

CONSTRUCTION AND MAINTENANCE AGREEMENT

THIS CONSTRUCTION AND MAINTENANCE AGREEMENT (“CMA”) is made and entered into this _____ day of _____, 2024, by and between the SAN DIEGO METROPOLITAN TRANSIT SYSTEM (“MTS”) and CITY OF NATIONAL CITY, a California municipal corporation (“CITY”) (collectively the “Parties”).

RECITALS

WHEREAS, MTS is a public transit agency established pursuant to California Public Utilities Code Section 120000, *et seq* that operates the Blue Line Trolley, a light rail public transit service with stations located at 8th Street and 24th Street in the CITY.

WHEREAS, CITY proposes to operate a “first/last-mile” electric shuttle service called Free Ride Around National City (“FRANC”) within a specified service area that includes the 8th Street Trolley Station and the 24th Street Trolley Station, through a contract between CITY and Circuit Transit Inc.

WHEREAS, CITY desires to establish a mobility hub for the FRANC service at the 8th Street Trolley Station, which would include a designated shuttle stop (as shown in **Exhibit A**) and an exclusive area for secure storage and charging of up to three (3) electric shuttles in the FRANC fleet (as shown in **Exhibits A, B and C**) (collectively the “Project”).

WHEREAS, the Parties agree that CITY will construct, operate, and maintain the Project and CITY will reimburse MTS for all eligible costs according to the terms and conditions set forth below.

NOW, THEREFORE, IT IS AGREED:

1. **CITY Project.**

(a) **License.** MTS agrees to grant to CITY, at no cost to CITY, the right to use a certain portion of the 8th Street Trolley Station in the City of National City, County of San Diego, described in **Exhibits A, B, and C**, solely for the purpose of constructing, maintaining and operating the Project, in strict accordance with the provisions of this CMA:

FRANC Shuttle Drop-Off Area – Location designated on **Exhibit A** as “NEV SHUTTLE DROP-OFF AREA”. This location shall solely be used by CITY for the purpose of dropping off and picking up passengers at the 8th Street Trolley Station, including the installation of a bench.

FRANC Shuttle Secure Storage and Charging Area – Location designated on **Exhibit A** as “NEV SHUTTLE PARKING ENCLOSURE AREA” and further depicted on **Exhibits B and C**. This location shall solely be used by CITY for the purpose of storing and charging up to three (3) FRANC electric shuttles, as well as incidental operations and activities including, but not limited to, cleaning of shuttles, minor maintenance, and related activities of FRANC or CITY personnel.

No other operations related to the FRANC service or other CITY purpose shall be conducted from this area without MTS's express, written permission. The Parties acknowledge that CITY's storage and charging area shall include photovoltaic panels and electrical service from San Diego Gas & Electric under CITY's account, with any charges or credits therefrom accruing to CITY.

This access right is granted subject to any and all prior, continuing, and future rights and obligations of MTS (including its licensees, successors and assigns) to use the 8th Street Trolley Station for transit purposes and other consistent uses, including, but not limited to, existing and future transportation activities, utilities, communication systems, pipeline facilities and appurtenances in, upon, over, across and along the 8th Street Trolley Station, and there is expressly reserved unto MTS, and its respective successors and assigns, the right (consistent with the rights herein granted) to construct, reconstruct, maintain, operate, and use any and all existing and future facilities and appurtenances related to the above-referenced uses.

For purposes of the license granted by this CMA, CITY shall include parties contracted by the CITY for and related to operation of the FRANC (currently, Circuit Transit Inc.).

(b) **No Cost to MTS; Cost Reimbursement.** The Parties agree that CITY will construct and maintain the Project at no cost to MTS. CITY agrees to reimburse MTS for all consultant and other direct expenses incurred by MTS as a result of reviewing, approving and overseeing CITY's construction and maintenance of the Project. To the extent feasible, MTS will provide CITY with an estimate of such costs in advance and provide CITY with an opportunity to meet and confer with MTS on the need and reasonableness of such expenses.

