



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

**THURSDAY  
October 16, 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 the Clerk of the Board at (760) 967-2808.*

*Persons with hearing impairment please use the California Relay Service (CRS): 800-735-2929 using TTY; 800-735-2922 using voice; 800-855-3000 for Spanish. CRS Customer Service: 800-735-0373 or 800-735-0193 TTY.*

*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.*

**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)



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 54956.8 – Conference with Real Property Negotiators – Location of Property is portion of Assessor Parcel Numbers 220-201-63, 64, 65, 66, 220-261-09, 13, 15 17, 18, 20, 24, 29, 30, 32, 38 and 220-270-24 through 28 and 31 in San Marcos. Negotiator: NCTD: Tom Lichterman and Ed Singer. Negotiating Party: City of San Marcos
- 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 54957.6 Re: Personnel Matter – Public Employee Appointment. Title: Executive Director

### **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 September 2008 Employees of the Month Commendations to:**

- \* Mr. Michael D. White, General Services Worker
    - \* Mr. Ronald R. Woodard, Coach Operator

- ∅ **Presentation of Award from Government Finance Officers Association (GFAO)**

- **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 REGULAR MEETING FOR SEPTEMBER 18, 2008</b> (Pages 6 – 12)	Approve
<b>C. MINUTES FOR ANNUAL MEETING OF SAN DIEGO NORTHERN RAILWAY FOR SEPTEMBER 18, 2008</b> (Pages 13 – 14)	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>D. CONSENT ITEMS (Tabs 1 – 7)</b> Items reviewed and recommended for approval by the Governance Committee (G), Planning Committee (P), Monitoring Committee (M), Staff (S ) or Board (B)	
1. Blank Rome Government Relations Contract (G)	Approve
2. Legislative Status Update (G) (Attachment 2A)	Receive
3. Extra Work Purchase Order to TransitAmerica Services, Inc. for Crossing and Traffic Signal Rehabilitation at Leucadia Blvd in Encinitas (M)	Approve
4. FY 2008 4 <sup>th</sup> Quarter Performance Report (M) (Attachments 4A and 4B)	Receive

- |  |         |
|--|---------|
| 5. Quarterly Financial Report for Twelve Months Ended June 20, 2008 (M) (Attachment 5A)                      | Receive |
| 6. Federal 5311(f) Grant Applications for Operating Assistance – Routes 306, 386 and 388 (P) (Attachment 6A) | Approve |
| 7. Resolution for Funds Swap with SANDAG for SPRINTER Project (P) (Attachment 7A)                            | Approve |

**OTHER BUSINESS (Tabs 8 - 12)**

- |  |         |
|--|---------|
| 8. Public Hearing for Proposed October 2008 COASTER Schedule Changes (P) (Attachments 8A and 8B)                   | Approve |
| 9. Development of a “No Smoking” Ordinance for NCTD (G) (Attachment 9A)  | Approve |
| 10. Simon Wong Engineering Supplemental Agreement for Construction Management Services on the SPRINTER Project (M) | Approve |
| 11. Transit Security Services Contract (M)   | Approve |
| 12. SPRINTER Revenue Service 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 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, November 20, 2008  
at 810 Mission Avenue, Oceanside, CA***

**MINUTES OF THE SPECIAL MEETING/CLOSED SESSION AND THE REGULAR MEETING  
OF NORTH COUNTY TRANSIT DISTRICT HELD SEPTEMBER 18, 2008** **PAGE 1**

**CALL TO ORDER**

Chairman Ed Gallo called the meeting to order at 1:00 p.m.

**ROLL CALL OF BOARD MEMBERS**

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

Bob Campbell (City of Vista) arrived at 1:30 pm.

Absent: Jerome Stocks (City of Encinitas).

**CLOSED SESSION**

The Board went into Closed Session at 1:01 p.m. to discuss items i, ii, iii, iv, v and vi.

- i. 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
- ii. Closed Session Pursuant to Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Claim of Bryan Hendrix
- iii. Closed Session Pursuant to Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Claim of Ron Anderson
- iv. Closed Session Pursuant To Government Code Section 54957.6 Re: Personnel Matter – Public Employee Appointment. Title: Executive Director
- v. Closed Session Pursuant to Government Code Section 54956.9(b) – Anticipated Litigation: Two Potential Cases.
- vi. Closed Session Pursuant to Government Code Section 54956.9(c) – Anticipated Litigation: One Potential Case.

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, iii, iv, v and vi 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); Teresa Bath (Alternate, 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

Teresa Barth led the Board of Directors, staff, and the public in the Pledge of Allegiance to the American Flag.

THE MEETING WAS ADJOURNED TO THE SAN DIEGO NORTHERN RAILROAD (SDNR) MEETING AT 2:17 P.M.

THE SAN DIEGO NORTHERN RAILROAD MEETING WAS ADJOURNED TO THE REGULAR MEETING OF THE NORTH COUNTY TRANSIT DISTRICT AT 2:18 P.M.

CHANGES TO THE AGENDA

None

PRESENTATION OF COMMENDATIONS

Tom Lichterman, Director of Operations, stated NCTD was receiving three awards from the American Public Works Association for the SPRINTER project. Mr. Barry Bevier, the local Committee Award Chairman, made the presentation.

Presentation of July and August 2008 Employees of the Month Commendations: Mr. Mike Wygant, Manager of Fleet Maintenance, recognized Ms. Sonia R. Aguilar, General Services Worker (not in attendance) and Mr. Douglas W. Pratt, Mechanic II; Ms. Kim Stone, Manager of Bus Operations, recognized Ms. Marilyn J. Wolk, Coach Operator, and Ms. Pamela Ahl, Coach Operator, as the July and August 2008 Employees of the Month, with the Board's congratulations.

PUBLIC COMMUNICATIONS

Ms. Gena Knutson, Escondido, CA, spoke on her concerns regarding smoking at NCTD Transit Centers.

Ms. Liliana Sandoval, San Marcos, CA, spoke on her concerns regarding smoking at NCTD Transit Centers

Ms. Barbara Gordon, San Diego, CA, spoke on the survey she conducted with riders regarding smoking at NCTD Transit Centers and bus stops.

Ms. Judi Strang, San Diego, CA, spoke on her concerns regarding smoking at NCTD Transit Centers and presented a petition to the Board supporting the concept of smoke free centers.

Ms. Dina Smith, Oceanside, CA, spoke on her concerns regarding route cuts.

Board Member Roberts asked the status of agendizing the smoke free policy.

Tom Lichterman responded that it would be brought to the Governance Committee in October.

APPROVAL OF MINUTES

MOTION BY DAVE ROBERTS TO APPROVE THE MINUTES OF THE REGULAR MEETING OF JULY 17, 2008, SECONDED BY BOB CAMPBELL. MOTION CARRIED UNANIMOUSLY.

Board Member Stocks joined the meeting in progress and Ms. Barth left the dais.

***Bob Campbell requested agenda item 8 be pulled for discussion at the end of the meeting.***

**CONSENT ITEMS**

1. Biennial Review of the Conflict of Interest Code
2. Legislative Status Update
3. Extra Work Purchase Orders to Veolia Transportation Under the SPRINTER Services Contract
4. Additional Design Services to HDR Engineering, Inc. for Bridge 207.6
5. Bridge 225.4 Deck Replacement Project
6. Sorrento Valley Platform Extension Additional Design Services to Project Design Consultants
7. Extra Work Purchase Order to TransitAmerica Services, Inc. for Crossing and Signal Rehabilitation at Sorrento Valley Road

MOTION BY JULIANNE NYGAARD TO APPROVE AGENDA ITEMS 1, 2, 3, 4, 5, 6 AND 7, SECONDED BY BILL HORN. MOTION CARRIED UNANIMOUSLY.

