



**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

**Interim Executive Director**

Raymond Patchett

**General Counsel**

C. Michael Cowett

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

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

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

**THURSDAY  
July 17, 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.***

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*Any writings or documents provided to a majority of the members of the NCTD Board of Directors regarding any item on this agenda will be made available for public inspection in the department of the Clerk of the Board located at 810 Mission Avenue, Oceanside, CA 92054, during normal business hours.*



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 54956.8 – Conference with Real Property Negotiators – Location of Property is portion of Assessor Parcel Numbers 263-340-02 through 263-340-07, and 298-520-03 in Solana Beach. Negotiator: NCTD: Tom Lichterman and C. Michael Cowett – Negotiating Party: Shea Properties
- ii. 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
- iii. 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
- iv. Closed Session Pursuant to Government Code Section 54954.5 – Conference with Real Property Negotiators - Location of Property is portion of Assessor Parcel Numbers 210-010-09 Negotiator: NCTD: Tom Lichterman and Michael Cowett – Negotiating Party: YMCA

## **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**

- **Ø Presentation of June 2008 Employees of the Month Commendations to:**

- \* Mr. William Maroney, Mechanic Assistant

- \* Ms. Mary C. Redmond, 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.*

**RECOMMENDED  
ACTION**

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**B. MINUTES FOR REGULAR MEETING FOR JUNE 19, 2008**  
(Pages 6 – 13)

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**

**RECOMMENDED  
ACTION**

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**C. CONSENT ITEMS (Tabs 1 – 11)**

Items reviewed and recommended for approval by the Governance Committee (G), Planning Committee (P), Monitoring Committee (M), Staff (S ) or Board (B)

- |  |         |
|--|---------|
| 1. Legal Services Contract Extension (G)   | Approve |
| 2. Legislative Status Update (G) (Attachment 2A)   | Approve |
| 3. Memorandum of Understanding with SANDAG Regarding Transfer of SPRINTER Construction Employees (G) (Attachment 3A) | Approve |
| 4. Addition of Sixth Car to Two COASTER Consists (M)   | Approve |
| 5. HDR Engineering Additional Fee for Geotechnical Investigation Support (M)   | Approve |
| 6. SPRINTER Supervisory Control and Data Acquisition (SCADA) System Maintenance Agreement (M)                        | Approve |
| 7. SPRINTER Safety-Sensitive Signal Warranty Work (M)  | Approve |
| 8. Purchase Order Increase to MACTEC for SPRINTER Inspection Services (M)  | Approve |
| 9. FY 08 3 <sup>rd</sup> Quarter Performance Report (M) (Attachments 9A and 9B)                                      | Approve |

- |   |         |
|---|---------|
| 10. Quarterly Financial Report for Nine Months Ended March 31, 2008 (M)<br>(Attachment 10A)       | Approve |
| 11. Bridge Replacement Program Overview and Award of Purchase<br>Orders for Additional Design (P) | Approve |

**OTHER BUSINESS (Tabs 12 – 17)**

- |  |         |
|--|---------|
| 12. Five-Year BREEZE Tire Contract for Leased Tires and Service (M)                    | Approve |
| 13. Long-Term Maintenance and Monitoring of Various On-Site<br>SPRINTER Projects (M)   | Approve |
| 14. Quarterly Project Status Report (M) (Attachment 14A)                               | Receive |
| 15. Impact on Bus Service to Sport Games Resulting From New Federal<br>Regulations (P) | Approve |
| 16. Maintenance-of-Way Work Accomplished During April Blitz (P)<br>(Oral Report)       | Receive |
| 17. SPRINTER Revenue Service Report (Oral Report)                                      | 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 41)

- ∅ Rules for Public Speakers at meetings of the North County Transit District (Page 42)

***The next regularly scheduled Board meeting will be held at  
2:00 p.m. on Thursday, August 21, 2008  
at 810 Mission Avenue, Oceanside, CA***

**MINUTES OF THE SPECIAL MEETING/CLOSED SESSION AND THE REGULAR MEETING  
OF NORTH COUNTY TRANSIT DISTRICT HELD JUNE 19, 2008** **PAGE 1**

**CALL TO ORDER**

Chairman Ed Gallo called the meeting to order at 1:22 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 1:30 p.m.

**CLOSED SESSION**

The Board went into Closed Session at 1:23 p.m. to discuss items i, ii and iii:

- 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

The Board returned from Closed Session at 2:15 p.m. Michael Cowett, General Counsel, stated that the Board met in Closed Session to discuss items i, ii and iii and had nothing to report.

**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**

Chris Orlando led the Board, staff, and the public in the Pledge of Allegiance to the American Flag.

CHANGES TO THE AGENDA

Karen King, Executive Director, referred the Board of Directors and the public to the revised agenda that was printed on pink paper.

PRESENTATION OF COMMENDATIONS

Presentation of May 2008 Employees of the Month Commendations: Ms. Kim Stone, Manager of Bus Operations, recognized Mr. Alberto Gastelum, Coach Operator and Ms. Gwendolyn M. Demerson-Hassen, General Services Worker (not in attendance) as the May 2008 Employees of the Month, with the Board's congratulations.

PUBLIC COMMUNICATIONS

Ms. Mary Leonard, Escondido, CA spoke on her concerns regarding the financial and operational state of the district.

APPROVAL OF MINUTES

MOTION BY BOB CAMPBELL TO APPROVE THE MINUTES OF THE SPECIAL MEETING OF MAY 12, 2008, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

MOTION BY BOB CAMPBELL TO APPROVE THE MINUTES OF THE REGULAR MEETING OF MAY 15, 2008, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

MOTION BY BOB CAMPBELL TO APPROVE THE MINUTES OF THE SPECIAL MEETING OF MAY 22, 2008, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

MOTION BY BOB CAMPBELL TO APPROVE THE MINUTES OF THE SPECIAL MEETING OF JUNE 5, 2008, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

Bob Campbell requested agenda items 5 and 9 be pulled for discussion at the end of the meeting.

**CONSENT ITEMS**

1. Support for Bridge Replacement Project Geological Investigation
2. Replacement Upgrade of Three COASTER Road Channel Base Station Radios
3. Signal System and Grade Crossing Equipment Spare Parts for the Escondido Subdivision
4. Workers Compensation Litigation Legal Service Providers

6. FEMA Flood Plain Compliance and Map Revisions for SPRINTER Permitting and Mitigation
7. FY 2009 Annual Disadvantaged Business Enterprise (DBE) Goal
8. Customer Service Relocation
10. FY 2008 Regional Transportation Improvement Program and FY 2009-2013 Capital Improvement Program

MOTION BY DAVE ROBERTS TO APPROVE AGENDA ITEMS 1, 2, 3, 4, 6, 7, 8 AND 10, SECONDED BY BOB CAMPBELL. MOTION CARRIED UNANIMOUSLY.

### **OTHER BUSINESS**

11. Conduct Public Hearing and Adopt FY 09 Budget and FY 2009-2013 Capital Improvement Program

Richard Hannasch, Director of Fiscal and Support Services, reviewed the FY 09 Budget and FY 2009-2013 Capital Improvement Program process. He stated that no written comments were received related to the budget. Mr. Hannasch said that in addition to the copies of the comments the Board received related to service changes, an additional ten comments were received on the Rail-2-Rail program and three comments were received on the FAST service. He reviewed the three main factors that affect fiscal year 2009: fuel costs, state funding and a decline in local sales tax revenue.

Kurt Luhrsen, Principal Planner, reviewed proposed modifications to Routes 347 and 386.

Chair Gallo opened the Public Hearing.

Mr. Robert Noche, Escondido, CA spoke on his concerns regarding Routes 350 and 354 and expansion of the LIFT service.

Mr. Al Radbell, Encinitas, CA spoke on his concerns regarding FAST service.

Mr. Rick Ivkovich, Oceanside, CA spoke on his concerns regarding Routes 311/312, 334/335, FAST, 397 and 386.