(c) **No Obligation of MTS to Provide Administrative or Operational Support to Project.** The Parties agree that nothing in this CMA requires or obligates MTS to provide security, customer service, janitorial, vehicle operators, maintenance, technology, or other services or assistance that are necessary for CITY to operate and maintain the Project. Use of the 8th Street Trolley Station by CITY shall be at CITY's own risk of loss and damage. MTS shall have no obligation to modify or adjust its own operations or personnel assigned to the 8th Street Trolley Station to support CITY or the Project.

2. **Use.** If CITY shall use the Project and/or 8th Street Trolley Station for any purpose other than as approved by MTS, or fail to act in accordance with the provisions of this CMA, or act in a manner which interferes with the use of the 8th Street Trolley Station by MTS (including its licensees, successors and assigns), then MTS (or its successors and assigns) shall provide CITY with a timely written notice of any claim of default, meet and confer with CITY regarding the claim of default, and allow CITY a reasonable opportunity to cure the default so long as CITY proceeds expeditiously to cure the default. If CITY fails to cure the default in a timely manner, MTS may exercise its remedies at law or equity against CITY, including barring CITY or the public from using the 8th Street Trolley Station until the default is cured pursuant to Section 11(a) below. It is expressly understood and agreed by MTS and CITY that CITY shall use the Project without causing interference or damage to parking lot, landscaping, trolley station, catenary wires, pipelines, electric lines, telephone lines, telegraph lines, communications systems and other facilities of like character, existing or constructed during the term of this CMA over, under, along and across the Project and/or 8th Street Trolley Station. CITY hereby agrees that it will indemnify

and save harmless MTS from and against any and all liability for any such interference or damage by the CITY or its contractors or agents as more expressly set forth below in Section 8.

3. **Conditions and Limitations.**

(a) **Conditions and Limitations on Use.**

- (i) CITY shall comply with all applicable terms, conditions, directives and requirements of MTS’s policies regarding rights-of-way and other MTS ordinances, rules and regulations. CITY shall comply with all applicable laws and regulations of the federal, state, county, local governments and all administrative agencies thereof which may have jurisdiction over CITY’s construction, maintenance and operation of the Project.
- (ii) No use, construction, or maintenance by CITY or on CITY’s behalf on the Project will interfere with any type of transit operations at the 8th Street Trolley Station.
- (iii) Except as authorized in Section 1(a), CITY shall not leave any personal property or equipment on the 8th Street Trolley Station unattended at any time unless approved by MTS.

(b) **Limitations on Access.** The permission to be granted by MTS to CITY is without warranty of title of any kind, expressed or implied, and is subject to and subordinate to all prior licenses, leases, easements, restrictions, reservations, conditions, covenants, encumbrances, rights-of-way, liens and claims of title which may in any manner encumber the 8th Street Trolley Station. MTS is only required to seek resolution of any violations of this CMA from CITY. Under no circumstances shall the granting of the rights under this CMA be construed as creating any obligations or duties by MTS to the public, CITY, or any other individual or entity as it relates to the Project or MTS’s 8th Street Trolley Station.

(i) CITY expressly acknowledges that MTS’s right to use and operate the 8th Street Trolley Station is pursuant to a right-of-way easement granted to MTS by the United States of America (“USA”) in document number 2013-07336968 recorded at the San Diego County Recorder’s Office on December 23, 2013 attached to this Agreement as **Exhibit D** (the “USA Easement”). CITY’s Project is considered a transit use consistent with the USA Easement and was approved by the USA via letter dated January 26, 2024, subject to the plans approved by them. (**Exhibit E**)