**OTHER BUSINESS**

9. SANDAG Smart Parking Research Study

Ms. Linda Novick from University of California at Berkley and Mr. Alex Estrella and Mr. Sam Johnson from SANDAG reviewed: key milestones; scope of the project; data collection findings; parking management strategies; goals and implementation of strategies; issues of non-COASTER rider parking; enforcement; public outreach; parking fees; ride matching; preferred parking for COASTER riders; proposed service rates; on-going evaluation and adjustments;

Jerome Stocks confirmed that the demonstration project could be cancelled or modified at any time.

Bob Campbell asked why NCTD would want non-COASTER people to park in our lots.

Ms. Novick responded that was a Board decision but that the NCTD enforcement ability is limited.

Dave Roberts asked if this project was exempt from CEQA, and if it is, should we document that in the staff report and why, and is it exempt from review from the California Coastal Commission.

Mike Cowett stated that he hadn't researched it; he would work with SANDAG so it's taken care of before it's implemented. He believes it's exempt from California Coastal Commission because of the duration of the project.

Dave Roberts asked if one city out of the six communities could pull the project for their city.

Ms. Novick stated that if the Board wants to pull one of the stations, they can do that.

Dave Druker asked if it would have to be a Board Policy for security to have the ability to cite for parking.

Mike Cowett said we could do that but we would have to change our legal relationship to those parking lots.

Chris Orlando clarified that the Board is being asked to approve implementation of Phase Two and work with the NCTD staff on the details of the pricing and signage.

Ms. Novick added that gating is an expensive solution and not every lot is conducive to that.

Rocky Chavez questioned if the timing is right for this, with the economy the way it is.

Ms. Christine Nottingham, Solana Beach, CA spoke on her concerns regarding parking on surface streets. She stated that she supported an impact study.

Ms. Susan Murfin, Solana Beach, CA requested an impact study for the neighborhood.

Mr. Gordon Johns, Solana Beach, CA requested an impact study on the spillover to the neighborhood.

Mr. Gene Walker, Solana Beach, CA spoke on his concerns regarding restricted and/or premium parking.

Ms. Dina Smith, Oceanside, CA suggested using buses to transport customers to off-site parking lots.

Jerome Stocks said Solana Beach currently has an impact to their Amtrak station because parking is free and it's relatively close to the City of San Diego where it costs \$24 a day to park, so it's an inverse impact. He said that adding a modest charge to non-COASTER riders after the first free night may help the solution and that the use in Encinitas is different because people are trying to get to local merchants and they have a parking shortage in their downtown.

Dave Roberts stated that he doesn't think the Board can vote on this without getting the legal questions in regards to CEQA answered. He said that if the Board votes today to approve this, this means all six communities will be getting this. Mr. Roberts asked staff to provide him the actual details from the study so they can review it.

Ms. Novick said they are asking the Board to vote for all six but we are going to come back after three months and report their findings on the first three parking projects. She said if there are concerns about the implementation, the Board does not have to continue the study. Ms. Novick said that this is not a huge planning impact study; they wanted to see what the trends are and then evaluate the details as they go along.

Julianne Nygaard stated that the Board is missing the point. She said that the intent is that COASTER and Amtrak riders, during the time the station is operating, would have parking available to them. What is being proposed is a parking place for commuter vans/vanpools and priority parking in front, we are not proposing to charge regular COASTER or Amtrak riders.

Chris Orlando said there are two reasons you control parking – availability to those who want to use it, and to create a revenue stream. He questioned if this study answers either of these goals.

Dave Druker said that the Board needs to start taking the stance that there is no such thing as free parking, somebody pays for it.

Jerome Stocks stated that he does not support using gates; this study is about enhanced services.

Chris Orlando would like to see what the impact is to our riders.

**MOTION BY DAVE DRUKER TO APPROVE AGENDA ITEM 9, SECONDED BY JEROME STOCKS. NAYS: ROBERTS, CAMPBELL, ORLANDO, GALLO. MOTION CARRIED.**

#### 10. Charger Express Bus Service – Possible Resumption of Service

Tom Lichterman stated that the FTA notified NCTD that we could resume service because no private charter company followed through on their stated intent to do that.

**MOTION BY BILL HORN TO REINSTITUTE BUS SERVICE IN THE COASTAL AND INLAND CORRIDOR, BEGINNING WITH THE OCTOBER 12, 2008 CHARGER GAME, SECONDED BY CHRIS ORLANDO. MOTION CARRIED UNANIMOUSLY.**

ROCKY CHAVEZ LEFT AT 4:30 pm.

#### 11. SPRINTER Revenue Service Report

Tom Lichterman provided an update for July and August 2008, including: ridership data; Escondido Avenue platform approved and now in use; on-time performance; parking lot counts; marketing campaign at three college campuses; bike locker door locks and replacements doors; and fare evasion statistics.

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

Ellen Roundtree, Intergovernmental Affairs Officer, reviewed the SANDAG agenda and state and federal legislative activity. She provided an update on the Sorrento Valley COASTER Connection. Ms. Roundtree stated this route may be eligible for JARC money, but that SANDAG has funding for it through the third quarter FY 09. She stated that as a result of the Metrolink train crash, Senators Boxer and Feinstein have introduced legislation to address the issue with the trains being on the same track with the freight and have asked NCTD for a letter of support. Ms. Roundtree created a draft letter for the Board to approve, including concerns about funding issues and lack of technology.

8. Ratify Exigent Circumstance Declaration for Stuart Mesa Stormwater Project

Bob Campbell questioned if NCTD could share the cost with Camp Pendleton and the farmer.

Mike Cowett responded that his office is working on that.

MOTION BY BOB CAMPBELL TO APPROVE AGENDA ITEM 8, SECONDED BY DAVE ROBERTS. MOTION CARRIED UNANIMOUSLY.

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

Julianne Nygaard stated that she attended a LOSSAN meeting and spoke to them about Rail-2-Rail, and they suggested NCTD send a letter to Amtrak suggesting a pass and extra fee be created. She said that she and Bob Campbell are on the Airport Advisory Committee and they have been talking about double-tracking and grade separating the rail line.

Bob Campbell reported that FACT has a new Interim Executive Director and they hope to begin service in October 2008.

Jerome Stocks stated that Encinitas is holding their Oktoberfest on September 21, 2008.

- **INTERIM EXECUTIVE DIRECTOR'S REPORT**

Tom Lichterman, acting as Interim Executive Director, stated that the Metrolink accident has had a tremendous impact on the entire rail industry. He stated that NCTD drafted a rider alert explaining NCTD's safety procedures and placed them on the trains. He informed the Board that: an Historic Steam Locomotive will be passing through the coastal corridor on Sept 21; Oceanside will be holding Harbor Days on Sept 20-21; NCTD will be running extra COASTER trains to Street Scene on Sept 19-20; APTA Expo is Oct 6-8.

- **REMAINING PUBLIC COMMUNICATIONS**

None

• **ADJOURNMENT**

The meeting adjourned at 4:50 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 REGULAR MEETING OF  
THE BOARD OF DIRECTORS OF  
THE SAN DIEGO NORTHERN RAILWAY, INC.  
SEPTEMBER 18, 2008**

OPENING OF MEETING

Chairman Ed Gallo opened the meeting at 2:17 p.m.

ROLL CALL OF BOARD MEMBERS

Ed Gallo (City of Escondido); David Druker (City of Del Mar); Teresa Barth (Alternate, 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); Julianne Nygaard (City of Carlsbad); Bill Horn (County of San Diego).

