of the COASTER corridor.

As part of this outage, the Geological Investigation for the Bridge Replacement Project was conducted in Sorrento Valley. This investigation involved taking many soil samples and numerous on-track borings through bridge decks, often to over 80’ in depth

The work assigned to TransitAmerica Services, Inc. to carry out this task included:

- Preparing the bridge decks for the drill rigs used in the investigation;
- Procuring large steel plates to cover the areas affected by the boring of holes through the deck of the bridges and allow access to the holes from the drill rigs; and
- Providing and operating equipment to transport the large drill rig vehicles and support equipment by rail to the various bridge locations which have little or no access by road.

The importance of taking advantage of these track outage windows was paramount as this work would have taken many months to perform under normal rail traffic situations and may have had potential schedule impacts if any mechanical failures had occurred. This work was necessary for the engineering design of the replacement bridges to advance to the 60 percent level, preparing these projects for readiness as funding becomes available.

The initial estimate for this work was \$48,047, below the Board approval threshold. However, several on-site conditions and events caused the final cost to require Board notice and approval.

Because all of the work was performed in environmentally sensitive areas, biological monitors would periodically stop work for monitoring or allow work to only be performed when they felt bird species were not present, due to the noise made by the equipment while working. Cultural monitors were also placed at Bridge 247.4 because evidence of native culture had been found in this area. These items added significant delays and costs that brought the final amount over the threshold requiring Board approval.

**ATTACHMENT:** None

**FISCAL IMPACT:** The fiscal impact of this item is \$69,890. A total of \$7,862,500 has been budgeted in various capital projects under the Bridge Replacement Program (JB#'s 506101, 506102, 506103, 506104, 506105, 507101, 507102 and 507103) for the preliminary engineering and environmental work related to replacing these eight bridges, including \$3,100,000 from NCTD's capital project budget for FY 09. Of the total amount budgeted, \$2,836,727 has been expended and an additional \$1,935,537 has been encumbered, leaving an available balance of \$3,090,236.

Although none of the FY 09 funding is immediately available, pre-award authority is applicable, which would allow NCTD to award contracts now and seek reimbursement for costs incurred in the near future. These funds are expected to be available by August 2008.

**COMMITTEE REVIEW:** Staff explained the relationship of this geotechnical investigation to the District's timber bridge replacement program, and the fact that the work had to be performed during extended work windows available in April. Original cost estimates had placed the work within the Executive Director's approval threshold, but environmental issues caused the work to take longer than anticipated, driving up cost to Board-approval thresholds. The Committee recommended approval of this item on the Consent Calendar.

6/5/08

**STAFF CONTACT:** **Tom Lichterman**  
**Director of Rail Services**  
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MONITORING COMMITTEE REPORT

TITLE: REPLACEMENT UPGRADE OF THREE COASTER ROAD CHANNEL BASE STATION RADIOS

Time Sensitive  Consent

COMMITTEE RECOMMENDATION: That the NCTD Board of Directors authorize the Executive Director to award a purchase order in the amount of \$64,205 under the terms of RFP 05023 to TransitAmerica Services, Inc. for the replacement of COASTER Base Stations radios.

BACKGROUND INFORMATION: In order for the COASTER radio and maintenance-of-way communications to function properly within the San Diego Subdivision, three base radios stations at Scripps and CP Ash in San Diego and the Abbey in Oceanside must be working properly. Recently, these radios have become much more unreliable and maintenance intensive, impacting railroad signal communications reliability.

Further, the Federal Communications Commission (FCC) is requiring a channel spacing conversion from 25 KHz to 12.5KHz by January 1, 2013. This base station replacement is consistent with that requirement and part of the recommendations of the District's current Signal Communication System Upgrade Project.

Therefore, as part of the overall Communication System Upgrade Project and for the following additional reasons, staff is recommending replacing the existing MSF 5000 radios with new Quantar systems:

- 1. The MSF5000 does not have narrowband capability therefore, per the FCC, must be replaced by January 1, 2013.
2. The MSF5000 no longer has support, parts, or programming capability.
3. The MSF5000 has no spare components for backup.
4. The Quantar system is narrowband capable.
5. The Quantar system is currently used on the SPRINTER line, thus obtaining spares and support services would be more efficient and cost effective.
6. The Quantar has proven reliability.

ATTACHMENT: None

FISCAL IMPACT: The fiscal impact of this item is \$64,205. A total of \$500,000 has been budgeted under JB#507901 – Signal and Communication System Upgrade, Phase 2, which can be used for this purpose, none of which has been expended or encumbered, leaving an available balance of \$500,000.

COMMITTEE REVIEW: 6/5/08 Staff explained that replacement of these radios, which control the train control system, was necessary for improved reliability and to meet approaching FCC-mandated technical changes. The Committee recommended approval on the Consent Calendar.