Mr. Tom Allison, Oceanside, CA spoke on his concerns regarding Routes 324/325.

Ms. Dina Smith, Oceanside, CA spoke on her suggestions for endowment programs, partnerships and SPRINTER service cuts.

Mr. Jesse Perez, representing Teamsters Local 542 bargaining unit employees, spoke on his concerns regarding cutting routes, stranding passengers, cutting jobs and SPRINTER fuel costs.

Dr. Marty Levine, Encinitas, CA spoke on her concerns regarding FAST and LIFT service in Encinitas.

Mr. Don Ingram, Ramona, CA spoke on his concerns regarding service to Ramona.

Mr. John Webb, Escondido, CA spoke on his concerns regarding Route 302.

Mr. Frank Pendleton, Vista, CA spoke on his concerns regarding cuts in service.

Mr. Patrick McIntosh spoke on his concerns regarding Routes 309, 325 and FAST service.

Ms. Judi Talnedge, Oceanside, CA spoke on her concerns regarding Routes 303 and 313.

Chair Gallo closed the Public Hearing.

Dave Druker asked about steps the Metropolitan Transit System (MTS) took regarding their budget.

Karen King responded that MTS eliminated substantial levels of service in 2007 and they are looking at making modest service adjustments this year. She said they recently laid-off 22 administrative/ management employees.

Bill Horn thanked staff for putting Routes 347 and 386 back into service. He suggested that the public apply pressure to their elected officials so they quit taking transportation funds to balance the state budget.

Dave Roberts stated that the Board tried to look at fairness across all modes. He stated that LIFT is available where it is mandated by law, and that FACT and TABNC are available and suggested the public become involved with these groups.

Jerome Stocks said that the route cuts are based on performance standards and the routes being cut were under performing routes.

Ed Gallo stated that NCTD can not deplete its reserve account as he believes the emergency could still be ahead of us.

**MOTION BY BILL HORN TO APPROVE AGENDA ITEM 11, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.**

## 12. Executive Director Recruitment

**MOTION BY ED GALLO TO APPOINT BOARD MEMBERS ORLANDO, ROBERTS, DRUKER AND CAMPBELL, WITH NYGAARD AS ALTERNATE, SECONDED BY DAVE ROBERTS, TO RECRUIT A NEW PERMANENT DIRECTOR. MOTION CARRIED UNANIMOUSLY.**

13. Delegation of Authority to Execute Grants

MOTION BY JEROME STOCKS TO APPROVE AGENDA ITEM 13, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

14. SPRINTER Revenue Service Report

Tom Lichterman, Director of Rail Services, provided an update for May 2008. He stated that the latest SPRINTER count is up to 7,100 passengers per day, with Cal State University San Marcos and Palomar College on a summer schedule.

Ed Gallo asked if both sides of the Escondido Avenue Vista station were operational.

Tom Lichterman replied that functionally it will be ready by the end of June, but the CPUC has to approve it.

Chris Orlando asked if the Nordahl Station parking lot was completed and operational.

Tom Lichterman responded that the lot is open and operational.

Jerome Stocks asked about bike use on the SPRINTER.

Tom Lichterman responded that transporting bikes is very popular on the SPRINTER. He said that staff is looking at more clearly defining, on the floor of the car, where the appropriate area is to store bikes so the bikes don't impede access in and out of the vehicle.

JEROME STOCKS LEFT AT 4:00 P.M.

Bob Campbell asked when the CPUC would be here to approve the Escondido Avenue Vista station.

Tom Lichterman responded the CPUC would be here on June 20, 2008 and that staff anticipates having everything operational and in place within the next week.

Bob Campbell asked to be notified when the station is operational so the City can notify the public.

The Board received the report. No action required.

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

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

5. Ticket Vending Machine Maintenance Service Contract

Bob Campbell asked if consideration was given to bringing the service contract in-house and would these contractors have access to enough spare parts.

Richard Hannasch responded that staff thought it prudent to not add to NCTD headcount at this time and the Contractor would have access to the spare parts.

MOTION BY BOB CAMPBELL TO APPROVE AGENDA ITEM 5, SECONDED BY CHRIS ORLANDO. MOTION CARRIED UNANIMOUSLY.

9. Replenish Executive Director's Change Order Authority Pool for SPRINTER Construction Contracts

Bob Campbell asked how much was left in the contingency reserve.

Tom Lichterman responded that \$14 million was left in the contingency allocated and unallocated fund.

Bill Horn asked when final closeout would occur.

Tom Lichterman stated that the target date is December 2008.

MOTION BY BOB CAMPBELL TO APPROVE AGENDA ITEM 9, SECONDED BY BILL HORN. MOTION CARRIED UNANIMOUSLY.

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

Dave Roberts stated that the Solana Beach City Council asked him to mention three items to the NCTD Board to get them publicly into the record. He said that the first one has to do with what residents have said are temporary NCTD bus routes going through residential areas of Solana Beach and are concerned with that. He said he wants to make sure that staff-to-staff works on this issue and see if there is a resolution. Mr. Roberts said the buses used to turn around in the parking lot at the end of North Cedros but they are now going down residential streets that have a school on it and there is great concern with that topic. He said the second topic is that the Attorney for the City of Solana Beach wrote the NCTD Attorney about property that NCTD has the access to for 27 parking spaces. He stated that the owner of that parking lot recently repainted it and said customer parking only, two hour time limit, yet these are NCTD parking spaces. Mr. Roberts said he would ask that NCTD try to work with the owner of that property because we need to find a fair balance between local property business and NCTD and we don't want to lose those parking spaces. He said the final item is that he appreciates that a local newspaper printed a correction on a comment that was in there that NCTD had been trying to contact his community for 30 days on the Cedros Crossing Project. He said again, his council has asked him to say to the full NCTD Board, as he did to Planning, they are anticipating the Developer bringing them a project that they can quickly approve that is either in accordance with their zoning or that requests a variance and he would hope that the Developer applicants would at least tell them what is going on. Mr. Roberts said the last letter they got on this, which was over 40 days ago, says they are bringing them a project, their Council is ready to go dark for eight weeks, so they would like to know a status because if a project is not coming, they would like to master plan the property to see what can be built there.

Bill Horn responded that is NCTD property and the funds for that project are gone so if anyone is going to make a plan on NCTD property, it's going to be NCTD not Solana Beach.

Dave Roberts responded that is what he just said, he would like to see if they could work together, like they have done in other communities, on a master plan.

Bob Campbell said that at the SANDAG meeting where the fares were being discussed, SANDAG added verbiage that was not previously approved by the NCTD Board. He said that with this language NCTD would not be able to sell our day pass after January 1, 2009 and that we would be working with MTS on a revenue sharing agreement. He added that at the meeting Jerome Stocks made a motion to approve the staff recommendation and Mr. Campbell asked him to amend it to delete that language. Mr. Campbell said he was then reminded that if they delete language they would have to go back to the first and second reading and that would delay the ability to increase any fares which would cost NCTD money for some length of time. He said the SANDAG attorney said if NCTD approved it that day, as written and recommended by staff, NCTD would have the ability to come back and modify it at a future time, if they were not able to reach an agreement with MTS on revenue sharing. Mr. Campbell stated that at some point in time, the Board needs to be told where we are in that negotiating process so that the Board does their part.

Julianne Nygaard informed the Board that the City of Carlsbad cut the ribbon last week on 141 new parking spaces at the Carlsbad Village COASTER station.

Ed Gallo thanked Karen King for her ten years of dedicated, committed service to NCTD.

- **EXECUTIVE DIRECTOR'S REPORT**

Karen King reported that due to the U.S. Open, the BREEZE Route 101 experienced a 32% increase in ridership. She reminded the Board that on June 25, 2008, APTA is hosting a webinar for Board members and during the first week in October the APTA Expo and Conference will be held in San Diego.

Dave Roberts asked if NCTD would be able to highlight the SPRINTER at the APTA Expo.