Also present were Ray Patchett, Interim Executive Director, and C. Michael Cowett, Secretary.

APPROVAL OF MINUTES

No action was taken as the Minutes of the November 15, 2007 meeting were approved at the December 20, 2007 Board meeting for the North County Transit District.

PUBLIC COMMUNICATIONS

None

FOR BOARD ACTION – DISCUSSION

E-1 Annual Meeting and Election of Officers

That the Board elect Tom Lichterman, Director of Operations, as President of the SDNR Corporation and C. Michael Cowett, Legal Counsel, as the Secretary.

MOTION BY DAVE ROBERTS TO ELECT TOM LICHTERMAN AS PRESIDENT OF THE SDNR CORPORATION AND C. MICHAEL COWETT AS SECRETARY, SECONDED BY JULIANNE NYGAARD. MOTION CARRIED UNANIMOUSLY.

CORRESPONDENCE, BOARD MEMBER COMMENTS, AND OTHER MATTERS

None

REMAINING PUBLIC COMMUNICATIONS

None

ADJOURNMENT

CHAIRMAN GALLO ADJOURNED THE MEETING AT 2:18 P.M.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman



GOVERNANCE COMMITTEE REPORT

TITLE: BLANK ROME GOVERNMENT RELATIONS CONTRACT

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors approve a one-year extension on the Blank Rome Government Relations contract.

BACKGROUND INFORMATION:

An original agreement with Blank Rome Government Relations to perform federal legislative representation services was signed on November 1, 2005 and covered a five-year period, subject to execution of one-year task orders. The current contract is administered by the San Diego Association of Governments (SANDAG) and the costs are shared between SANDAG (50%), NCTD (25%), and the Metropolitan Transit System (MTS) (25%).

The initial task order, covering the period November 1, 2005 to October 31, 2006, totaled \$144,000. The second task order covering the period November 1, 2006 to October 31, 2007 also totaled \$144,000, as agreed to by the original contract. Also, pursuant to the terms of the contract, the third year through the fifth year of the contract, if approved by all three Boards, is subject to an increase based on the cost price index (CPI). The third year of the contract with a 2.8% CPI was \$147,888. The CPI for last year was 2.8%, adding \$4,000 to the annual expenditure for a new total of \$152,028. Thus the annual agency shares are: SANDAG, \$76,014; NCTD, \$38,007; and MTS, \$38,007.

This regional approach has proven beneficial for all three agencies, is appreciated by our delegates in DC, and results in reduced operating dollars for the transit operators and the region.

Over the past year, Blank Rome Government Relations has provided NCTD assistance in Washington, D.C. by representing our interests with our Congressional delegation and federal agencies including the Federal Transit Administration and Federal Railroad Administration. The firm monitors and shares information with us on legislative and regulatory activities in D.C. and, with direction, appropriately conveys our position. Regionally, they assisted in obtaining a still pending small starts earmark for \$21 million for the Mid City Rapid Transit Project. In the upcoming year, the authorization of the next surface transportation program will be an area of focus as the current authorization SAFETEA-LU (Safe Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users) expires in September 2009.

Given the past performance, current knowledge, and overall experience, staff is recommending execution of a one-year task order extension to Blank Rome Government Relations.

ATTACHMENT: None

**FISCAL IMPACT:** The annual cost of NCTD's portion of the contract would be \$38,007. The cost for federal representation has been included in the General Management FY 09 Operating Budget under accounts 360.50311X.002 for the total amount of \$38,440.

**COMMITTEE**

**REVIEW:** The Committee discussed the effectiveness of a legislative representation contract shared with SANDAG and MTS and concurred that the regional approach has benefits, but NCTD should also develop measurable tasks and areas of focus specific to its needs for the upcoming year. The development of NCTD's 2009 Legislative Program, scheduled to begin in November 2008, will include this component. The Committee recommends Board approval of this item on the Consent Calendar.

**STAFF CONTACT:** **Ray Patchett**  
**Executive Director**  
E-mail: [rpatchett@nctd.org](mailto:rpatchett@nctd.org) Phone: 760/967-2867

**Key Staff Contact:** **Ellen Roundtree, Intergovernmental Affairs Officer**  
E-mail: [eroundtree@nctd.org](mailto:eroundtree@nctd.org) Phone: 760/967-2881



GOVERNANCE COMMITTEE REPORT

TITLE: LEGISLATIVE STATUS UPDATE

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the Board 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. Changes since mail out of the Governance Committee agenda are shown in **bold italics**.

**2008-2009 State Budget**

On September 23, 2008 Governor Arnold Schwarzenegger signed the FY 2008-09 State Budget Act AB 1781 (Committee on Budget), the Conference Committee report along with a series of budget trailer bills, including AB 88 and AB 268, the transportation omnibus bill. The proposal allocates \$306 million for the State Transit Assistance (STA) Program.

The Governor blue-penciled STA from the \$406 million amount that the Legislature allocated in AB 88 (Committee on Budget), to \$306 million as he proposed in his May Revision and reiterated in the August Compromise in order to fund the home-to-school program. Consequently, only \$306 million out of roughly \$2.1 billion of transit revenues remains for traditional transit purposes. Of this amount, NCTD will receive \$4.4 million, which is consistent with the amount assumed in this year's budget.

The following is a summary of the budget impacts on public transportation:

- Provides \$306 million for STA.
- Protects Proposition 42, which accounts for \$213 million of STA funding.
- Allocates \$60 million as a loan from the Traffic Congestion Relief Fund to keep the Public Transportation Account solvent.
- Does not provide any funding for transit capital projects in the State Transportation Improvement Program (STIP).
- Appropriates \$350 million for the Public Transportation Modernization, Improvement and Service Enhancement Account (PTMISEA) program.
- Appropriates \$101 million for the Transit System Safety Security and Disaster Response Account.
- Provides \$122 million for intercity rail operations.
- Allows 2007-08 STA disbursements for the 3<sup>rd</sup> and 4<sup>th</sup> quarters to be made by the Controller.

This budget diverts approximately \$1.7 billion from “spillover<sup>1</sup>” and other fund sources from transit to the General Fund to the following programs:

- \$857 million to the General Fund for transportation related General Obligation Bond Debt
- \$589 million to the General Fund for Home-to-Scholl transportation
- \$138 million to the Department of Developmental Services for regional center transportation
- \$83 million to reimburse the General Fund for repayment of a prior loan from Proposition 42 transit funds to the General Fund

### **Other State Legislative Matters**

The 2007-2008 Legislative session officially drew to a close on August 31, 2008, pursuant to the State Constitution. In even number years, the Legislature must go into Final Recess on August 31. Any bill approved by the Legislature before September 1, which is received by the Governor after September 1, is subject to approval/veto by the Governor by September 30. The Legislature, after the Governor’s threat in August to veto all bills, held all bills that were approved in August. These bills have now been transmitted to the Governor. He has until September 30, 2008 to act, or they become law automatically.

A matrix, Attachment 2A, includes bills impacting public transit that have passed the legislative process and have either been signed by the Governor or pending his signature. The following bills that are enrolled or moving through the process, with a potential impact to transit in North County, are highlighted below.