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MONITORING COMMITTEE REPORT

TITLE: SIGNAL SYSTEM AND GRADE CROSSING EQUIPMENT SPARE PARTS FOR THE ESCONDIDO SUBDIVISION

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors approve award of a purchase order in the amount of \$88,751.15 to TransitAmerica Services, Inc., for the procurement of signal system and grade crossing equipment spare parts for use on the Escondido Subdivision.

BACKGROUND INFORMATION:

The SPRINTER Mainline construction contract included listed signal system and grade crossing equipment spare parts that are provided by West Coast Rail Constructors. The original base bid list of spare parts was specified by the design team.

However, after several months of pre-revenue and revenue operations experience, and evaluation by the District's signal systems consultants and maintainers, it has been determined additional spare parts are needed to provide for emergency maintenance of the safety-related equipment. Having these spare parts in stock and ready for immediate use significantly improves TransitAmerica Services, Inc's ability to respond to component and system failures and reduces the potential of service delays.

ATTACHMENT: None

FISCAL IMPACT: The fiscal impact of this item is \$88,751.15. A total of \$29,772,671 has been budgeted in the SPRINTER capital project (JB#709501 – TC) for the signal system, train control and grade crossings components of the SPRINTER project, of which \$28,814,922 has been expended and an additional \$504,672 has been encumbered, leaving an available balance of \$453,077.

COMMITTEE REVIEW: Staff explained that these signal spare parts were deemed essential to deal with system failures quickly and with minimum interruption to train service. The Committee recommended approval of this item on the Consent Calendar. 06/05/08

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**MONITORING COMMITTEE REPORT**

**TITLE: WORKERS COMPENSATION LITIGATION LEGAL SERVICE PROVIDERS**

Time Sensitive  Consent

**COMMITTEE RECOMMENDATION:**

**That the NCTD Board of Directors authorize the Executive Director to award three contracts to legal service providers to handle NCTD’s workers’ compensation litigation activities.**

**BACKGROUND INFORMATION:**

NCTD self-insures its workers’ compensation program for up to \$1 million per occurrence. Excess workers’ compensation insurance is purchased for an additional \$15 million per occurrence above these limits. The District’s workers’ compensation claims are administered through a contract with TRISTAR Risk Management Services. Over the past five years NCTD has received an average of 71 new claims annually. Current caseload of open claims encompasses approximately 133 claims. Of this number, approximately 27% are litigated.

Historically, the District’s workers’ compensation legal fees have been paid as a pass-through arrangement from the third party administrator. Staff is recommending that the District contract directly with the workers’ compensation attorneys in the same manner as currently done for its third party personal injury and property damage litigation and general counsel legal services. Through this method, the District will pay all attorney fees directly and will jointly manage the expenses along with the third party administrator (TRISTAR Risk Management Services.) The District’s general counsel firm, BB&K, will have no supervisory or oversight responsibility for the three workers’ compensation litigation firms or for the three third party personal injury and property damage litigation firms.

In accordance with the District’s procurement policy, an RFP was advertised and six firms submitted proposals. An evaluation committee comprised of three NCTD employees reviewed the proposals against the RFP evaluation criteria and final scores on a one hundred point scale were:

<b>FIRM</b>	<b>TOTAL POINTS</b>
Trovillion, Inveiss & Demakis	100.00
Mark H. Barber	98.36
Floyd, Skeren & Kelly	90.78
Goldman, Magdalin & Krikes	88.11
Dietz, Gilmore & Associates	79.00
Graves, Roberson & Bourassa	78.69

Staff is recommending that the three highest scored firms be awarded five-year contracts. Those firms are: Trovillian, Inveiss & Demakis; Mark H. Barber and Floyd, Skeren & Kelley. In the event any of the three highest scoring firms do not choose to sign the District's standard Professional Services agreement, then the next firm in line will be given the opportunity to enter into a contract with the District. The hourly rates established with each firm will be fixed for the entire five-year contractual period with a not-to-exceed contract value of \$300,000 each. The maximum value of work assigned under all three contracts combined will not exceed \$875,000, but the final individual contract values will vary based upon assignments made.

When lawsuits are served, the Manager of Safety, Risk & Training or her/his designee will assign each lawsuit to one of the three firms based upon her/his assessment of the most qualified firm to handle the specific details of the case. A contributing determination will be the amount of workload each of these firms already has when the assignment is made. An effort will be made to equitably assign the work so that no one or two firms receive the bulk of the assignments.

**ATTACHMENT:** None

**FISCAL IMPACT:** Legal services for workers compensation litigation for FY 2009 are estimated at \$165,000 and are included in the total workers' compensation budget of \$1.2 million. RFP 08054 includes a total of \$875,000 over a five-year period for said services.