Tom Lichterman responded that there is a technical tour in the program where people will be bused up from San Diego and they will get a tour of the SPRINTER control center, the transit center, the maintenance facility and a ride on the SPRINTER.

Karen King thanked the Board for allowing her to serve NCTD for the past ten years and for adopting the budget today.

Bill Horn thanked Karen King for her performance and service.

- **REMAINING PUBLIC COMMUNICATIONS**

None.

• **ADJOURNMENT**

The meeting adjourned at 4:35 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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GOVERNANCE COMMITTEE REPORT

TITLE: LEGAL SERVICES CONTRACT EXTENSION

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors authorize the Interim Executive Director to execute a contract extension to RFP 9809, the Best Best & Krieger (BB&K) legal services contract, for an additional two-year period from August 5, 2008 to August 4, 2010 at the not-to-exceed value of \$1,500,000.

BACKGROUND INFORMATION:

In 1998, NCTD issued an RFP for general counsel and other legal services. The NCTD Board authorized a contract with BB&K for four one-year contracts and one one-year extension. The contract for these services expired in August 2003. On July 24, 2003 the Board authorized an extension of the contract for two additional years, expiring August 5, 2005, with a one-year option period to August 5, 2006. In July of 2005, the Board again authorized a contract extension to August 2008. All contract extensions to BB&K were on a sole source basis due to BB&K's involvement with significant on-going legal issues.

Because of BB&K's continuing involvement with known legal issues related to the SPRINTER project, and the potential for future SPRINTER legal issues unknown at this time, we believe it would be in the District's best interests to provide for continuity of legal services through 2010. Accordingly, we suggest that the contract with BB&K be extended for an additional two years, through August 2010. At that time, the Board can evaluate whether to conduct a competitive procurement based upon changes in legal service needs. Per the contract, the current paralegal fee of \$97.00 per hour and attorney fee of \$181.00 per hour will be increased on August 1, 2008, based on the use of the most current CPI information, which would also be used to adjust the rates for the last year of the contract. CPI has not exceeded 4% over the past ten years, and was 3.4% last year.

ATTACHMENT: None

FISCAL IMPACT: The fiscal impact of this item will not exceed \$1,500,000 for the two-year contract extension period. Actual costs are dependent upon the amount of time spent and direct costs incurred by BB&K working on NCTD matters. NCTD's operating budget for FY 2009 includes \$595,000 for these fees.

COMMITTEE REVIEW:

The Governance Committee reviewed this item and recommended Board approval of this item on the Consent Calendar. 7/2/08

STAFF CONTACT:

Richard Hannasch
Director of Fiscal and Support Services
E-mail: rhannasch@nctd.org Phone: 760/967-2809



GOVERNANCE COMMITTEE REPORT

TITLE: LEGISLATIVE STATUS UPDATE

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors receive the legislative status report.

BACKGROUND INFORMATION:

Periodic status reports on federal and state legislative activities are provided to the Governance Committee and NCTD Board of Directors during the year. This status report provides an update on state and federal activities. Legislative activity constantly occurs in Sacramento and DC; changes that occurred after report mail out to the Governance Committee are shown in ***Bold Italics***.

STATE 2008-2009 State Budget

The Governor's proposal for the Fiscal 2008-09 State Budget was released on May 14, 2008 and contained devastating news for the future of public transit in California. The proposal recommends that another \$1.4 billion be diverted from the Public Transportation Account (PTA) to cover non-transit shortfalls in the General Fund. This proposal would bring the total diversion from transit to more than \$4 billion over the last decade. The proposal included \$306 million for the State Transit Assistance Program (STA), which was significantly lower than the Governor's proposal in January 2008 of \$743 million. This proposal not only recommends diverting the entire "spillover" to non-traditional transit purposes, but additionally proposes to divert funding from the base Public Transit Account (\$593 million for home-to-school transportation, \$235 million for the repayment of bond debt service). This precedent setting distinction would further reduce NCTD funding by \$2 million. As a reminder, the diversion of the "spillover", as recommended in January 2008, represents a loss to NCTD of \$4 million. These combined proposals represent a \$6 million loss to NCTD. The Administration's recommendation of the \$306 million is intended to provide the same level of funding as the FY 2007-2008 State Budget for STA. However, last years' level of funding already included a permanent diversion from transit, and with the huge increase in fuel costs, last years' dollars are significantly less in terms of purchasing power.

NCTD's Ad-Hoc Committee, recently formed for the purpose of developing legislative strategies to address the state funding for public transit, met prior to the NCTD Board's May 15, 2008 meeting. Our state legislative representative, Mark Watts, met with Board Members Druker, Nygaard, and Orlando to discuss various strategies. Some of these strategies discussed at the meeting are as follows:

<sup>1</sup> Spillover-Generated when gasoline prices increase at a faster rate than all other taxable items.

- Advocate for the restoration of the full amount of STA included in the January 2008 proposal, which would add back in **\$337 million**, providing for a STA program level of **\$743 million**.
- At a minimum, restore at least the base PTA amount to augment the STA. This would add back in **\$134 million**, for a total STA program level of **\$440 million**, partially averting or delaying pending additional service reductions.
- Oppose any efforts to suspend Proposition 42 under the new loan provisions of Proposition 1A. **\$286 million** (20% of the revenue) would accrue to the PTA, of which 75%, or **\$214.5 million**, would be applied to the State Transit Assistance Program. Should this occur, transit funds would be reduced to \$91 million.
- Seek statutory program changes to improve local transit service delivery and provide tools in the face of on-going reductions in state transit grants.

On June 10, 2008 the Assembly Budget Subcommittee staff approved an STA Program funding level of about \$624 million, the level appropriated in 2006-07. On June 11, 2008 the Senate Budget Subcommittee also approved a funding level of \$624 million to the public transportation account; however, their proposal divides the program between STA and the State Transportation Improvement Program, \$494 million and \$129 million respectively.

***On July 8, 2008, the Budget Conference Committee voted for a compromise between the two House versions. The compromise restores \$317 million to the PTA; \$64.7 million would be used for loan payback from the Traffic Congestion Relief Fund to the PTA, with the remaining \$253 million restored to the STA account. This action increases the total to the STA from the Governor's proposal of \$306 million to about \$559 million. This action however is merely a starting point that is reliant on \$8 billion in tax increases. The "Big 4<sup>2</sup>" legislative leaders must continue to negotiate a budget that would successfully obtain a two-thirds vote approval in the Assembly and the Senate and signature by the Governor.***

#### *Other Pending State Legislation*

A matrix on currently pending state bills, their current status, and how transit would be affected, is included with the staff report. The following bills that are moving through the process, and/or newly introduced, with a potential impact to transit in North County, are highlighted below for your convenience.

- SB 53 (Ducheny) Department of Railroads: This bill would create the Department of Railroads in the Business, Transportation and Housing Agency, and create the positions of director and deputy director within the department to be appointed by the Governor. This bill would transfer the department responsibilities currently administered by the intercity rail passenger program, High Speed Rail Authority, and the Public Utilities Commission. The bill was amended on June 19, 2008 after passing

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<sup>2</sup> Big 4 Leaders are: Senator President Pro Tem Don Perata (D-Oakland) Assembly Speaker Karen Bass (Los Angeles), Senate Republican Leader Dave Cogdill (Modesto), and Assembly Republican Leader Mike Villines (Clovis).

Assembly Floor and therefore must return to Assembly Transportation and Assembly Appropriations.