- SB 53 (Ducheny): Department of Railroads: This bill originally proposed to create the Department of Transportation in the Business, Transportation and Housing Agency, that would include the positions of Director and Deputy Director within the department, to be appointed by the Governor. This bill, as originally proposed, would transfer the department responsibilities currently administered by the intercity rail passenger program, High Speed Rail Authority (HSRA), and the California Public Utilities Commission (CPUC). The bill was amended on June 19, 2008 after passing Assembly Floor and therefore must return to Assembly Transportation and Assembly Appropriations. On August 14, 2008, this bill was significantly amended. The revised bill, now signed into law, will require the California Research Board, in consultation with the Business, Transportation and Housing, Caltrans, the CPUC, HSRA and the Office of the Legislative Analyst to evaluate and make recommendations on consolidating rail functions. A report must be submitted to the Legislature by May 1, 2009. ***This bill was signed by the Governor on September 26, 2008.***
- AB 660 (Galgiani): Railroad-Highway Grade Separations: This bill provides various changes to California’s railroad grade separation program. The purpose of the changes are intended to eliminate confusing and obsolete requirements, and to facilitate the expenditure of the \$250 million included in Grade Separation Program included in Proposition 1B. The bill has passed the Assembly and Senate. ***This bill was signed by the Governor on September 26, 2008.***

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<sup>1</sup> Spillover – Generated when gasoline prices increase at a faster rate than all other taxable items.  
Meeting Date: 10/16/08

## **FEDERAL**

### **Transportation Appropriations/Second Stimulus Package**

The deadline to pass a FY 2008-2009 Federal Appropriations Act for transportation, as well as other areas of the government, is September 30, 2008. Because this deadline was not going to be met, on September 24, 2008, the United States House of Representatives passed a continuing resolution that would fund much of the government at FY 2008 levels until March 6, 2009. This action is needed to keep the government functioning beyond October 1, 2008, the first day of the 2009 fiscal year. According to our D.C. Legislative representatives, it appears that the Senate will pass the measure by the end of the week, and if it is enacted, it is unlikely that Congress will conduct a lame-duck session. ***The continuing resolution passed Congress and was signed by the President on September 30, 2008.***

The House ***passed a*** second stimulus package intended to boost the economy. The bill would provide \$50 billion and contains a component for transportation infrastructure improvements, including \$4.6 billion for public transit to purchase buses and equipment to expand public transportation, to make improvements to facilities and to meet the growing demand due to higher gas prices, and \$500 million for Amtrak to make upgrades to tracks and stations to meet the intercity growing demand. A Senate version of an economic stimulus package, proposed for \$56.2 billion, contains many programs, including \$10.8 billion for building and repairing highways, bridges, mass transit, airports, and AMTRAK, another \$2 billion for transit agencies to address capital and operating needs to address growing demand, and \$350 million to fund capital projects along Amtrak's corridors, ***failed passage. Although the House bill passed, it is unlikely that the Senate will be acting upon it and the White House has threatened to veto.***

### **Amtrak Reauthorization/Rail Safety Bill**

On September 24, 2008, the House passed the Amtrak Reauthorization/Rail Safety bill (H.R. 2095) and it is anticipated that the Senate will also pass the bill. The legislation authorized \$13 billion for Amtrak over the course of five years, including nearly \$2 billion for FY 2009. Recently added to the bill resulting from the Metrolink accident on September 12, 2008, is a section that provides \$50 million each year to help rail companies equip their trains with Positive Train Control (PTC) that could prevent head on train collisions. Senators Feinstein and Boxer have introduced legislation (S. 3493) that would require all major U.S. railroads to install PTC systems by a time-certain date. For the most part, the Amtrak house bill includes all the substantive language that was included in the Senators' bill. The Amtrak bill also includes a provision that allows private firms to bid on a high-speed rail line from Washington, D.C. to New York and authorizes \$1.5 billion over a ten year period for this purpose. Senator Tom Coburn (R-OK) is expected to block this bill because of this provision. ***Congress has passed this legislation and it is awaiting the President's signature.***

### **Energy Security and Consumer Protection Act**

On September 16, 2008, the House of Representatives passed H.R. 6899, the Comprehensive American Energy Security and Consumer Protection Act. This comprehensive energy bill introduced by Democratic leadership is intended to open up areas to offshore drilling and extends tax incentives for production of

renewable energy. The text of the Saving Energy Through Public Transportation Act (H.R. 6052) is included in the bill. H.R. 6052 which passed the House earlier this summer authorizes \$1.7 billion in formula grants over two years for public transit agencies to reduce fares, expand service, purchase facilities and equipment to increase fuel efficiency. The bill also establishes a pilot program in five areas to carry out a vanpool demonstration project and requires that federal employees in all urbanized areas be offered transit pass transportation fringe benefits. The bill was placed on the Senate Consent Calendar on September 18, 2008. ***It is unlikely that there will be any further activity on this bill.***

Congress will likely adjourn the week ending October 5, 2008.

Legislative changes that occur subsequent to the preparation of report will be presented at the Governance Committee.

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

**FISCAL IMPACT:** None

**COMMITTEE  
REVIEW:**

10/01/08 Staff updated the Committee on legislative activity that occurred subsequent to Committee agenda mail out. This report has been updated to include the most recent activities. The Committee discussed a primary concern about the level of state funding (\$306 million) included for transit as part of the State Transit Assistance program. While the NCTD budget for the current year assumed this level of funding, this now becomes the new base for next year's state allocation. Among other legislative activities, the Committee discussed the pending federal Amtrak Reauthorization/Rail Safety bill, the inclusion of a \$50 million provision to equip trains with positive train control systems and what future actions need to occur for NCTD to secure funding from this provision. The Committee recommends forwarding this information item to the Board.

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MONITORING COMMITTEE REPORT

TITLE: EXTRA WORK PURCHASE ORDER TO TRANSITAMERICA SERVICES, INC. FOR CROSSING AND TRAFFIC SIGNAL REHABILITATION AT LEUCADIA BOULEVARD IN ENCINITAS

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors authorize the Interim Executive Director to award an extra work purchase order in the amount of \$139,172 under the terms of RFP 05023 to TransitAmerica Services, Inc. (TASI) for the rehabilitation of the at-grade crossings at Sorrento Valley Road on the Coastal Corridor.

BACKGROUND INFORMATION:

As part of NCTD's on-going "State of Good Repair" program for the railroad, capital funds are programmed annually for the replacement of at-grade crossings to ensure safety and operational reliability. The Leucadia Boulevard grade crossing is near the end of its useful life and is proposed for replacement through this Extra Work Purchase Order with TransitAmerica Services, Inc. under RFP 05023, the COASTER Operations and Maintenance contract.

At present, this crossing is near the end of its useful life and requires attention prior to any further deterioration which could eventually lead to the imposition of a slow-order, which in turn can affect entire corridor on-time performance.

Therefore, staff is recommending that the Committee forward this item to the full Board for the approval of the rehabilitation and improvement of the road crossing at Leucadia Boulevard on the Coastal Corridor.

This item is budgeted as part of the Rail Rehabilitation Project and Signal Upgrade Project and is slightly higher than the original amount brought to the Committee because of the decision to increase the area to be re-paved due to ground conditions.

ATTACHMENT: None

FISCAL IMPACT: The fiscal impact of this item is \$139,172, of which \$121,285 is track work and \$17,887 is signal work.

For the track work, a total of \$700,000 has been budgeted under JB#s 507201 and 508201 for At Grade Crossing Renewals, \$97,268 of which has been expended, leaving an available balance of \$602,732.

For the signal work, a total of \$500,000 has been budgeted under JB#507901 – Signal and Communication System Upgrade, Phase 2, \$64,205 of which has been encumbered, leaving an available balance of \$435,795.

**COMMITTEE**

**REVIEW:**

10/2/08 Lane Fernandes, Manager of Commuter Rail Services, reviewed plans to improve the grade crossing at Leucadia Boulevard. Though there are no safety issues at this time, improvement of the crossing will prevent potential disruptions to service. The Committee recommended approval of this item on the Consent Calendar.