**COMMITTEE REVIEW:** Staff reviewed the procurement process and the recommendations for the District to directly obtain legal services for worker's compensation litigation. The top-three rated firms are recommended for contract awards. If one of the firms fails to come to agreement with the District on the terms of the contract, the District will go to the next highest rated firm. Quarterly claims review meetings will be used as an opportunity to ensure the work is being assigned in an appropriate manner to each firm. The Committee recommended approval of this item on the Consent Calendar.

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MONITORING COMMITTEE REPORT

TITLE: TICKET VENDING MACHINE MAINTENANCE SERVICE CONTRACT

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors authorize the Executive Director to award a five-year contract for Ticket Vending Machines maintenance services contract to Rencom TS, Inc. in the amount of \$2,005,200.

BACKGROUND INFORMATION:

The current ticket vending machine (TVM) maintenance service contracts for both the COASTER and SPRINTER will expire on June 30, 2008. In order to continue future maintenance service, RFP 08055 was issued in April 2008.

Three firms submitted proposals in response to the RFP – Sectran Security, Inc., Rencom TS, Inc., and Cubic Transportation Systems, Inc. All three proposals were deemed responsive.

In accordance with NCTD procedures, a panel evaluated the proposal against the RFP criteria. The criteria included company background and experience, personnel background and experience, the management plan, and the price proposal.

The highest score was awarded to Rencom TS Inc. In addition, Rencom offered the lowest fixed price for the five-year term of the agreement. The total cost over the five-year contract will be \$2,005,200. Rencom’s proposal is approximately 37% lower than Cubic’s proposal of \$3,178,053 and 45% lower than Sectran’s proposal of \$3,650,232 for the same five-year contract period.

Based on the evaluation and analyses of the proposals, the evaluation panel concluded that Rencom’s proposal was the most advantageous to NCTD. Accordingly, we recommend that the Committee forward this item to the Board with a recommendation for contract award to Rencom TS, Inc.

ATTACHMENT: None

FISCAL IMPACT: The fiscal impact of the fixed fee five-year contract is \$2,005,200. The fiscal impact for FY 2009 will be \$471,892, \$159,295 to account 300.503314 and \$312,597 to account 300.503316. The combined budget amount for TVM maintenance for FY 2009 is \$475,000.

COMMITTEE REVIEW: 06/05/08

Staff explained that the purpose of this procurement sought a single firm to provide maintenance services for all of the District’s COASTER and SPRINTER ticket vending machines. Of the three firms, Rencom received the highest score and also offered the lowest price. The Committee questioned the large cost differential and Rencom’s inclusion of spare parts. The large cost difference between Rencom and the other firms was believed attributable to the fact that Rencom will employ one of the technicians

who currently maintains the equipment, and thus has better insight to the repairs likely to be required. In addition, Rencom is a smaller firm and thus may have less corporate overhead. All three bidders were provided recommended spare parts lists during the bid process and thus were informed of the likely spare parts needs. The Committee recommended approval of this item on the Consent Calendar.

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**MONITORING COMMITTEE REPORT**

**TITLE: FEMA FLOOD PLAIN COMPLIANCE AND MAP REVISIONS FOR SPRINTER PERMITTING AND MITIGATION**

Time Sensitive  Consent

**COMMITTEE  
RECOMMENDATION:**

That the NCTD Board of Directors authorize issuance of Purchase Orders not-to-exceed \$150,000, under the contract with Rick Engineering of San Diego, for the preparation of Letters of Map Revisions or (LOMR's ) and No Rise Certificates for FEMA for the SPRINTER construction project and authorize the execution of a cost sharing agreement with the City of Oceanside for its portion of the Loma Alta Creek LOMR.

**BACKGROUND  
INFORMATION:**

The Preparation of Conditional Letters of Map Revision for Federal Emergency Management Agency (FEMA) for the floodways along the SPRINTER alignment has been an ongoing effort under the DMJM+Harris Final Design and Design Services during Construction Contracts. In February 2008 NCTD contracted directly with Rick Engineering to continue this work under a professional Services Agreement, No #08046.

Now that the Construction work has been completed on the SPRINTER and all the Conditional Letters of Map Revision (CLOMR's) have been submitted to FEMA, NCTD is required to prepare Letters of Map Revision for the floodplains affected by the SPRINTER Project or No Rise Certificates for floodplains we have crossed with no adverse effect. These need to be submitted to FEMA within six months of project completion per NFIP Regulation 44 CFR Ch. 1 Part 65.3.

The City of Oceanside's City Engineer has proposed cost sharing for a portion of this work as it relates to the Loma Alta Creek LOMR. No formal agreement yet exists with the City, nor has an agreed upon amount been determined by the two agencies.