- SB 1685 (Kehoe) Regional Comprehensive Plan: San Diego: This SANDAG sponsored bill that expands and revises the purposes for which revenues from a future county-wide voter-approved sales tax in San Diego County may be used, with eligibility for public transit operations and maintenance specifically defined, has passed Senate Transportation and Housing and Senate Local Government, and Senate Floor. ***This bill has passed the Assembly Floor June 26, 2008 and was signed by the Governor on July 8, 2008. In response to the bill's passage by the state Legislature, the SANDAG Board of Directors appointed an Ad-Hoc Policy Committee for a Quality of Life Funding Measure at its June 27, 2008 meeting. Appointed members are: Escondido Mayor Lori Holt Pfeiler as Chair; Del Mar Deputy Mayor Crystal Crawford; El Cajon Mayor Mark Lewis; Imperial Beach Mayor Jim Janney; San Diego County Supervisor Ron Roberts; and San Marcos Councilmember Rebecca Jones. The Ad Hoc Committee was appointed to provide policy direction and guide the efforts to collaborate with regional stakeholders on possible approaches to a regional "quality of life" funding measure in 2010.***
- SB 2705 (Jones) Local Government: Mello-Roos Community Facilities districts: public transit: This bill, which would make public transit including, but not limited to, operational expenses and maintenance of public transit equipment, eligible under the Mello-Roos Community Facilities District Act of 1982, has passed Assembly Local Government and Senate Floor. This bill failed passage by Senate Local Government on June 18, 2008, however, reconsideration was granted.
- AB 1836 (Feuer) Infrastructure Financing Districts (IFD): This bill removes the voter approval currently needed for cities and counties to create Infrastructure Financing Districts. Current law requires a two-thirds voter approval to legally form an IFD, which differs from the process for establishing redevelopment areas where only the approval of the city council or board of supervisors, respectively, is required. The requirement for voter approval has discouraged locals from pursuing the establishment of IFDs.

This is important to a transit agency because IFDs can issue 30-year bonds that are paid from local property tax increment revenues to finance critical infrastructure projects including transit, highway, water systems, sewer projects, flood control, child care facilities, libraries, parks and solid waste facilities. This bill has passed Assembly Local Government, and Assembly Floor. The bill failed passage by the Senate Local Government Committee on June 18, 2008, however, reconsideration was granted. ***The bill was amended on June 23, 2008 deleting previously proposed language that would eliminate the requirement of voter approval. On June 25, 2008, the author canceled its hearing on June 25, 2008.***

- AB 2546 (De La Torre) Air Toxics "Hot Spots". This bill would require the Air Resources Board to adopt regulations to reduce impacts of railyards in California and require the retrofit of motor vehicles service railyards.

Because of the broad definition of railyard, there is concern that it may apply to transit facilities. Legislation includes language that states: "Implementation of measures which the state board determines would be preempted by federal law from requiring, but the operator may voluntarily choose to implement these measures". ***This bill passed Senate Transportation and Housing on June 24, 2008 and resides in Senate Appropriations.***

*Federal*

On May 14, 2008 United States House Representative (H.R.) James Oberstar, Chairman of the House Transportation and Infrastructure Committee (T & I) , introduced H.R. 6052 The Saving Energy Through Public Transportation Act of 2008 (H.R. 6052). House leaders have indicated they intend to address rising energy costs during the week of June 23, 2008 and this bill may be among those considered. The bill, approved by the T&I Committee, would authorize \$1.7 billion over two years in grants for transit agencies to reduce fares and expand services. If the bill were enacted into law, the funds authorized by the legislation would require inclusion in an annual appropriations bill.

***FEDERAL APPROPRIATIONS UPDATE***

***On July 9, 2008 the Senate Transportation Housing and Urban Development and other Related Agencies Appropriations Subcommittee approved its version of the Fiscal 2009 spending bill. The House of Representatives has not taken action as of mail out. A summary of the Senate bill as it relates to transit is as follows:***

***Federal-Aid Highway Program: \$41.2 billion, \$1.8 billion more than the President's request and the same as the FY 2008 level.***

***The bill transfers over \$8 billion from the General Fund to the Highway Trust Fund to ensure adequate resources are available to invest in highway infrastructure in 2009 at the levels assumed in the SAFETEA-LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users) law. The amount transferred is the exact amount transferred out of the trust funds at the end of 1998.***

***Federal Railroad Administration: \$1.816 billion, \$ 725 million over the President's request, and \$254 million over FY 2008.***

***This bill increases operating assistance to the National Railroad to \$550 million and also increases capital investment to \$1 billion. The bill also provides \$100 million for capital assistance to States to help state supported rail services. This provision could provide funding to San Diego's coastal railroad corridor.***

***Federal Transit Administration: \$10.225 billion, \$733 million above the FY 2008 level, and \$90 million above the President's request.***

***The increased levels of funding would be shared with formula and bus grants as well as New Starts projects, representing an additional \$492 million and \$240 million over FY 2008 levels, respectively, a 7 percent increase.***

***Funding proposals for specific projects, known as earmarks, were unknown at time of agenda development, but will be shared at Board meeting if known.***

**OTHER FEDERAL UPDATES**

***On June 11, 2008, the House of Representatives passed H.R. 6003, the Passenger Rail Investment and Improvement Action of 2008 which authorizes more than \$14.9 billion over a five-year period (FY 2009 to FY 2013), funding \$9.9 billion for grants to Amtrak to cover its operating expenses, capital projects and debt repayment and \$4.3 billion in grants for states for rail projects, including high-speed rail, \$2.5 billion and \$1.8 billion respectively. The House report identifies 18 congested points along the national network where federal funding could immediately improve on-time performance and ridership growth. San Diego-Los Angeles-Santa Barbara corridor was included on this list. The bill has been placed on the Senate Consent Calendar. A House and Senate Conference Committee will need to develop a compromise Amtrak reauthorization bill to be forwarded to President. If passed, annual appropriations would still be required.***

**ATTACHMENT:** 2A - Matrix of State Legislative Activity Related to Public Transit

**FISCAL IMPACT:** None

**COMMITTEE**

**REVIEW:** The Governance Committee discussed the various bills highlighted in the agenda report and recommends forwarding this informational report to the Board. Clarification was made on the intent of SB 1685, the Regional Comprehensive Plan: San Diego. Specifically, this bill expands the allowances for a potential future sales tax measure that would be presented to the voters of San Diego. The uses include projects that implement protection and preservation programs consistent with adopted natural community conservation plans and habitat conservation plans; water quality improvement programs or projects; construction, acquisition, maintenance, monitoring, and operation of beach sand replenishment projects; and operation and maintenance of public transit projects that maximize mobility and transportation choices. The allowable uses defined in SB 1685 are in addition to what is already provided by law.

07/02/08

There was discussion regarding SB 53, the bill that would create the Department of Railroads as part of the Business, Transportation and Housing Agency. The Committee recommends a “watch” position until further information is known. Also discussed was AB 2546 a bill that would require further regulations to reduce impacts of railyards in California. A “watch” position for this bill was also recommended.

Board Member Orlando inquired as to when the NCTD Ad-Hoc Committee, developed for the purpose of developing legislative strategies, would reconvene. Staff will be consulting with the Committee members to schedule a suitable time in July 2008.

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GOVERNANCE COMMITTEE REPORT

TITLE: MEMORANDUM OF UNDERSTANDING WITH SANDAG REGARDING TRANSFER OF SPRINTER CONSTRUCTION EMPLOYEES

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the Board of Directors authorize the Interim Executive Director to execute an MOU with SANDAG concerning the transfer of SPRINTER Construction employees to SANDAG.

BACKGROUND INFORMATION:

In 2002, Senate Bill 1703 was passed which consolidated certain functions of the two transit agencies and SANDAG, including planning, programming, project development, and major construction projects. Subsequent to its passage, SANDAG and the transit agencies approved Transition Plan(s) and further Memorandums of Understanding (MOU) that defined the specifics of how and when the functions and employees would be transferred.

Included in a MOU was language that the SPRINTER project would remain with NCTD, and that when the project reached revenue service, the specifically-named SPRINTER construction employees would be eligible to transfer to SANDAG. Of the original six named employees, four are currently still with NCTD.