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MONITORING COMMITTEE REPORT

TITLE: FY 2008 4th QUARTER PERFORMANCE REPORT

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors receive and review the FY 2008 fourth 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 first time, SPRINTER statistics are included in the system totals of this report.

Total fare revenues for the year increased 5.3% and total operating costs increased 11.8%, resulting in a decrease in the system-wide farebox recovery ratio from 24.4% for FY 2007 to 22.9% for FY 2008.

BREEZE fare revenue decreased 3.9% for the year but increased 1.7% for the fourth quarter. COASTER fare revenue increased 9.9% for the year and 14.3% for the fourth quarter. FAST fare revenue decreased 4.5% and LIFT fare revenue decreased 10% due to a one-time charge to revenue for the return of unused 10-trip tickets in the first quarter. LIFT fare revenue increased 16.4% for the fourth quarter. SPRINTER fare revenue was \$668,047 for the year.

The increase in total operating costs was mostly attributed to the start of the new SPRINTER service and higher fuel costs in the last half of the year. Operating costs for the BREEZE increased 3.8% for the year but decreased 4.2% for the fourth quarter due to the route changes implemented with the start of SPRINTER service. COASTER operating costs increased 0.8% for the year and increased 1.8% for the fourth quarter. Higher fuel costs for the COASTER were offset by decreased mobilization costs. LIFT operating costs decreased 2.1% for the year due to the cessation of mobilization costs associated with the start of new operating service contracts in FY 2007. FAST operating costs decreased 1.3%. SPRINTER operating costs are reported for the period March 1 through June 30, 2008 although actual revenue service commenced March 9, 2008. SPRINTER operating costs include extra security placed at each station for the first three months of service at an additional cost of approximately \$445,000.

Total system ridership for the year increased 3.6%. The fourth quarter showed a surge in system ridership of 15.6% due to the new SPRINTER service and high fuel costs for commuters. BREEZE ridership decreased 4.1% for the year and decreased 4.9% in the fourth quarter as a result of the service changes implemented in August 2007 and March 2008. BREEZE revenue hours and miles decreased 4.9% and 6.1% respectively due to the service changes.

FAST ridership decreased 7.8% due to Vista student riders switching over to bus route 332. LIFT ridership increased 2.4% for the year and increased 6.0% for the fourth quarter. COASTER ridership increased 8.0% for the year and increased 9.8% for the fourth quarter. SPRINTER ridership for the year was 719,056.

Service quality indicators include on-time performance, chargeable incidents that result in property damage or personal injury, and road failures. On-time performance for the BREEZE was 96.4%, down very slightly from 96.7% in FY 2007. COASTER on-time performance was 95.7%, also down very slightly from 95.8% in FY 2007. FAST on-time performance was 99.9% and LIFT was 82.5%. The total number of chargeable incidents increased 29%. BREEZE incidents totaled 86 compared to 58 in FY 2007, and COASTER incidents totaled 4 compared to 0 in FY 2007. FAST incidents totaled 2 compared to 4 in FY 2007 while LIFT incidents totaled 9 compared to 18 in FY 2007. BREEZE road failures decreased 1.6% and FAST failures increased 100%. LIFT road failures decreased 66%, a result of the recent investment in new sedans to replace old vans. COASTER mechanical failures decreased by 15 failures. SPRINTER reported 2 incidents and 1 mechanical failure.

**ATTACHMENTS:** 4A - Performance Summary Report Narrative  
4B - Performance Summary Data and Graphs

**FISCAL IMPACT:** Informational item – no fiscal impact.

**COMMITTEE  
REVIEW:**

10/02/08 Cathy Sweet, Manager of Budgeting & Fare Collection, reviewed the performance statistics for each NCTD mode as of the quarter ending June 30, 2008. After a thorough review, the Committee forwarded the report to the NCTD Board as an information item.

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MONITORING COMMITTEE REPORT

**TITLE: QUARTERLY FINANCIAL REPORT FOR TWELVE MONTHS ENDED JUNE 30, 2008**

Time Sensitive

Consent

**COMMITTEE  
RECOMMENDATION:**

**That the NCTD Board of Directors receive and review the Quarterly Financial Report for the twelve months ended June 30, 2008.**

**BACKGROUND  
INFORMATION:**

The Quarterly Financial Report (Attachment 5A) provides information on the District's financial position, as well as an overview of budgeted and actual revenues and expenses through the fourth quarter of the fiscal year ended June 30, 2008. It should be noted that quarterly financial reports are un-audited and are for internal use only. NCTD's independent accountants are currently conducting the annual audit for compliance with GAAP (generally accepted accounting principles).

**ATTACHMENT:** 5A – Quarterly Financial Report

**FISCAL IMPACT:** Informational item – no fiscal impact.

**COMMITTEE  
REVIEW:**

10/2/08

Richard Hannasch, Director of Administration & Finance, analyzed NCTD's financial results for the quarter and year ended June 30, 2006. The Committee conducted a line-by-line review of NCTD's revenues and expenses for the fiscal year. After the review, the Committee forwarded the report to the NCTD Board as an information item.

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PLANNING COMMITTEE REPORT

TITLE: FEDERAL 5311(f) GRANT APPLICATIONS FOR OPERATING ASSISTANCE – ROUTES 306, 386 and 388

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors adopt Resolution # 08-08 authorizing NCTD’s submittal of grant applications for Federal 5311(f) funding to provide FY09 operating assistance for Routes 306, 386 and 388.

BACKGROUND INFORMATION:

The Federal Transit Administration (FTA) Section 5311(f) Intercity Bus Program in California is designed to address the “intercity bus transportation needs of the entire state” by supporting projects that provide transportation between non-urbanized areas and urbanized areas that result in connections of greater regional, statewide and national significance.

Approximately \$3.2 million in Federal funding will be available for this year’s cycle. Funding is allocated based on a statewide competitive basis. Operating projects can receive up to 55.33% in federal funding, up to a maximum federal amount of \$300,000 per project.

NCTD has submitted applications for operating assistance to support Routes 306, 386 and 388. In addition to the applications, Caltrans requires a resolution from the NCTD Board (Attachment 6A).

Below is some additional background on the three routes:

Route 306 - Links the rural communities of Bonsall and Fallbrook to Vista Transit Center (VTC). VTC provides access to rural residents from these communities to local BREEZE bus services and to the SPRINTER, which in turn will link Vista to Amtrak, COASTER and Metrolink, as well as Greyhound. NCTD is applying for \$300,000 in operating assistance for this route.

Route 386 - Links downtown Escondido at the Escondido Transit Center (ETC) to the community of Ramona via SR-78. Service operates during commuter hours only. ETC is a regional multi-modal hub for NCTD BREEZE buses, Greyhound, MTS Commuter Service to San Diego and the SPRINTER. NCTD is applying for \$97,155 in operating assistance for this route.

Route 388 – Links the Pala and Rincon Indian reservations via SR-76 and the communities of Valley Center and Pauma Valley to downtown Escondido at the Escondido Transit Center (ETC), with connecting services available to San Diego. NCTD is applying for \$290,040 in operating assistance for this route.

ATTACHMENT: 6A - Resolution 08-08

**FISCAL IMPACT:** There is no direct fiscal impact associated with this action. However, if NCTD's applications are approved for funding, NCTD would receive federal funding to support operations for the designated routes in the amounts approved for each grant. There is no guarantee that any of NCTD's applications will be approved.