Staff recommends that the Board authorize Purchase Orders of up to \$150,000 under the Rick Engineering professional Services Contract in order to complete the FEMA floodway map revisions and no rise certifications. Staff also requests authority to execute a cost sharing agreement with the City of Oceanside for its portion of the Loma Alta Creek LOMR.

**ATTACHMENT:** None

**FISCAL IMPACT:** The gross fiscal impact of this action is \$150,000, before consideration of any potential reimbursement from the City of Oceanside. The City of Oceanside's portion of this cost is estimated to be \$70,600, resulting in an estimated net fiscal impact to NCTD of \$79,400. A total of \$2,396,986 has been budgeted under the SPRINTER capital project (JB#709512) for permitting, of which \$1,949,976 has been expended and an additional \$428,265 has been encumbered, leaving an available balance of \$18,745. The remainder will be funded from the contingency account, which has a sufficient balance to cover this item.

**COMMITTEE REVIEW:** Staff explained that preparation of final "Letters of Map Revision" for floodplains affected by the SPRINTER project is a federal requirement, now that construction is complete. Approval of this item, including cost sharing by the City of Oceanside on the Loma Alta Creek section will fund the effort. The Committee recommended approval of this item on the Consent Calendar.

6/5/08

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MONITORING COMMITTEE REPORT

TITLE: FY 2009 ANNUAL DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL

Time Sensitive  Consent

COMMITTEE RECOMMENDATION: That the NCTD Board of Directors approve the advertising and submittal of NCTD's FY 2009 Disadvantage Business Enterprise (DBE) Goal to the Federal Transit Administration (FTA).

BACKGROUND INFORMATION: As a recipient of funding from the U.S. Department of Transportation (DOT), NCTD is required to set an annual overall goal for DBE participation with respect to its DOT-assisted contracts pursuant to 49 CFR (Code of Federal Regulations) Part 26. The budget estimate is \$9.6 million for FTA-assisted projects for contract awards in FY 2009; therefore, an overall DBE goal has been developed. For FY 2009, the staff's analysis identified the following annual categorical goals, and a total overall goal of 3.6% is recommended.

- 1.9% Construction
1.4% Services
.3% Goods
3.6% Total DBE Goal

The FY 2009 DBE goal was prepared pursuant to 49 CFR 26.45. A copy of the methodology used to calculate NCTD's DBE goal is available upon request.

The District's DBE goal is due to the Federal Transit Administration (FTA) by August 1, 2008. In order to allow for a 45-day comment period, with Committee concurrence, public notices announcing the proposed 3.6% DBE goal will be published on June 7, 2008. The goal will be brought back to the full Board on July 17, 2008 for a status update regarding public comments and to receive authorization to submit the goal to FTA.

For the past four years, NCTD has achieved an average DBE participation of 9.9%, with a DBE goal averaging 7.6%. The proposed goal is less for FY 2009 due to an anticipated decrease in FTA-funded projects following the completion of the SPRINTER project.

ATTACHMENT: None

FISCAL IMPACT: None

COMMITTEE REVIEW: 6/5/08 Staff reviewed the requirement for the District to establish an annual DBE goal for FTA-assisted projects. Due to completion of the SPRINTER, less contracting opportunity is available and the goal has been adjusted. The Committee concurred in advertising the proposed 3.6% DBE goal and subsequent submittal of the goal to the FTA and recommend approval of this action on the Consent Calendar.

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MONITORING COMMITTEE REPORT

TITLE: CUSTOMER SERVICE RELOCATION

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors authorize the Executive Director to award a construction contract to Benold Construction Co., in the amount of \$312,775, for the construction and relocation of Customer Service facilities.

BACKGROUND INFORMATION:

The NCTD main customer service function is located in the lobby of 810 Mission Avenue. It consists of three customer service windows where customers can purchase all types of NCTD service fares and passes, obtain reduced fare I.D. cards, and obtain other information. It is in the best interest of the customer to move these services to the Oceanside Transit Center, our most frequented transit facility where the BREEZE, COASTER, and SPRINTER services converge. Putting these services at a central point within the customers' commute would relieve many from having to take an extra bus to the present location on Mission Avenue.

The proposed site for the new customer service center would be located across the concourse from the Amtrak building, central to train and bus terminals. The center will be comprised of two 12' X 24' prefabricated ticket booth buildings. One building will be equipped with customer service windows that can accommodate up to four customer service attendants simultaneously. The second building will contain an office, employee restroom, and lost and found storage that could be outfitted with additional service windows if needed at a later date.