4. **Maintenance of Project.** CITY shall maintain at its expense the Project and appurtenances constructed pursuant to the terms of this CMA and which are over, under, along and across the 8th Street Trolley Station. Except as it relates to routine day-to-day maintenance such as sweeping, trash collection, or power washing under Section 6, in performing its maintenance obligations in accordance with this Section 4, the CITY and/or its contractors, agents and assigns shall notify MTS 72 hours prior to any entry onto the 8th Street Trolley Station for any

purpose (except for emergency maintenance and repairs, in which case CITY shall notify MTS as soon as is possible under the circumstances) and will comply with MTS's rules and regulations concerning use of and work within the 8th Street Trolley Station, and the instructions of MTS's representatives in relation to the proper manner of protecting MTS's parking lot, landscaping, trolley station, tracks and traffic moving thereon, pole lines, signals, and other property of MTS, or its tenants or licensees, at or in the vicinity of any maintenance work, and shall perform such work at such times as shall not endanger or interfere with safe and timely operation of MTS's track and other facilities. All of CITY's maintenance and operational activities pursuant to this CMA shall comply with applicable local, state, and federal laws and regulations, including but not limited to building codes, environmental health & safety rules and regulations, and stormwater best maintenance practices.

5. **Construction Right of Entry Permit.** The exercise of any and all rights provided by this CMA is subject to the requirement that the CITY and/or its contractors and agents first obtain a Right of Entry Permit ("ROE Permit"), in substantially the same format as **Exhibit F** or MTS's then current ROE Permit form, from MTS prior to entry onto the 8th Street Trolley Station for the construction or maintenance of the Project. The ROE Permit requires that the CITY and/or its contractors and agents procure and maintain in force at all times during the construction contract, the insurance described in this CMA. MTS shall timely process any applications required to obtain the ROE Permit and shall not unreasonably deny or delay the issuance of such ROE Permit. The CITY and/or its contractors and agents will comply with all MTS policies, rules and regulations as stated in the ROE Permit, and the instructions of MTS's representatives in relation to the proper manner of protecting the parking lot, landscaping, trolley station, railroad tracks and traffic moving thereon, catenary lines, pull lines, signals and other property of MTS or their respective tenants or licensees, during the period of construction of the Project and shall perform the work at such times and in such a manner so as not to endanger or interfere with the safe and timely operation of the 8th Street Trolley Station and other facilities.

6. **Maintenance ROE Permit.** Notwithstanding the foregoing, MTS hereby grants to CITY a Durable Maintenance ROE Permit to allow CITY to enter onto the Project area for routine maintenance of the Project, including, but not limited to, activities such as trash removal, minor repairs, and similar maintenance activities. The Durable Maintenance ROE Permit shall remain effective throughout the life of this CMA and be subject to all of the terms of this CMA, including but not limited to the indemnity and insurance provisions. Entry onto the 8th Street Trolley Station by individuals or entities other than the CITY (such as contractors, agents, and non-CITY employees) or entry onto the 8th Street Trolley Station by CITY for work outside of the Project area, shall require a separate ROE Permit as specified in Section 5.

7. **Notice.** The exercise of any and all rights provided to CITY by this CMA is also subject to the notice requirements set forth in the ROE Permits for the construction and maintenance of the Project, prior to entry onto the 8th Street Trolley Station for any purpose.

8. Indemnification.

(a) CITY

Without limiting its right to defense and indemnity from MTS arising under Section 8(b), CITY agrees to indemnify, defend and hold harmless MTS, its Board, officers, directors, agents, and employees, the San Diego and Imperial Valley Railroad (“SD&IV”), San Diego & Arizona Eastern Railway (“SD&AE”), San Diego Trolley, Inc. (“SDTI”), San Diego Transit Corporation (“SDTC”), the USA, their officers, directors, agents and employees (“MTS Indemnitees”), from any and all liability, loss, expense (including reasonable attorneys’ fees and other defense costs), demands, suits, liens, damages, costs, claims, including, but not limited to, third party claims, claims for bodily injury, death, personal injury, or property damage, that are incurred by or asserted against the MTS Indemnitees arising out of or connected with (i) the Project, (ii) this CMA, (iii) the maintenance of any device or appurtenance implemented under this CMA, or (iv) any negligent acts or omissions or willful misconduct on the part of the CITY, its City Council members, officers, agents, contractors, employees, or invitees. The requirements as to the types and limits of the insurance coverage to be maintained by the CITY as required by Section 9, and any approval of the insurance by MTS, are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CITY pursuant to this CMA, including but not limited to, the provisions concerning indemnification. CITY shall not be held liable nor have indemnification obligations where related to the negligence or willful misconduct by MTS Indemnitees.