**COMMITTEE  
REVIEW:**

10/2/08 The Committee discussed this item and concurred with applying for these funds to support operations of the three mentioned bus routes. The Committee recommended approval on the Consent Calendar.

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PLANNING COMMITTEE REPORT

TITLE: RESOLUTION FOR FUNDS SWAP WITH SANDAG FOR SPRINTER PROJECT

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors adopt Resolution # 08-07 authorizing NCTD's swapping of Proposition 1B bond funds for TransNet funds on the SPRINTER Project.

BACKGROUND INFORMATION:

In December 2006, the SANDAG Board of Directors approved an amendment to the TransNet Ordinance to add the SPRINTER project as part of the Early Action Program (EAP). Concurrent with the amendment, the SANDAG Board also approved a funding plan revision to increase the total SPRINTER project budget to \$484.2 million. The NCTD Board of Directors also approved the revised total SPRINTER project budget of \$484.2 million and the revised project funding plan in December 2006.

At the time, California voters had just approved Proposition 1B, which included \$4 billion statewide for transit projects, of which \$400 million is for intercity rail and the remaining \$3.6 billion is available for transit agencies to be distributed according to the STA formula. As part of the SPRINTER funding plan, \$50 million in anticipated Proposition 1B bond funds were identified, with the understanding that the policies ruling the distribution of these funds had not yet been established by the state legislature. NCTD and SANDAG programmed the anticipated \$50 million of Proposition 1B bond funds into the SPRINTER project.

NCTD has received and expended all funding sources for the SPRINTER project except the Proposition 1B bond funds. The state has appropriated only \$8,602,925 of the \$50 million in Proposition 1B bond funds, and it now appears that the State will appropriate the remainder of the funds over a period of several years.

NCTD has received and expended the entire \$8,602,925 in Proposition 1B bond funds appropriated to date. The balance of the Proposition 1B bond funds have not yet been allocated by the State, and the Proposition 1B program does not permit the incurrence of costs in advance of appropriation of funds by the State (i.e. no pre-award authority). These factors create a timing problem for NCTD. To address this situation, NCTD and SANDAG propose a revision to the previously approved SPRINTER project funding plan. The proposal consists of replacing the remaining Proposition 1B bond funds yet to be received with TransNet Major Corridor funds in the amount of \$41,397,075. TransNet funds permit pre-award authority. SANDAG, as the regional Metropolitan Planning Organization (MPO), has many major transit projects that are eligible for Proposition 1B bond funding, whereas NCTD has no other such projects.

This item is scheduled to be reviewed by the *TransNet* Independent Taxpayer Oversight Committee (ITOC) at its October 15, 2008 meeting; by the SANDAG Transportation Committee at its October 17, 2008 meeting; and will be brought to the full SANDAG Board at its October 24, 2008 meeting for final approval. If approved, this request will be included in Amendment #1 to the 2008 Regional Transportation Improvement Program (RTIP) scheduled to be brought to the SANDAG Transportation Committee at its November 7, 2008 meeting for approval.

**ATTACHMENT:** 7A - Resolution 08-07

**FISCAL IMPACT:** There is no direct fiscal impact associated with this action. This action simply changes the composition of capital project funding for the SPRINTER project, while keeping the overall SPRINTER budget at the same level.

**COMMITTEE  
REVIEW:**

10/2/08 The Committee reviewed the need for this funds swap for the previously-approved use of Prop 1B funds for the SPRINTER. Due to State delays in the release of \$41,397,075 of the Prop 1B funds, SANDAG would swap these funds for TransNet II funds which are readily available, and apply the Prop 1B funds to other future SANDAG projects. This would address NCTD's timing issue with completion of the SPRINTER project. The Committee recommended approval of this item on the Consent Calendar.

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PLANNING COMMITTEE REPORT

TITLE: PUBLIC HEARING FOR PROPOSED OCTOBER 2008 COASTER SCHEDULE CHANGES

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors:
1) Hold a Public Hearing regarding proposed COASTER service schedule changes, and;
2) Approve the changes for implementation on October 27, 2008, following consideration of public comment.

BACKGROUND INFORMATION:

This item recommends that the Board conduct a Public Hearing on the COASTER schedule adjustment to go into effect October 27, 2008. All changes to weekday service are relatively minor in nature and are adjustments for better "meets" and efficiency. The requirement of a public hearing is necessitated by the proposed changes to the Saturday service. NCTD's existing Public Hearing Policy states that the District must conduct a public hearing for any service changes that modify trip times by more than ten minutes.

When our current expanded Saturday service was initiated in April 2008, it was with the intent of keeping the late-night service seasonal and removing it for the winter months. What staff is recommending to the Board with this action is the adoption of a Saturday summer schedule and a Saturday winter schedule. This schedule change would occur automatically with our April and October changes, coincident with the beginning and ending of our annual Padre service.

The spring/summer schedule would be essentially as it is today, with the last northbound train from San Diego departing at 10:45 p.m. on Saturdays. The fall/winter schedule, along with different departure times during the day, would have the last northbound train depart from San Diego at 6:39 p.m. on Saturdays. This would allow us to serve the summer peak ridership season and avoid running empty trains in the winter. NCTD's FY 2009 budget currently assumes this change is made during the winter months.

ATTACHMENT: 8A - Proposed COASTER schedule effective October 27, 2008
8B - Existing COASTER schedule effective March 28, 2008

FISCAL IMPACT: Not applicable.

COMMITTEE REVIEW:

10/2/08 The Committee reviewed the proposed public hearing to adjust the COASTER schedules and establish separate Saturday COASTER schedules for summer and winter months, tied to the Padres season and higher summertime late night ridership levels. The Committee concurred with the concept and with conducting the Public Hearing at the Board Meeting.

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GOVERNANCE COMMITTEE REPORT

TITLE: DEVELOPMENT OF A “NO SMOKING” ORDINANCE FOR NCTD

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors:
1) Consider the options for a “No Smoking” policy for NCTD Transit Centers and bus stops, and;
2) Adopt NCTD Ordinance No. 1 prohibiting smoking in all NCTD Transit Centers, vehicles, and bus stops.

BACKGROUND INFORMATION:

NCTD currently complies with State law regarding smoking in public buildings and conveyances. That law, last amended through AB 846 in 2003, prohibits smoking inside a public building as well as within 20 feet of a main entrance, exit, or window of a public building. It also prohibits smoking in passenger vehicles. NCTD employees (on designated breaks) and visitors are allowed to smoke if they remain at least 20 feet from the entrance of any building.

Because NCTD’s Transit Centers are outdoors, a policy has not been adopted at these facilities. Based on recent public comment and questions during other topics at Committee meetings, the Governance Committee requested a discussion of the issue, and reviewed the following policy options and consequences at their October 1, 2008 meeting:

Option 1: No Additional Policy (status quo)

Since State law does not regulate outdoor smoking, provided it is more than 20 feet away from any building entrance, there is no requirement to adopt a policy. This approach has no additional enforcement cost to the District since there is no new restriction to enforce.

Option 2: Adopt a Policy allowing smoking only in designated areas in Transit Centers

This approach would establish a policy designating specific areas in each transit center where smoking is allowed, using signage as needed. Smoking would be confined to these areas, and receptacles would be placed for proper disposal of smoking materials. The advantage of this option, over a complete ban of smoking, is that it is more likely to be “self enforcing” rather than a complete ban. The philosophy would be that most smokers will exercise courtesy and smoke only in the designated areas, which will be established in areas away from platform waiting areas, to the maximum extent possible. Ensuring the overall safety and security of our customers is our highest priority; this approach achieves certain control of smoking without unduly burdening the Security Department with enforcement.