On April 1, 2008, IFB 08039 was opened to potential bidders for this work. A bid opening was held on May 13, 2008 and seven bids were received:

- |  |           |
|--|-----------|
| 1. Benold Construction Co              | \$312,775 |
| 2. Atlas-Allied Inc                    | \$318,980 |
| 3. Blair Rasmussen Construction        | \$343,845 |
| 4. Collins Builders, Inc               | \$438,700 |
| 5. GEM Industrial Inc                  | \$376,800 |
| 6. Kimmel Construction Enterprises Inc | \$398,000 |
| 7. Prava Construction Services, Inc    | \$317,747 |

Benold Construction Company has been determined to be the lowest responsive and responsible firm for this procurement.

ATTACHMENT: None

**FISCAL IMPACT:** The fiscal impact of this action is \$312,775. A total of \$700,000 has been budgeted in JB# 107100 and 108101 for the OTC Customer Service Relocation/Station "O" Upgrade project, of which \$212,709 has been expended and an additional \$65,859 has been encumbered, leaving an available balance of \$421,432 for completion of this combined project.

**COMMITTEE REVIEW:** Staff reviewed the goal of this project to relocate Customer Service to buildings to be constructed at the Oceanside Transit Center, which is to make Customer Service more directly accessible to transit patrons. The proposed pre-fabricated buildings will serve that function in a location close to BREEZE, COASTER, and SPRINTER areas of the transit center, and should be installed within the next four months. Benold Construction Company was the lowest responsive and responsible bidder. Sufficient funds will remain with this contract award to pay for necessary cabling, CCTV, and furnishing of the buildings. The Committee recommended approval of this item on the Consent Calendar.

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MONITORING COMMITTEE REPORT

TITLE: REPLENISH EXECUTIVE DIRECTOR'S CHANGE ORDER AUTHORITY POOL FOR SPRINTER CONSTRUCTION CONTRACTS

Time Sensitive [X] Consent [X]

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors reauthorize \$3 million in delegated contractual change order signature authority to the Executive Director solely for the construction contracts on the SPRINTER projects.

BACKGROUND INFORMATION:

Over the past three years, the Board has awarded approximately \$234 million in construction contracts on the SPRINTER project. Due to the nature of large construction projects such as the SPRINTER, the potential exists for unforeseen field conditions to arise which may require an immediate response by the Contractor based on a Field Work Directive issued by the District. In order to ensure the District is able to respond quickly and efficiently to SPRINTER construction issues as they develop, the Board previously delegated a special procurement authority change order pool to the Executive Director solely for change orders on construction contracts on the SPRINTER project. To date, the Board has authorized additions to the pool as follows:

- December 2004 -\$2 million
November 2005 - \$2 million
July 2006 - \$3 million
September 2006 - \$3 million
November 2006 - \$5 million
February 2007 - \$5 million
June 2007 - \$5 million
September 2007 - \$5 million
November 2007 - \$5 Million
February 2008 - \$3 Million

At this time, the current balance remaining in the change order pool after processing recent change orders is approximately \$1.3 million, and a number of significant change orders are anticipated in the next two or three months. In order to keep the contractor moving and avoid processing-related delays, staff recommends a \$3 million reauthorization of the Executive Director's change order pool authority.

The special change order pool is established and funded from the project contingency and other related SPRINTER project accounts that fund construction activities. The Executive Director, by delegated special authority, is authorized to approve any change orders on the project from that pool. When the pool nears exhaustion, it is proposed to be replenished with additional amounts pursuant to subsequent Board agenda reports. The Board is notified by email of any changes exceeding \$100,000, and receives periodic updates on the status of the change order activity via these agenda items and SPRINTER Project Reporting.

**ATTACHMENT:** None

**FISCAL IMPACT:** This action has no direct fiscal impact in itself, but creates an administrative procedure for the approval of SPRINTER change orders in a manner that helps prevent project delays and potential delay claims. Based on the current SPRINTER budget, staff estimates that there will be sufficient budget available in the various SPRINTER project accounts to process the change orders contemplated under this item. It should be noted that not all change orders will be charged against the SPRINTER project budget; rather, some will be charged to reimbursable projects, while others will be charged against contract allowances in the existing construction contract.

**COMMITTEE REVIEW:** Staff explained the use of this administrative mechanism to process change orders without delays in order to make timely payments to the contractor. This item has no direct fiscal impact in itself but simply provides a change order authority pool for use by the Executive Director. Staff also explained that the current projected final value of the Mainline Contract is \$236 million (including reimbursable work) and that this value, including a projection for potential change orders, is included in the District's "Estimate at Completion". The Committee recommended approval of this item on the Consent Calendar.  
06/05/08

**STAFF CONTACT:** **Tom Lichterman**  
**Director of Rail Services**  
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**EXTENDED BACKGROUND:** The following examples are some of the significant project close out change order issues anticipated to require funding in the next two to three months:

Coast Highway Underground Electrical Service Upgrade - The Coast Highway Station placement required an existing SDG&E overhead electrical service to be relocated and constructed underground.