In order to enable this transfer to occur, SANDAG has requested that another MOU (Attachment 3A) be executed identifying the transfer of these specific employees as well as the two vacant positions, and also allowing for the continued support of those employees in closing out the SPRINTER project, as well as working on future NCTD projects as needed, on an hourly-rate reimbursement basis. Under this MOU, NCTD would pay only direct hourly costs for wages and benefits when the employees work on the SPRINTER or other NCTD projects, and would not pay overhead for any items that NCTD would directly provide (such as office space, phone, computer, etc.).

NCTD staff and General Counsel have reviewed the MOU and find it acceptable, and recommend that the Board authorize the Interim Executive Director to execute it upon approval by both Boards.

ATTACHMENT: Attachment 3A - Addendum Number 11 to the Master MOU

FISCAL IMPACT: There is no immediate significant fiscal impact from this item. The affected employees' salaries and benefits are currently paid by NCTD out of SPRINTER project capital funds. Following execution of this MOU, NCTD would reimburse SANDAG for the salary and benefits costs that SANDAG pays when the employees work on the SPRINTER project, which would still come from capital project funds. Staff may need to return to the Board for additional authorization to increase the payments to SANDAG for the employees' time, under a separate SPRINTER Staff Assistance MOU.

**COMMITTEE REVIEW:** 7/2/08 The Governance Committee discussed this item, which was added as an emergency measure that was brought to NCTD's attention after publication of the agenda. The affected employees would officially transfer to SANDAG on September 1, 2008, per the terms of the MOU. The Committee confirmed that cost reimbursement to SANDAG for the transferred employees' continued assistance on the SPRINTER would be on an hourly-rate basis, and would exclude overhead items provided directly by NCTD. The Committee recommended Board approval of this item on the Consent Calendar.

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MONITORING COMMITTEE REPORT

TITLE: ADDITION OF SIXTH CAR TO TWO COASTER CONSISTS

Time Sensitive  Consent

COMMITTEE  
RECOMMENDATION:

That the NCTD Board of Directors authorize the Interim Executive Director to award a purchase order in an amount not-to-exceed \$197,184 to TransitAmerica for the addition of a sixth car to two COASTER consists for the duration of RFP 05023, FY 09 thru FY 11.

BACKGROUND  
INFORMATION:

FY 08 COASTER ridership was a record 1.65 million passengers, representing an 8% increase over the previous year, which also had been a record high. Each of the past five months, COASTER ridership has either established a new monthly high or has come very close.

There are several reasons behind this continued healthy growth, not the least of which is the price of gasoline. Additionally, our trains are more dependable and reliable than ever, as we operated FY 08 with an on-time performance rate of 96%, also a new record high. One manner in which we have reacted to the demand of this growing ridership was the recent addition of 140 new parking spaces to the lot at the Carlsbad Village Station.

Another response, proposed in this item, is the addition of two more coaches to our daily operating fleet. Currently, we operate four train sets of five cars each to provide service. Adding a sixth car to two of our four train sets (based on heaviest demand trips) will not only accommodate further growth, it will encourage it. The positive publicity that public transit is receiving has caused more people to turn to the COASTER and this proposed fleet increase must be made to meet this demand and help promote new ridership.

This action will allow a capacity increase of 20% (approximately 130 seats) on two of the four train sets used in daily operation. The purchase order would be written as a not-to-exceed because if ridership drops off in the winter months, the sixth cars could be removed. However, staff is optimistic that the new passengers we would be cultivating would be more than seasonal riders.

In summary, both COASTER ridership and revenue are growing, and to continue to facilitate and encourage this growth, staff recommends authorization of this change order.

ATTACHMENT: None

**FISCAL IMPACT:** Pricing for this service is based on contractually stipulated costs per the original RFP 05023 Agreement – Anticipated Extra Work Costs. The total potential fiscal impact of this item is \$197,184 broken down as follows:

FY 09: \$63,795

FY 10: \$65,709

FY 11: \$67,680

\$64,000 is currently budgeted for this item in the Board approved District FY 09 Operating Budget. FY 10-11 will be budgeted accordingly.

**COMMITTEE REVIEW:** Staff reviewed the recent record ridership for the COASTER. This proposal would increase capacity for trips with the highest demand. The Committee recommended Board approval of this item on the Consent Calendar.  
7/3/08

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MONITORING COMMITTEE REPORT

**TITLE: HDR ENGINEERING ADDITIONAL FEE FOR GEOTECHNICAL INVESTIGATION SUPPORT**

Time Sensitive  Consent

**COMMITTEE RECOMMENDATION:**

That the NCTD Board of Directors approve an additional fee in the amount of \$24,000 to HDR Engineering, Inc. for geotechnical investigation field preparation support work for the Bridge Replacement Project (BRP).

**BACKGROUND INFORMATION:**

In January 2007, NCTD authorized HDR Engineering, Inc. to proceed with the initial 30% preliminary engineering and environmental clearance process for the replacement of eight timber railroad bridges, seven in Sorrento Valley and one in San Elijo Lagoon. Since then, HDR has performed field geotechnical investigations, bridge type selections and general layouts, preliminary seismic analyses, alternatives analyses, drainage studies, initial cost estimating, and field environmental surveys, research, and resource agency coordination meetings.

During four entire weekends through April and into May 2008, NCTD, in conjunction with Metrolink, established work windows where the entire line from Irvine to San Diego was annulled of all railroad traffic so that multiple on-track projects could be performed concurrently. These types of windows are commonly known as "blitzes."

One of the many projects completed during this latest blitz included the critical geotechnical investigation for the seven bridges in Sorrento Valley and the one in San Elijo Lagoon. For the investigation, each bridge was prepared ahead of time. Some of this work was performed by NCTD's contract COASTER operator, TransitAmerica Services, Inc. (TASI). However, due to the volume of work, TASI requested support from outside sources so that each bridge would be ready to meet the blitz deadline windows. As a result of this request, NCTD issued a change order to HDR to add John S. Meek Company as a sub-consultant for the additional needed bridge preparation work for a fee of \$49,930. During the actual blitz window works, unforeseen conditions of the bridge ballast caused Meek to perform additional out-of-scope work. Since this work had to be completed prior to the geotechnical investigation and during the blitz windows, Meek was given authorization in the field.

The total amount for this additional work is \$24,000. To date, and prior to this additional fee, HDR has been issued purchase orders for the geotechnical investigation in the amount of \$552,906 and one change order for \$49,930.

**ATTACHMENT:** None

**FISCAL IMPACT:** The fiscal impact of this item is \$24,000. 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 FY09. Of the total amount budgeted, \$2,889,760 has been expended and an additional \$1,952,985 has been encumbered, leaving an available balance of \$3,019,755.

Although none of the FY09 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 reviewed the proposed expenditure for the work related to the geotechnical investigations. The Committee recommended Board approval of this item on the Consent Calendar.  
7/3/08

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MONITORING COMMITTEE REPORT

TITLE: SPRINTER SCADA SYSTEM MAINTENANCE AGREEMENT

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors authorize the Interim Executive Director to award a sole-source contract for SPRINTER Supervisory Control and Data Acquisition (SCADA) system maintenance to B&C Transit, at a cost of \$42,000 per year.

BACKGROUND INFORMATION:

The SPRINTER project Mainline contract included design and installation of a complex computerized communications, monitoring, and alarm system known as SCADA (Supervisory Control and Data Acquisition). This system is comparable to Dispatch software and functioning, but manages system features such as Emergency Call Boxes, Public Address/Message Signs, CCTV monitoring/camera control, and other 'behind-the-scenes' links at SPRINTER stations including intrusion alarms at control boxes and other key facilities.

The SCADA system represents a proprietary software application linking multiple hardware items, a communications system, and multiple field facilities together at the Control Center. As with any computer system, periodic software maintenance and updates/upgrades are necessary for smooth functioning. In addition, breakdowns and complex failures require troubleshooting and repair assistance. NCTD, as part of the SPRINTER project, required warranty coverage for failures arising from workmanship or component failures, but this coverage does not cover system maintenance, upgrades/updates, or immediate system 'crash' assistance, which would be vital during a gangway failure.