(b) MTS

Without limiting its right to defense and indemnity from CITY arising under Section 8(a), MTS agrees to indemnify, defend and hold harmless the CITY and its City Council members, officers, agents, volunteers, contractors, and employees (“CITY Indemnitees”), from any and all liability, loss, expense (including reasonable attorneys’ fees and other defense costs), demands, suits, liens, damages, costs, claims, including but not limited to, claims for bodily injury, death, personal injury, or property damage, that are asserted against the CITY Indemnitees arising out of or connected with any negligent acts or omissions or willful misconduct on the part of MTS, its Board, officers, agents, contractors, or employees, under or in connection with the Project or this CMA. MTS shall have no obligation to indemnify any invitee of CITY.

(c) Concurrent Negligence

In the event of any acts or omissions of concurrent negligence which results in the filing of a demand, claim, or complaint against the Parties, each party shall defend and represent itself such that each party shall bear its own costs and attorneys’ fees.

(d) Limitation of Liability

Neither MTS nor CITY shall be liable for any consequential, indirect, special or punitive damages.

9. **Insurance.** The CITY, at its sole cost and expense, shall procure and maintain the following insurance:

(a) General Liability

- (i) The CITY shall maintain \$5 million of general liability coverage. Upon request by MTS, the CITY shall provide satisfactory evidence that it meets the insurance requirements of this CMA.
- (ii) The coverage described above shall cover bodily injury (including death) and property damage liability, owned and non-owned equipment, and blanket contractual liability.
- (iii) All such policies shall name in the endorsement San Diego Metropolitan Transit System, San Diego Trolley, Inc., San Diego and Arizona Eastern Railway Company, San Diego and Imperial Valley Railroad, San Diego Transit Corporation, United States of America, and their directors, officers, agents, and employees as additional insureds as their interests may appear.

(b) Automobile Liability

- (i) The CITY shall maintain \$2 million of automobile liability coverage. Upon request by MTS, the CITY shall provide satisfactory evidence that it meets the insurance requirements of this CMA.
- (ii) The insurance shall indemnify against loss from liability imposed by law for damages on account of bodily injury, property damage, and personal injury. The automobile coverage shall cover all owned, non-owned and hired automobiles.

(c) **Workers Compensation.** CITY shall cover or insure under the applicable laws relating to workers' compensation insurance, all of their employees working on or about the 8th Street Trolley Station all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any Acts amendatory thereof. CITY shall provide employers' liability insurance in the amount of not less than \$2 million per accident for bodily injury and disease. By its signature hereunder, CITY certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions in connection with any work performed on the Site. Any persons providing services with or on behalf of the CITY shall be covered by workers' compensation (or qualified self-insurance.) Except in the case of sole negligence active negligent acts or omissions or sole willful misconduct on the part of MTS, its Board, officers, agents, contractors, or employees, under or in connection with the Project or this

CMA, CITY waives any rights of subrogation against MTS or any of their subsidiaries, and the policy form must permit and accept such waiver.

(e) For any claims arising out of or connected with this CMA, including but not limited to the maintenance of any improvement installed or FRANC shuttle services operated under this CMA, and any negligent acts or omissions on the part of the CITY, its Council, officers, agents, contractors, or employees, or the CITY's operations or activities, CITY's insurance shall be primary insurance to the MTS Indemnitees. Any insurance, self-insurance or other coverage maintained by the MTS Indemnitees shall not contribute to it. All policies and coverages shall contain a provision for ten (10) days' written notice by the insurer(s) to the MTS Contracts Specialist of any cancellation of coverage. A ten-day notice is required for non-payment of premium.