Citracado Parkway Grade Crossing Improvement – Roadway surface profile changes and drainage improvements were constructed to accommodate a future City of Escondido roadway widening project.

Communication Systems Upgrades – Miscellaneous communication system upgrades were performed to improve the radio systems reliability including installation of a stand alone redundant radio and relocation of antennas.

Miscellaneous Drainage Improvements - Site drainage improvements including additional drainage ditches, headwalls and energy dissipaters were constructed in various areas throughout the project footprint.

Item Work Adjustment of Compensation – Original base bid item quantities of work that are exceeded by more than 125 percent may require an adjustment to the unit price for the portion exceeding 125 percent the of the quantity shown on the bid price form.

The anticipated change orders described above and other known items will exceed \$3.0 million and there will be on-going unknowns which will need to be addressed through the pool. Therefore, staff is recommending that the Board authorize augmenting the pool by a total of \$3 million.



**PLANNING COMMITTEE REPORT**

**TITLE: FY 2008 REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM AND FY 2009 - 2013 CAPITAL IMPROVEMENT PROGRAM**

Time Sensitive  Consent

**COMMITTEE RECOMMENDATION:**

That the NCTD Board of Directors authorize the Executive Director or his/her designee to take actions necessary to:

- a) approve the submittal of proposed Capital Improvement Program (CIP) and operating expenses for inclusion in the 2008 Regional Transportation Improvement Program (RTIP); and
- b) approve the projects proposed to be funded with *TransNet* monies including a pledge that NCTD will expend the funds in compliance with the requirements of the *TransNet* (Extension) Ordinance and Expenditure Plan; and
- c) execute, approve and submit any documents or information and take any other actions as SANDAG may require in conjunction with adoption of the 2008 RTIP; and
- d) adopt a resolution evidencing the foregoing

**BACKGROUND INFORMATION:**

*Capital Improvement Program (CIP)*  
Each year NCTD prepares a five-year CIP, which is a multi-year plan of capital projects for facility construction, capital improvements and capital acquisitions along with estimated costs and proposed funding. The proposed CIP is based in part on projected transit funding levels as provided by SANDAG. As part of the annual CIP development process, NCTD completes a rating and ranking process for all of its capital projects. If funding for the proposed CIP is not sufficient to fully fund it, projects are funded on a priority basis based upon their final ranking. If funding exceeds the levels required for the proposed CIP, additional projects could receive additional funding based on their ratings and rankings.

The proposed CIP, covering the five-year period from 2010-2014 is summarized in Attachment 10A. The proposed CIP is subject to future revisions, especially in the out years, which are routinely refined to reflect NCTD's evolving needs. A detailed schedule of the FY10 capital projects is included as Attachment 10B. A summary of NCTD's proposed major capital projects can be found in Attachment 10C. The federal and *TransNet* funding programs are set forth in Attachment 10D.

*Regional Transportation Improvement Program (RTIP)*  
Every two years, SANDAG must develop and adopt an RTIP, as required by state and federal laws. The RTIP is a multi-year funding program of proposed major highway, arterial, transit, and bikeway projects, including the *TransNet* Program of Projects. In order to be eligible for certain types of federal, state, and transportation sales tax funding, NCTD must have its projects included in an approved RTIP. In addition to its capital projects, certain operating expenses, such as preventive maintenance, associated capital maintenance, and some ADA Paratransit Services, are eligible for federal capital funding and must also be included in the RTIP. The approved RTIP is amended periodically

as necessary until preparation of the next biennial RTIP is completed and adopted.

NCTD typically submits capital projects to SANDAG for inclusion in the RTIP near the end of the calendar year in conjunction with its annual five-year CIP and Operating Budget development process. However, with the adoption of the new (2008) RTIP, NCTD was required to program multiple years of funding for capital projects, certain operating expenses, and *TransNet* into SANDAG's ProjectTrak RTIP application by April 23, 2008. A summary report from ProjectTrak is included as Attachment 10E. The 2008 RTIP is scheduled for SANDAG board adoption on July 25, 2008.

With its RTIP submittals, SANDAG also recommended that the Transit Boards take an action to support the projects proposed to be funded with *TransNet* monies and a statement that NCTD will expend the funds in compliance with the requirements of the *TransNet* (Extension) Ordinance and Expenditure Plan. A resolution evidencing these actions is included as Attachment 10F.

**ATTACHMENT:** 10A – Summary Proposed Constrained Baseline CIP FY 2010-2013  
10B – Proposed FY 10 Constrained Baseline CIP  
10C – Proposed Major Capital Projects – Multi-Year  
10D – Proposed Federal & TransNet Funding Programs  
10E – Summary ProjectTrak Report  
10F – Resolution

**FISCAL IMPACT:** There is no direct fiscal impact associated with this action. Inclusion of projects in the RTIP and approval thereof is a requirement for approval of federal and state grant applications and the use of *TransNet* funds.