The proposed sole source agreement provides for the software provider, B&C Transit, to have qualified software engineers on call via phone and/or network connection to provide immediate telephone and on-line assistance for troubles and failures (including possible short-notice on-site response at additional cost). The proposed agreement also provides for additional task order work such as adding software features or additional/recurrent training, on a task order basis, as funding allows. NCTD staff currently anticipates task order work to include purchasing additional wireless headsets (cost - \$7,032) and activating additional Control Center CCTV monitors (cost - \$10,400). Staff will monitor failure items to ensure that warranty coverage is applied where appropriate. In the longer term, NCTD expects (per contract) to receive all necessary software codes underlying the system and ultimately will evaluate the feasibility of performing this function internally, after additional experience is available with system functioning and typical issues. The monthly cost will be a flat rate of \$3,500, or \$42,000 annually, for this on-call support. The additional known task orders have a combined value of \$17,432.

**ATTACHMENT:** None

**FISCAL IMPACT:** The proposed agreement will cost \$42,000/year, with adjustment clauses (including cancellation should NCTD decide to re-bid or take in-house). The anticipated Task Orders will cost \$17,432 for a total of \$59,432 in the first year. Funding for this maintenance agreement is budgeted in account 155.503326 SCADA System Support (\$100,000 for FY 09).

**COMMITTEE REVIEW:** Staff reviewed the proposed contract providing support for the SCADA dispatching and communication system. The Committee recommended Board approval of this item on the Consent Calendar.  
7/3/08

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MONITORING COMMITTEE REPORT

TITLE: SPRINTER SAFETY-SENSITIVE SIGNAL WARRANTY WORK

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors authorize the Interim Executive Director to award a purchase order in an amount not-to-exceed \$50,000 to TransitAmerica under RFP 05023 for safety-sensitive signal work.

BACKGROUND INFORMATION:

On March 1, 2008 TransitAmerica took over the maintenance of both the track and signal functions of the SPRINTER line. For that reason, the SPRINTER mainline signal construction subcontractor de-mobilized from the day-to-day maintenance of the signal system.

However, as with any new signal system of this degree of complexity, issues are still being encountered. Many of these are minor and do not affect the integrity or reliability of the system. These types of items are placed on the punch-list and the construction sub-contractor is expected to resolve them. However, some items do not fall into this category and, if left unattended, could affect the functionality of the SPRINTER signal system.

Therefore, to avoid potential safety problems or train delays, these items, when found, are immediately corrected by the signal maintenance technicians of TransitAmerica, as is required by the scope of their contract.

Because the SPRINTER signal system is under warranty coverage, these repairs are subject to the warranty provisions of the SPRINTER mainline construction contract. As such, the District will be reimbursed for TransitAmerica costs with this work being charged back to the mainline contractor, West Coast Rail Constructors.

ATTACHMENT: None

FISCAL IMPACT: Potential initial fiscal impact would not exceed \$50,000. However, the net fiscal impact will be zero as these costs are reimbursable and will be charged back to the mainline contractor.

COMMITTEE REVIEW: Staff discussed the need to quickly schedule safety-related signal work along the SPRINTER line. The Committee recommended approval of this item on the 7/3/08 Consent Calendar.

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MONITORING COMMITTEE REPORT

TITLE: PURCHASE ORDER INCREASE TO MACTEC FOR SPRINTER INSPECTION SERVICES

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors authorize the Interim Executive Director to increase the existing MACTEC purchase order #17543 for material testing and inspection services on the SPRINTER project in the amount of \$102,400 for a revised total of \$3,602,836.

BACKGROUND INFORMATION:

The SPRINTER project requires the services of an on-call accredited material testing and inspection company during the construction process in order to ensure the work is completed in compliance with local codes, regulations and in accordance with the contract plans and specifications. NCTD has obtained these services for the SPRINTER project through its on-call contract with MACTEC.

The original MACTEC estimate for these services on the Mainline, San Marcos Loop and Vehicle Maintenance Facility projects was based on typical industry standards for similar work, but since that time there has been an increased need for their services. This final increase in scope of work includes supplementing the CM Team staff for inspection of civil and landscaping work at the grade crossings and stations that were completed as the contractor ramped up their work effort to meet the accelerated work schedule and to facilitate and accelerate project closeout. MACTEC will also assist in final inspection and acceptance of completed work as part of the closeout process.

The current MACTEC purchase order value issued to date is \$3,500,436. With this final increase, the revised amount will be \$3,602,836. When inspection or retesting costs are related to quality conformance issues or non-compliance testing, that cost will be deducted from the contractor's final payment.

ATTACHMENT: None

FISCAL IMPACT: The fiscal impact of this item is \$102,400. This cost will be charged to the SPRINTER project construction management line item, JB#709508, which has an approved budget of \$34,866,561. To date, a total of \$31,339,709 has been expended and an additional \$3,483,924 has been encumbered, leaving a remaining balance of \$42,928. The remainder will be funded from the contingency account, which has a sufficient balance to cover this item.

COMMITTEE REVIEW: Staff briefed the Committee on the material testing and inspection services for the SPRINTER project. The Committee recommended Board approval of this item on the Consent Calendar. 7/03/08

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MONITORING COMMITTEE REPORT

TITLE: FY 08 3<sup>rd</sup> QUARTER PERFORMANCE REPORT

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors receive and review the FY 2008 third quarter performance report.

BACKGROUND INFORMATION:

The Quarterly Performance Report is provided to the Board and is utilized to track trends in ridership, operating costs and revenues, and other indicators, including service quality. For the purposes of this staff report and attachment 9A, SPRINTER statistics are reported independent of system-wide totals since the service operated only 23 days of the third quarter. SPRINTER statistics are included in system totals in attachment 9B.

Total fare revenues decreased 0.7% while total operating costs increased 4.2%, resulting in a decrease in the system-wide farebox recovery ratio from 24.6%, as of March 2007, to 23.4% as of March 2008. The increase in operating costs is mostly attributed to higher fuel costs. Operating costs for the BREEZE increased 6.4% and for the COASTER 0.4%. Higher fuel costs for the COASTER were offset by decreased mobilization costs. LIFT operating costs decreased 5.1% when compared to FY 2007 due to the cessation of mobilization costs associated with the start of new operating service contracts in FY 2007. FAST operating costs through the third quarter were at FY 2007 levels. SPRINTER operating costs for the 23 days of operation in March were \$1,076,123.

Total system ridership through March 2008 decreased 2.4% when compared to March 2007. BREEZE ridership decreased 3.8% as a result of service changes implemented in August 2007 and route changes implemented with the start of SPRINTER service. BREEZE revenue hours and miles decreased 2.4% and 3.6% respectively due to the service changes. FAST ridership dropped 8.9% due to Vista student riders switching over to bus route 332. LIFT and COASTER ridership increased 1.2% and 7.3% respectively. BREEZE fare revenue decreased 5.6%, FAST fare revenue decreased 5.7% and LIFT fare revenue decreased 16.9% due to a one-time charge to revenue for the return of unused 10-trip tickets in the first quarter. COASTER fare revenue increased 8.3%. SPRINTER ridership was 160,000 (March 9 – 31) and fare revenue was \$144,444.

Service quality indicators show improvements in some areas and declines in others when compared to FY 2007. The total number of chargeable accidents that resulted in property damage or personal injury increased 114%. BREEZE accidents totaled 69 compared to 31 in FY 2007, and COASTER accidents totaled four compared to zero in FY 2007. BREEZE mechanical failures

decreased 6.9% and FAST failures decreased 50%. LIFT mechanical failures decreased 48.1%, a result of the recent investment in new sedans to replace old vans. COASTER mechanical failures increased by six failures. SPRINTER reported two accidents and no mechanical failures.