Option 3A: Adopt a Policy prohibiting smoking in all NCTD Transit Centers

This approach would completely ban smoking in all NCTD Transit Centers. The primary consideration with this option is the potential cost or difficulty to NCTD

of enforcing the policy. With our limited security resources, we have gone to a patrol approach at many of our Transit Centers instead of assigned station officers. As a result, in many instances, there will be no officer continuously on the platforms to enforce the policy, which may result in chronic violations. It must also be noted that many NCTD Coach Operators smoke during their schedule recovery periods at the Transit Centers. A complete ban on smoking, without any designated smoking areas, will make it impossible for Coach Operators to smoke on their breaks, which will raise labor issues which must be addressed.

Option 3B: Ban smoking at all NCTD Transit Centers and Bus Stops

A further variant of Option 3 (total ban) is whether to extend it to bus stops, not just Transit Centers. The concern with such a broad prohibition would be how to enforce a “No Smoking” policy at NCTD’s 2,000+ bus stops.

Other Considerations:

A further consideration of above options is whether to adopt a District Policy, or to establish the policy through adoption of Ordinances. Presently, NCTD does not have any adopted Ordinances, though we do have the authority to adopt them if desired. If Ordinances are adopted, they can be enforced only by law enforcement officers, or by NCTD employees with designated enforcement authority. While our contract security officers can point out our policy or Ordinance and ask for compliance, they are not allowed, under State law, to cite or arrest violators. NCTD does not currently have any direct employees with code enforcement authority.

After discussion with the Governance Committee, staff was directed to prepare a draft “No Smoking” Ordinance using Option 3B as the guideline. The draft is shown in Attachment 9A.

As information, staff contacted MTS to determine how they address the smoking issue. MTS has prohibited smoking at all transit facilities, bus stops, and on-board their vehicles through adoption of a formal Ordinance (Ordinance No. 13). This ordinance covers a wide range of prohibited conduct on transit vehicles and at transit facilities, not just smoking. Many of these prohibited activities are already covered by State Law (PC 640); however, by addressing them in an adopted Ordinance, MTS can directly enforce the provisions using Code Enforcement Officers, rather than having to rely on law enforcement officers. MTS employs Code Enforcement Officers for this purpose, who have been designated as having this authority through other MTS Ordinances. San Diego Transit Corporation staff also informed us that the smoking prohibition at transit centers has created some difficulties in dealing with their own drivers who smoke on breaks.

**ATTACHMENT:** 9A – Ordinance 1 - An Ordinance Prohibiting Smoking on North County Transit District Vehicles and at Transit Facilities

**FISCAL IMPACT:** Fiscal impact would depend on the option chosen. Signage costs for Options 2 or 3 are estimated to be minor. Enforcement costs are unknown and would depend on the degree of violation and the extent to which the District chooses to pursue violators with the Sheriff and/or hire Code Enforcement Officers.

**COMMITTEE****REVIEW:**

10/1/08

Staff provided the Committee with a report on the various options as shown in the staff report. There were a number of public speakers supporting a ban on smoking at all of the NCTD transit centers and bus stops. The Governance Committee recommended creating "Option 3B", and adopting it as a formal Ordinance, consistent with the MTS Ordinance. This option would, as with "Option 3A", completely prohibit smoking at all NCTD Transit Centers, but would also expand the prohibition to include all bus stops. Based on experience with similar city policies for their parks and beaches, the Committee members believed this option would be self-enforcing.

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**MONITORING COMMITTEE REPORT**

**TITLE: SIMON WONG ENGINEERING SUPPLEMENTAL AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES ON THE SPRINTER PROJECT**

Time Sensitive  Consent

**COMMITTEE RECOMMENDATION:**

**That the NCTD Board of Directors authorize the Interim Executive Director to approve an extension of the existing Construction Management (CM) services contract with Simon Wong Engineering through completion of construction and project close-out, in the amount of \$1,250,000.**

**BACKGROUND INFORMATION:**

NCTD contracts with consultant engineering firm Simon Wong Engineering (SWE) to provide comprehensive construction management services for the SPRINTER project, including:

- Owner’s representative in all official dealings with the Contractors
- Field construction inspection, testing, and quantity verification
- Design constructability reviews
- Construction contract management, including issuance of Field Work Directives and negotiation of Change Orders
- Estimating, scheduling, and cost analysis and forecasting
- Payment application analysis and processing
- Safety Certification Plan administration and report preparation for CPUC
- Analysis of potential claims
- Review of Time Impact Analyses (TIA’s) and other support documentation in determining merit of payments on settlements with WCRC

The original \$17.0 million CM contract was awarded to SWE in October 2001, long before the major contracts were put out to bid for construction. In July, 2006, the contract was extended and the amount was increased by \$12.5 million, recognizing that the project completion date had been extended two years (from December 2005 to December 2007) and due to the more complex project delivery necessitated by continued operation of freight on the line. In October of 2007, an additional amendment of \$5.1 million was made to the contract due to increased FTA reporting requirements and the increased level of effort on field work directives and change orders resulting from the large number of design changes.

Of particular note is the need to track, analyze and negotiate force account work, which is a major part of the current contract close-out effort. Payment by force account analysis is a method provided for in the contract which allows previously unidentified scope to be monitored in the field, then evaluated for

merit and cost after the fact. While this approach is not a preferred means to evaluate cost, it provides a reasonable method to maintain construction progress so as not to delay the entire project. The impact of delaying critical path work is typically much more costly than providing additional construction management resources needed for monitoring and processing force account work.

In processing this force account work, the CM Team has found grounds to reject significant portions of the force account billings being submitted by the Contractor, due to the items already having been paid at unit prices or because the work in question is not eligible for payment (e.g., contractor "re-do" work). This labor-intensive screening process has saved the District potentially hundreds of thousands of dollars.

Another vital CM task which has recently required more effort is that of claim mitigation. Considerable effort has been put forth by the CM team to meticulously maintain project schedule data and to develop "issue" files used for defeating requests for additional compensation or impact claims. Preparation for dispute resolution meetings and creating a document file for potential claims is a labor-intensive effort, which has already provided tangible benefits to the project. It is not unusual on a project of this scale to receive requests for compensation which do not have merit.

As an example, a recent dispute resolution meeting with a major subcontractor resulted in their dropping a request valued at over \$300,000, primarily due to the thorough preparation and review of contract specifications by the CM team. Many other such efforts are also underway, but it is difficult to forecast what resources will be required to defend these requests for compensation in advance of receiving them.

These and other issues have essentially required that we extend some of the personnel for longer durations than anticipated at the time of the last CM Contract amendment in October of 2007. At that time, the planned number of full time equivalents (FTE) positions was predicted to drop from 23 to 16 between May and June of 2008. As of this August we were at still at about 20. While the current addendum proposal shows substantial completion of work at that same time (December 2008), the number of FTE's is higher due to the reasons described above.

As with the previous addendum, this proposal is based on the cumulative extension of individual labor hours and associated rates over the anticipated time period for which each individual will be needed. The CM staff levels were thoroughly reviewed by NCTD management and each individual position and duration was evaluated. Rates are reflective of industry averages and the overhead rates were audited by CALTRANS for the 2006 contract extension.

To date, the CM consultant has performed well. Staff recommends the extension of this contract in order to complete close-out the project without interruption.

**ATTACHMENT:** None

**FISCAL IMPACT:** The fiscal impact of this action is \$1,250,000, the majority of which represents CM costs charged to the SPRINTER project, with the balance representing CM costs that will be charged to reimbursable projects included in the SPRINTER Mainline contract, such as the Inland Rail Trail and Oceanside Detention Basins, and work for the Cities of Vista and San Marcos. The estimated allocation of CM costs between SPRINTER and reimbursable projects is 95% and 5%, respectively. Actual amounts will be dependent upon future needs and circumstances.