**COMMITTEE REVIEW:** Staff reviewed this annual administrative process in which NCTD must submit its proposed Capital Improvement Program and operating expenses to SANDAG for inclusion in the Regional Transportation Improvement Program, in order to be eligible to receive various federal, state, and sales tax funding. The Committee recommended approval of this item on the Consent Calendar.  
6/5/08

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PLANNING COMMITTEE REPORT

TITLE: CONDUCT PUBLIC HEARING AND ADOPT FY 09 BUDGET AND FY 2009-2013 CAPITAL IMPROVEMENT PROGRAM

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors:
1) Review the updated proposed FY 2009 Operating Budget and 2009-2013 Capital Improvement Program (CIP);
2) Conduct a Public Hearing on the proposed FY 2009 Operating Budget and 2009-2013 Capital Improvement Program;
3) Adopt the Operating Budget and Capital Improvement Program following receipt and consideration of public comment.

BACKGROUND INFORMATION:

For the past several months, the Planning Committee has provided direction and input on the development of the FY 2009 Operating Budget. In addition to its regular meetings, the Planning Committee also held two budget workshops in March and April 2008 to provide specific direction on revenues and expenses for the upcoming fiscal year.

The next steps include:

- Reviewing public comments on proposed service changes received at the May 12, 2008 Public Hearing.
Conducting the Public Hearing on the proposed FY 2009 Operating Budget and 2009-2013 Capital Improvement Program (CIP) at the June 19, 2008 Board meeting.
Adopt the FY 2009 Operating Budget and 2009-2013 CIP at the June 19, 2008 Board meeting.

ATTACHMENTS:

- 11A - Proposed FY 2009 Operating Budget and 2009-2013 CIP
11B - Route information update

FISCAL IMPACT:

None at this time.

COMMITTEE REVIEW:

6/5/08

Staff reviewed the latest developments in the budget process that had occurred over the past few weeks. On a positive note, savings due to favorable financial terms on the District's debt restructuring, along with savings from staffing changes, had allowed the proposed reinstatement of some of the service previously proposed for elimination. On the down side, the Governor's "May Revise" of the State budget proposed even less State Transit Assistance (STA) funding than we had conservatively assumed we would receive. If ultimately

enacted as part of the State budget, NCTD would receive \$1.9 million less in STA funding. Finally, with diesel fuel costs continuing to climb, staff had increased the budgeted cost per gallon from \$3.75 to \$4.05. All of these changes had been incorporated into updated budget summaries provided to the Committee.

Planning staff summarized the comments received during the service change Public Hearing and proposed the following services be re-instated from the previous elimination proposals, based on public input:

Route 347 – The proposal would be to retain a weekdays-only modified Route 347 which would serve key destinations identified by the public during the hearing. This change, if approved, would take effect in January 2009.

Route 386 – Two morning peak round-trips and two afternoon peak round trips, going all the way to Ramona, would be retained as a lifeline level of service in accord with comments received from the public and SANDAG. As a commuter service, this level of service would not require the operation of complementary ADA paratransit.

The Committee supported staff's proposal for the revised service changes, subject to giving staff flexibility to adjust the exact hours of service of the Route 347 proposal to make most efficient use of resources. The Committee also recommended that the performance of these reinstated services be closely monitored and reported back to the Board in a year. Further, the Committee requested that staff look at possible reconfiguration of remaining routes in other areas affected by the service changes, in order to potentially expand coverage in affected areas.

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**AH HOC PERSONNEL COMMITTEE REPORT TO THE BOARD OF DIRECTORS**

**Agenda Item #  
12**

**TITLE: EXECUTIVE DIRECTOR RECRUITMENT**

Time Sensitive  Consent

**STAFF  
RECOMMENDATION:**

**That the Board extend its charge to the Ad Hoc Personnel Committee to include facilitating the process for selection of a new Executive Director.**

**BACKGROUND  
INFORMATION:**

Board members Ed Gallo, Bob Campbell, David Druker and David Roberts were appointed as an Ad Hoc Personnel Committee to facilitate the selection of an Interim Executive Director and the selection of a firm to assist the Board in recruiting its next Executive Director. Both of these tasks have been completed. Ray Patchett has been designated to serve as the Interim Executive Director. The firm KL Executive Search, LLC has been selected to assist with recruitment of the new Executive Director.

The Ad Hoc Committee is prepared to take on the task of working with the executive search firm to facilitate the recruitment of the Executive Director. The first meeting with the executive search firm is scheduled to occur before the July 4, 2008 holiday.