**ATTACHMENTS:** 9A - Performance Summary Report  
9B - System Performance Summary 3rd Quarter FY 2008

**FISCAL IMPACT:** None

**COMMITTEE** Staff reviewed the Quarterly Performance Report with the Committee. The  
**REVIEW:** Committee recommended that the Board receive the report as an information  
7/3/08 item.

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MONITORING COMMITTEE REPORT

**TITLE: QUARTERLY FINANCIAL REPORT FOR NINE MONTHS ENDED MARCH 31, 2008**

Time Sensitive

Consent

**COMMITTEE RECOMMENDATION:**

**That the NCTD Board of Directors receive and review the Quarterly Financial Report for the nine months ended March 31, 2008.**

**BACKGROUND INFORMATION:**

The Quarterly Financial Report (Attachment 10A) provides information on the District's financial position, as well as an overview of budgeted and actual revenues and expenses through the third quarter of the current fiscal year. It should be noted that only year-end financial reports are independently audited and receive all necessary adjustments for compliance with GAAP (generally accepted accounting principles). Quarterly financial reports are un-audited and are for internal use only.

**ATTACHMENT:** 10A – Quarterly Financial Report

**FISCAL IMPACT:** None

**COMMITTEE REVIEW:**

7/3/08

The Committee was briefed on the Quarterly Financial Report for the nine months ended March 31, 2008. The Committee recommended that the Board receive the report as an information item.

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PLANNING COMMITTEE REPORT

**TITLE: BRIDGE REPLACEMENT PROGRAM OVERVIEW AND AWARD OF PURCHASE ORDERS FOR ADDITIONAL DESIGN**

Time Sensitive  Consent

**COMMITTEE RECOMMENDATION:**

That the NCTD Board of Directors approve an additional fee in the amount of \$2,200,000 to HDR Engineering, Inc. to complete preliminary design documents and \$250,000 to Project Design Consultants in support of HDR's tasks for the Bridge Replacement Program (BRP).

**BACKGROUND INFORMATION:**

During the 1940's, and in some cases dating back to the 1910's, the Atchison Topeka & Santa Fe Railroad replaced many of the old (at the time) railroad bridges with new timber trestles. Since then, AT&SF made numerous repairs to the bridges before NCTD's purchase of the line in 1992. NCTD has continued with these repairs, some minor and some major, and some with complete replacement with modern concrete structures.

To manage these important bridge assets by the most cost-effective means possible, NCTD annually inspects its bridges and then rankings are established for replacement or repair. Because of the nature of bridges being large capital expenditures requiring considerable time to amass the necessary funding for their ultimate replacement, NCTD has developed a program whereby some bridges are repaired and some are designed for replacement. The criteria for the program is based on several factors that may include the bridge's remaining life span, environmental conditions, constructability, operational needs, maintenance and costs.

In January 2007, the Board authorized HDR Engineering, Inc. and Project Design Consultants (PDC) to proceed with the initial 30% preliminary engineering and environmental clearance process for the replacement of eight timber railroad bridges, seven in Sorrento Valley and one in San Elijo Lagoon. Since then, HDR has performed field geotechnical investigations, bridge type selections and general layouts, preliminary seismic analyses, alternatives analyses, drainage studies, initial cost estimating, and field environmental surveys, research, and resource agency coordination meetings. During the same time period, PDC performed right-of-way surveying and mapping, aerial topography mapping, hydrologic surveys, biological and other environmental aerial photography mapping, track and bridge as-built surveys, utility research, and boundary investigations.

During four entire weekends through April and into May 2008, NCTD, in conjunction with Metrolink, established work windows where the entire line from Irvine to San Diego was annulled of all railroad traffic so that multiple on-track projects could be performed concurrently. These types of windows are commonly known as "blitzes." One of the many projects completed during this latest blitz included the critical geotechnical investigation for the seven bridges

in Sorrento Valley and the one in San Elijo Lagoon. Based on the completion of this investigation and the additional funding provided in the FY 09 CIP cycle, increasing HDR's and PDC's fees to complete the preliminary bridge designs and to obtain environmental clearance is essential in order to keep the bridge replacement program on track. Once the preliminary engineering and environmental phase is completed and NCTD has obtained environmental clearance approval from the FTA, NCTD will proceed with final design and construction. It is imperative that these bridges have completed designs ready so that NCTD can take advantage of funding opportunities that may arise, as well as respond to natural or man-made disasters that could severely damage or destroy a bridge.

The total amount for this additional work is \$2,450,000 (HDR - \$2,200,000 and PDC - \$250,000). To date, and prior to this additional fee, HDR has been issued purchase orders in the amount of \$4,402,772 and PDC for \$274,620.

**ATTACHMENT:** None

**FISCAL IMPACT:** The fiscal impact of this item is \$2,450,000. 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, \$2,889,760 has been expended and an additional \$1,952,985 has been encumbered, leaving an available balance of \$3,019,755.

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:** 7/3/08 The Committee received an overview of the bridge replacement program in conjunction with the staff presentation on the April "Blitz" of maintenance-of-way projects. The recommended action would allow NCTD to complete preliminary engineering and environmental analysis for the aging timber bridges in this program, and would position these design efforts for final design and construction funding, when available. The Committee confirmed that the funding for this preliminary design is in a submitted grant application for NCTD's formula funds and that the funds will be released; this is not a discretionary grant program. The Committee recommended Board approval of this item on the Consent Calendar.

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**MONITORING COMMITTEE REPORT**

**TITLE: FIVE-YEAR BREEZE TIRE CONTRACT FOR LEASE TIRES AND SERVICE**

Time Sensitive  Consent

**COMMITTEE RECOMMENDATION:**

**That the NCTD Board of Directors authorize the Interim Executive Director to award a contract in the amount of \$2,604,963.76 over a five-year period, under the terms of IFB 08056, to Michelin North America, Inc. for the lease of tires and service for the BREEZE fleet.**

**BACKGROUND INFORMATION:**

Currently, NCTD is under contract with Michelin tire for leased tire and service for the BREEZE service. It is common in the transit industry for replacement bus tires to be leased, rather than purchased. The current contract was for five years and expires on August 7, 2008.

Under the contract, tires are provided, installed and managed as part of the agreement and a monthly charge is invoiced based on the miles each tire travels. That charge is formulated by multiplying the miles traveled by the contractual rate of that specific tire. Additionally, there is a monthly locked rate for the service to maintain and manage the tires on the fleet.

The NCTD Contracts department conducted a complete Invitation for Bids (IFB) process. Initially, three potential bidders showed interest and requested a bid package: Firestone/ Bridgestone, Michelin Tire and Goodyear Tire and Rubber. In the end, Michelin Tire was the only firm to submit a bid

The estimated cost of the five-year contract is \$2,604,963.76. This cost is an estimate based on the mileage projections provided to the initial bidders. Any reductions in the mileage would result in lower overall cost; any increase would result in higher cost.

A Federal Transit Administration (FTA) required price analysis was completed as a result of receiving only one bid. It was noted that the bid cost equates to a 58% increase over the prior five- year contract estimate.

The price analysis conducted by the Contracts Department determined the Michelin bid to be in line with current market rates and to be fair and reasonable. As part of their analysis, the proposed rates were compared to several other transit agencies' current rates. The new rates for NCTD were found to be lower then any of the four other agencies.

Michelin's increases are a result of a 60% increase in the cost of raw materials, along with a large increase in the price of oil, which is a major component in the production of tires.

**ATTACHMENT:** None

**FISCAL IMPACT:** The fiscal impact of this item is an estimated \$2,604,963 over the life of the five-year contract. Costs during the first year are estimated at \$465,067. This item is budgeted annually in the Operating Budget under Fleet Maintenance – Revenue Vehicles, account #190.504121. In FY 09, a total of \$329,725 was budgeted, not knowing the extent of inflation in the tire industry. Staff will monitor this cost closely along with the other highly volatile costs in fleet maintenance, such as fuel.