A total of \$34,942,920 has been budgeted in the SPRINTER project under JB# 709508, construction management, all of which has been expended or encumbered. This item will be funded from the contingency account, which has a sufficient balance to cover this item.

**COMMITTEE  
REVIEW:**

10/2/08 The Monitoring Committee reviewed the proposed contract extension with Simon Wong Engineering for construction management services. After extensive discussion of the status of the project, the committee recommended that the item be forwarded to the NCTD Board for review and approval.

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**Key Staff Contract:** **Don Bullock, Manager of Capital Project Construction**  
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MONITORING COMMITTEE REPORT

Agenda Item # 11

TITLE: TRANSIT SECURITY SERVICES CONTRACT

Time Sensitive  Consent

COMMITTEE RECOMMENDATION:

That the NCTD Board of Directors authorize the Interim Executive Director to award a five-year contract for transit security services to Heritage Security Services, in accordance with the provisions of RFP 9003-OS.

BACKGROUND INFORMATION:

NCTD's Security Department is comprised of 72 full-time and 15 part-time armed contract-security officers provided by a private security firm. These officers provide security for all NCTD facilities, properties and conveyances. They provide for the safety of NCTD's ridership and employees by providing a high visibility deterrent, enforcing state and local laws and NCTD rules dealing with general misconduct. The security officers stand posts at certain assigned locations throughout the District, conduct roving vehicle patrols, and specialty conveyance patrols.

A Request for Proposals (RFP) for security services was advertised on August 5, 2008 and eight proposals were received on August 29, 2008. The evaluation criteria for this procurement were as follows:

Criterion	Max Points
Qualifications and experience of the security team	20
Operational and technical elements	20
Offeror references	25
Cost proposal	35
<b>TOTAL</b>	<b>100</b>

The final rankings and scores awarded for the respondents are:

1. Heritage Security Services Inc. = 97.39
2. Cypress Security = 88.41
3. Allied-Barton Security services = 84.53
4. Pinkerton Government Services = 73.38
5. U.S. Security Associates = 69.13
6. North Star Security Services = 55.64
7. National Public Safety = 51.52
8. Rancho Santa Fe Security Services = 49.60

Staff recommends the award of the contract to Heritage Security as the highest rated qualified firm offering the required services at a fair and reasonable price. Heritage Security is the incumbent and has maintained their current hourly rate for year one of the contract, with a CPI adjustment for years two through five.

ATTACHMENT: None

**FISCAL IMPACT:** The fiscal impact of this contract award is not-to-exceed \$17,573,772 over the five-year life of the contract. The annual cost will break down as follows over the next five years factoring in a maximum annual 5% CPI adjustment:

Year 1:	\$ 3,180,410
Year 2:	\$ 3,339,430
Year 3:	\$ 3,506,402
Year 4:	\$ 3,681,722
Year 5:	<u>\$ 3,865,808</u>

**TOTAL:** \$17,573,772

Sufficient funds have been budgeted in the FY 09 Operating Budget to cover first year costs. Future years will be included during preparation of each year's annual operating budget.

**COMMITTEE  
REVIEW:**

10/2/08

David Papworth, Chief of Transit Enforcement, reviewed the proposals that had been received to provide security services for NCTD. Of eight proposals received, the evaluation panel ranked Heritage Security Services the highest overall. Heritage Security Services also was the second lowest in cost. The Committee recommended that the item be forwarded to the NCTD Board for review and approval.

**STAFF CONTACT: Tom Lichterman  
Director of Operations**

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**Key Staff Contact: David Papworth, Chief of Transit Enforcement**

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**EXTENDED  
BACKGROUND:**

The arrest authority of a Security Officer is that of a "Private Person." This authority to arrest is outlined in Section 837 of the California Penal Code.

"A private person may arrest another:

1. For a public offense committed or attempted in his presence.
2. When the person arrested has committed a felony, although not in his presence.
3. When a felony has been in fact committed, and he has reasonable cause for believing the person arrested to have committed it."

Once an arrest has been made, security officers are required under section 847 of the California Penal Code to deliver the arrested person to a peace officer or a Magistrate without unnecessary delay. There is no statutory authority for security officers to release an arrested person on a promissory notice to appear or to issue citations.

The following is a representative statistical crime report by Heritage Security Services of reported activity following the FBI Uniform Crime Reporting criteria on NCTD property for the calendar years 2006 and 2007. This report does not reflect activity reported by the Sheriff's Department or any other reporting agency for this time period. Please also note that it does not reflect revenue operations on the SPRINTER.

**SECURITY REPORT – HERITAGE SECURITY**

<b>PART 1 (OFFENSES)</b>	<b>JAN - DEC 2006</b>	<b>JAN - DEC 2007</b>
ROBBERY	02	02
THEFT	02	05
AGGRAVATED ASSAULT	02	09
MOTOR VEHICLE THEFT	00	00
BURGLARY	01	00
HOMICIDE	00	00
FORCIBLE RAPE	00	01
ARSON	<u>00</u>	<u>00</u>
	<b>TOTAL 07</b>	<b>17</b>
<b>PART II (ARRESTS)</b>	<b>JAN - DEC 2006</b>	<b>JAN - DEC 2007</b>
OTHER ASSAULTS	09	08
VANDALISM	00	00
SEX OFFENSES	01	00
NARCOTIC OFFENSES	00	00
DUI	00	00
DRUNK IN PUBLIC	43	50
DISORDERLY CONDUCT	00	00
TRESPASSING	02	23
CURFEW/LOITERING	<u>00</u>	<u>00</u>
	<b>TOTAL 55</b>	<b>81</b>



**MONITORING COMMITTEE REPORT**

**TITLE: SPRINTER REVENUE SERVICE REPORT AND MARKETING AND COMMUNICATION UPDATE**

Time Sensitive  Consent

**COMMITTEE RECOMMENDATION:**

**That the NCTD Board of Directors receive the SPRINTER revenue service report and an update on SPRINTER marketing and communication efforts since revenue service began in March.**

**BACKGROUND INFORMATION:**

Staff will present the regular monthly SPRINTER revenue service report.

In addition, in March 2007, the NCTD Planning Committee received a report on the market assessment of the SPRINTER light rail service. In August 2007, the NCTD Board reviewed planned marketing strategies, events, and activities for the SPRINTER service. In the past year, the NCTD Board has also received marketing updates during the monthly SPRINTER update reports and the Executive Director's reports.

We will review with the Board the marketing activities which were conducted prior to SPRINTER start up, as well as efforts after the opening of SPRINTER service in March 2008. We will review examples of marketing materials used to promote the SPRINTER, and campaigns to attract new and existing riders in various market segments. We will also look ahead to activities and tactics to continue to increase ridership for the SPRINTER.

**ATTACHMENT:** None

**FISCAL IMPACT:** Informational item, no fiscal impact.

**COMMITTEE REVIEW:**

10/2/08 Tom Lichterman, Director of Operations, updated the committee on SPRINTER revenue service during the month of September. Tom Kelleher, Manager of Marketing & Communications, reviewed the marketing activities that had been implemented for SPRINTER service, and the upcoming campaigns for the next several months.

**STAFF CONTACT:**

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October 16, 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:	October 16, 2008; 1:15 p.m.
Posted At:	810 Mission Avenue, Oceanside, CA
Date & Time of Posting:	October 10, 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.