**ATTACHMENT:** None

**FISCAL IMPACT:** N/A

**COMMITTEE  
REVIEW:**  
6/6/08

The Ad Hoc Personnel Committee was not clear if its charge included facilitating the selection process for filling the vacant Executive Director position. Having concluded the search for an Interim Executive Director and an executive search firm, the committee has expressed a willingness to continue to serve in the role of facilitating the recruitment of the Executive Director.

**STAFF CONTACT:**

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Executive Director**  
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**STAFF REPORT TO THE  
BOARD OF DIRECTORS**

**TITLE: DELEGATION OF AUTHORITY TO EXECUTE GRANTS**

Time Sensitive  Consent

**STAFF  
RECOMMENDATION:**

**That the NCTD Board of Directors adopt Resolution 08-05 authorizing the Executive Director to file applications with the Federal Transit Administration and take other actions as necessary to secure Federal assistance.**

**BACKGROUND  
INFORMATION:**

NCTD’s current Executive Director has been authorized by the NCTD’s Board of Directors to execute and file applications for Federal assistance on behalf of North County Transit District with the Federal Transit Administration (FTA) for federal Assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal Statutes authorizing a project administered by the FTA and to take other actions as necessary to secure funding provided by the FTA.

Karen H. King, NCTD’s current Executive Director, has tendered her resignation effective as of June 20, 2008. The NCTD Board has appointed Ray Patchett as NCTD’s new Interim Executive Director.

With this change, FTA is requiring that NCTD adopt a new resolution authorizing the Executive Director or his/her designee to execute and file applications for Federal assistance on behalf of North County Transit District with the FTA for federal Assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal Statutes authorizing a project administered by the FTA and to take other actions as necessary to secure funding provided by the FTA. The new resolution is required for the following reasons:

- The resolution on file with the FTA does not reflect North County Transit District’s true legal name; it reflects the old name.
- The resolution on file with the FTA does not provide for delegation of authority by the Executive Director to “his/her designee.”
- NCTD has several grants pending that may require execution before the next Board meeting.

**ATTACHMENTS:** 13A – Resolution 08-05

**FISCAL IMPACT:** None at this time.

**COMMITTEE  
REVIEW:** Not applicable

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**Director of Fiscal and Support Services**  
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June 19, 2008

TO: North County Transit District Board Members  
FROM: Clerk of the Board  
SUBJECT: POSTING OF BOARD AGENDA

In Compliance with the Ralph M. Brown Act, As Amended, the following information is provided.

The Agenda for this meeting of the Board was posted as follows:

Meeting Date and Time:	June 19, 2008; 1:15 p.m.
Posted At:	810 Mission Avenue, Oceanside, CA
Date & Time of Posting:	June 13, 2008; 5:00 p.m.
Posted By:	Clerk of the Board

TO: North County Transit District Board Members  
FROM: Ed Gallo, Chairman  
SUBJECT: RULES FOR PUBLIC SPEAKERS AT MEETINGS OF THE NORTH COUNTY TRANSIT DISTRICT

Per Board policy, all public communications at meetings of the North County Transit District shall be made and received in accordance with the following procedures:

I. COMMENTS ON ITEMS NOT ON AGENDA

- A. Total time limit all speakers:  
Beginning of Meeting: Fifteen (15) minutes  
End of Meeting: No time limit.
- B. Time limit per speaker per meeting: Three (3) minutes, with no donation of time allowed
- C. Priority: First come first served. All Speaker Slips will be numbered as the Clerk of the Board receives them. Those not allowed to speak at the beginning of the meeting due to limit stated above, will be called at the end of the meeting.
- D. Order on agenda: Items will be heard at the beginning of the meeting and if the time limit stated in paragraph A is exhausted, those who filled out a speaker slip and have not yet spoken, will be given an opportunity to speak at the end of the meeting under "*Remaining Public Communications*".

Comments not addressing items on the agenda are out of order.

II. TIME LIMITS FOR ADDRESSING MATTERS ON THE AGENDA

- A. Total time limit: None.
- B. Time limit per speaker: Three (3) minutes, with one donation of three minutes, for a maximum of six minutes
- C. These rules apply to both public hearing and non-public hearing items listed on the agenda.

Comments made not germane to the subject matter of the agenda are out of order.

III. CUTOFF FOR TURNING IN SPEAKER SLIPS

Speakers wishing to speak to an item on the Board Agenda must submit a speaker slip to the Clerk of the Board before that agenda item is called. Speaker slips will be available at the meeting.

Speakers turning in slips after discussion begins on an item will be heard at the end of the meeting under "*Remaining Public Communications*".

IV. MODIFICATION OF RULES BY CHAIR

The Board Chair may, in his or her absolute discretion, relax the requirements of these rules. However, a decision of the Chair to do so in one instance shall not be deemed a waiver of the rules as to any other instance or matter.