**COMMITTEE REVIEW:** The Committee received an overview of the procurement procedures for the proposed contract, including the relevant FTA requirements and the satisfactory past performance of the bidder. The Committee recommended Board approval of this item.  
7/03/08

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STAFF REPORT  
TO THE BOARD

Agenda Item #  
**13**

**TITLE: LONG-TERM MAINTENANCE AND MONITORING OF VARIOUS  
ONSITE SPRINTER PROJECTS**

Time Sensitive  Consent

**STAFF RECOMMENDATION:** That the Board authorize the Interim Executive Director to award a contract to Habitat Restoration Sciences, Inc. for the Long-Term maintenance and monitoring of various on-site SPRINTER projects.

**BACKGROUND INFORMATION:** Environmental mitigation on the NCTD SPRINTER project required the revegetation of various sites and control of exotics on the line plus the creation of an uplands (oak tree) mitigation site. All sites have been successfully constructed in 2007/2008 and are currently being maintained by various construction contactors until the latter part of 2008.

The work of this procurement requires the long-term maintenance and biological monitoring of these various sites to fully meet the Resource Agencies' requirements during the five-year term of the permits. In addition, minor installation and/or repair is required to some sites from last winter's floods.

Invitations for bids (IFB) were advertised on June 10, 2008. A pre-bid meeting and site visit was held on June 18, 2008 with four prospective bidders attending. Sealed bids were received on July 3, 2008. The bids ranged from \$546,555.70 to \$2,273,729.98. The independent cost estimate for this work was \$865,300. The bid results are as follows:

- |                                 |                |
|---------------------------------|----------------|
| 1. Habitat Restoration Sciences | \$ 546,555.70  |
| 2. Habitat West                 | \$ 697,512.00  |
| 3. Nature's Image               | \$ 733,076.60  |
| 4. P&D Consultants              | \$2,273,729.98 |

Habitat Restoration Sciences was the low bidder. A meeting was held with the firm on July 10, 2008 to review their bid. Staff was assured that the work of this contract could be accomplished for the bid price. The contract is scheduled to be completed by the end of 2013.

Staff is finalizing its determination that the bid from Habitat Restoration Sciences is the lowest responsive and responsible bidder and will confirm that at the July 17, 2008 Board meeting.

**ATTACHMENT:** None

**FISCAL IMPACT:** The independent cost estimate for this work was \$865,300. This procurement was included in the Maintenance-of-Way department's FY 2009 operating budget in accounts 510.503115 and 510.503115.

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**MONITORING COMMITTEE REPORT**

**TITLE: QUARTERLY PROJECT STATUS REPORT**

Time Sensitive  Consent

**COMMITTEE RECOMMENDATION:** That the NCTD Board of Directors receive a status report on major NCTD and third-party projects affecting NCTD services.

**BACKGROUND INFORMATION:** The Quarterly Project Status Report is provided to give the Board a brief synopsis regarding the current status of major capital projects that are currently under development in the Operations, and Administration and Finance Divisions of NCTD. In addition to NCTD projects, others that are being conducted by third parties affecting NCTD property or facilities are also reviewed.

**ATTACHMENT:** 14A – Quarterly Project Status Report

**FISCAL IMPACT:** None

**COMMITTEE REVIEW:** 7/3/08 The Environmental Project Planner briefed the Board on the status of several major projects, including: the East Division maintenance facility expansion; the Santa Margarita River bridge; the Oceanside passing track; the Bridge 225.4 deck replacement; and the Carlsbad Village parking lot expansion. The Committee recommended that the Board receive the report as an information item.

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**PLANNING COMMITTEE REPORT**

**TITLE: IMPACT ON BUS SERVICE TO SPORT GAMES RESULTING FROM NEW FEDERAL REGULATION**

Time Sensitive  Consent

**COMMITTEE RECOMMENDATION:**

**That the NCTD Board of Directors authorize staff to:**  
**1) Take the necessary action to discontinue providing Fixed Route service to local sport games at Qualcomm Stadium, and;**  
**2) Authorize service to home Charger games to be provided in the coastal corridor using the COASTER.**

**BACKGROUND INFORMATION:**

New Federal Transit Administration regulation, effective as of April 30, 2008 (49 CFR Part 604), has dramatically changed the way the federal government defines "Charter service". Under the new regulation, "Charter service" is now defined to include:

*Service "to the public for events or functions that occur on an irregular basis or for a limited duration," where "a premium fare is charged that is greater than the usual or customary fixed route fare."*

NCTD's Padres Express Bus service, as well as our Charger Express Bus service, are both considered Charters under this new regulation, and are subject to the prohibitions against operating charters by public transit operators who receive FTA funds.

Staff followed the regulatory guidelines regarding a possible exemption. The manner in which this is accomplished is to provide formal notification to all charter operator companies in the region of NCTD's intent to operate the Charger service, and see if there is private charter interest. If there is, NCTD is prohibited from operating the service. If no charter company indicates a desire to operate the service, NCTD is free to do so. We provided this formal notification to the charter industry on June 16, 2008 and allowed the required fourteen (14) day period for response. We have received a number of responses expressing interest. Accordingly, it appears that, unless the Board is willing to greatly increase the subsidy of this service by operating it at our base fare of \$4.50 round-trip, we will have no choice but to cease operating the Fixed Route Charger Express service this year due to federal prohibition.

However, NCTD could legally still provide Charger service using the COASTER as an alternative. This service would operate much the same as the current successful COASTER Padre service operates, with passengers transferring to the San Diego Trolley using their pre-purchased roundtrip COASTER ticket as fare media. Staff has developed a draft agreement with MTS similar to the NCTD/MTS Padre Service Agreement reimbursement which would be used for the Charger service.

The estimated cost per game of providing the Charger service using the COASTER, assuming 600 round-trip passengers, is as follows:

Item	Estimated Cost
TransitAmerica Contract Cost*	\$1,527 or \$3,054
Additional Fuel Cost*	\$900 or \$1,800
Additional Security Cost	\$700
Reimbursement to SD Trolley	\$1,500
Potential Other Support Costs	\$500
<b>TOTAL</b>	<b>\$5,127 or \$7,554</b>

\*Dependent on whether one or two trainsets

On the revenue side, an estimated 600 passengers paying an average of \$10 each for the round trip would yield \$6,000 in revenue per game, thus virtually covering NCTD's estimated cost of this service.

Due to the change in federal charter regulations that prohibits service to Charger games with express bus service, staff would propose to serve the 2008 Charger home games using the COASTER. The first Charger pre-season home game is August 9, 2008 with the regular season commencing September 7, 2008.

**ATTACHMENT:** None

**FISCAL IMPACT:** NCTD had regularly sent between 20 and 30 buses to Charger games in past seasons, at an estimated operating cost of about \$830 per bus due to driver overtime and fuel cost. Since we are not able to charge our premium fare, this would have a dramatic cost impact. Assuming an average of 25 buses per game, at \$830 per bus, the operating cost is \$20,750 per game. At our regular fixed-route Daypass fare of \$4.50 (effective July 1, 2008), this service would only bring in about \$4,275 per game, for a farebox recovery ratio of only 21%.

Using the COASTER, our costs would range from approximately \$5,100 to \$7,500 per game depending upon the use of one or two trainsets. This includes operations, fuel and security. Expecting net fare revenue of approximately \$10 per passenger, the District would virtually cover its expenses with 600 passengers. With marketing and with time, as on the COASTER Padre service, there is little doubt that the popularity and ridership of this service would increase.

**COMMITTEE REVIEW:** 07/03/08 The Committee reviewed the change in federal charter regulations and the impact this change has on our ability to operate express bus service to Padres and Chargers service. The Committee did not feel the District should greatly increase its subsidy of this service. Instead, the Committee recommended that the Board consider cancelling the express bus service and consider substituting COASTER service.

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July 17, 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:	July 17, 2008; 1:15 p.m.
Posted At:	810 Mission Avenue, Oceanside, CA
Date & Time of Posting:	July 11, 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.