(f) The CITY shall insure that every contractor or subcontractor retained to perform the construction or maintenance of the Project, who enters upon, uses, or performs any work upon the 8th Street Trolley Station by or on behalf of CITY shall provide to MTS evidence of insurance as follows:

(i) Commercial General Liability. At all times during this contract and, with respect to Products and Completed Operations Liability, for twelve (12) months following the acceptance of the work by MTS, Contractor agrees to maintain Commercial General Liability Insurance for bodily injury and property damage in an occurrence form and with insurance companies acceptable to MTS with minimum policy limits of \$2 million (per occurrence) for any general contractor and \$4 million (aggregate) for any sub-contractors. Commercial General Liability Insurance must include coverage for the following:

- Premises/Operations Liability
- Aggregate Limits per Project
- Products/Completed Operations Liability
- No Explosion, Collapse, and Underground (XCU) exclusion
- Contractual Liability, with respect to this agreement
- Personal Injury Liability
- Broad Form Property Damage
- Independent Contractors

All such policies shall name in the endorsement San Diego Metropolitan Transit System, San Diego Trolley, Inc., San Diego Transit Corporation, San Diego and Arizona Eastern Railway, San Diego and Imperial Valley Railroad, United States of America, and their directors, officers, agents, and employees as additional insureds as their interests may appear. Except in the case of sole negligence active negligent acts or omissions or sole willful

misconduct on the part of MTS, its Board, officers, agents, contractors, or employees, under or in connection with the Project or this CMA, all general liability coverages required under this Section 9(f) are primary and that any insurance of MTS, SDTI, SDTC, SD&AE, SD&IV, USA, and the CITY shall be excess and noncontributory (endorsement required).

- (ii) Automobile Liability. At all times during this contract, Contractor agrees to maintain Automobile Liability Insurance for bodily injury and property damage including coverage for all owned, non-owned, and hired vehicles at a minimum policy limit of \$2 million. All such policies shall name in the endorsement San Diego Metropolitan Transit System, San Diego Trolley, Inc., San Diego Transit Corporation, San Diego and Arizona Eastern Railway, San Diego and Imperial Valley Railroad, United States of America, and their directors, officers, agents, and employees as additional insureds as their interests may appear.
- (iii) Workers' Compensation/Employer Liability. At all times during this contract, Contractor agrees to maintain Workers' Compensation and Employers' Liability Insurance in compliance with the applicable statutory requirements at a minimum policy limit of \$1 million. Except in the case of sole negligence active negligent acts or omissions or sole willful misconduct on the part of MTS, its Board, officers, agents, contractors, or employees, under or in connection with the Project or this CMA, Contractor waives any rights of subrogation against MTS, SDTI, SDTC, SD&AE, SD&IV, USA, and CITY and the policy form must permit and accept such waiver.
- (iv) Notice. All policies and coverages shall contain a provision for ten (10) days' written notice by the insurer(s) to MTS Contracts Specialist of any cancellation of coverage. A ten-day notice is required for non-payment of premium.

(g) Not less than once every five (5) years, MTS shall have the right to revise the insurance requirements set forth above in order to keep the limits consistent with MTS's standard requirements at the time.

10. **Co-operation in Defense of Claims.** The Parties agree to co-operate in good faith to seek a prompt disposition, by way of dismissal or summary judgment, of any claim or litigation alleging liability of any party to this CMA, based on the construction, maintenance or operation of the Project.

11. Default; Termination.

(a) In the event that CITY fails to perform any obligation under this CMA, CITY shall pay all costs and expenses incurred by MTS in obtaining performance of such obligations, including costs of suit and reasonable attorney's fees. If CITY uses the 8th Street Trolley Station for any purpose not expressly authorized by this CMA or fails to act strictly in accordance with the terms and conditions of this CMA, and if such default is not corrected within thirty (30) days' notice from MTS to CITY, MTS may prevent CITY from entering the 8th Street Trolley Station until the default is corrected. If MTS determines that any default by CITY does or has the potential to cause a danger to the 8th Street Trolley Station, transit or railroad operations, and CITY fails or refuses to timely correct the default, MTS may perform such work as is reasonable and necessary to remedy the danger, and CITY shall reimburse MTS for all costs and damages so incurred for correcting the default. If CITY fails or refuses to correct any default after such notice, or refuses to timely reimburse MTS for the work required to remedy the danger, MTS may, upon thirty (30) days' additional notice and in addition to any other remedy provided by law, terminate this CMA and prevent CITY from entering the 8th Street Trolley Station thereafter. Except in the case of negligent acts or omissions or willful misconduct on the part of MTS, its Board, officers, agents, contractors, or employees, under or in connection with the Project or this CMA, MTS shall not be required to perform work or repair to keep the 8th Street Trolley Station in working condition for the benefit of CITY.

(b) In the event MTS fails to perform any of its obligations under this CMA, CITY shall give MTS written notice of the nature of the default and the steps required to remedy the default. If the default is not cured within thirty (30) days of the delivery of CITY's notice, CITY may proceed to enforce its rights and protect its interests under this CMA. MTS shall pay all costs and expenses incurred by CITY in obtaining performance of the obligations, and protecting CITY's interests hereunder, including costs of suit and reasonable attorney's fees. In no case will any enforcement action modify the ownership or operation of the 8th Street Trolley Station.

(c) This CMA may be terminated at any time by CITY upon one hundred twenty (120) days' notice in writing to be served upon MTS, stating therein the date that such termination shall take place, and that upon the termination of this CMA in this or any other manner herein provided, CITY, upon demand of MTS, shall abandon the 8th Street Trolley Station and the use of the Project. No termination hereof shall release CITY from any liability or obligation hereunder, whether of indemnity or otherwise, resulting from any acts, omissions, or events happening prior to the date the Project is abandoned.

(d) Termination of this CMA shall not release any party from any liability or obligation hereunder resulting from an event which occurred before termination.

(e) In the event this CMA terminates, then the CITY shall remove all CITY installed improvements related to the Project and restore the Property to its original condition, and MTS shall have the right to record a "Notice of Extinguishment of Access Rights" or any other document necessary to permanently terminate the access rights granted pursuant to Section 1. Under no circumstances shall MTS be required to defer to a proceeding by CITY, or any other

jurisdiction, before it is entitled to enforce its rights to deny access to MTS's 8th Street Trolley Station or otherwise terminate the access rights.

12. **Notices.** All notices to be given under this CMA shall be in writing and either:

(a) Sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered upon actual receipt or one (1) business day after deposit with this courier, whichever occurs first; or

(b) Sent by email or similar means, if a copy of the notice is also sent by United States Mail, in which case notice shall be deemed delivered on transmittal by telecopy provided that a transmission report is generated reflecting the accurate transmission of the notice, as follows:

San Diego Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101
Attn: Manager of Real Estate Assets
Tel: 619-595-4903
Email: Sean.Myott@sdmts.com

City of National City
1243 National City Boulevard
National City, CA 91950
Attn: Stephen Manganiello, T.E., Director of Public Works/City Engineer
Tel: (619) 336-4380
Email: smanganiello@nationalcityca.gov

These addresses may be changed by written notice to the other Parties provided that no notice of a change of address shall be effective until actual receipt by the Parties of the notice. Copies of notices, if any are so indicated, are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

13. **Waiver.** Any party's failure to enforce or exercise its rights with respect to any provision hereof shall not be construed as a waiver of such rights or of such provision.

14. **Laws, Venue, and Attorneys' Fees.** This CMA shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this CMA, the action shall be brought in a state or federal court situated in the County of San Diego, State of California. In the event of any claim, legal action or proceeding between the parties arising under or concerning this CMA, the prevailing party(ies) shall be entitled to reasonable attorneys' fees and expenses as part of the judgment resulting there from.

15. **Dispute Resolution.**

(a) The Parties agree that they shall first meet, through their senior staff representatives, to attempt to informally resolve any dispute that arises under this CMA.

(b) If the informal efforts are unsuccessful, then the Parties agree to participate in mediation. Within five (5) business days of the request of any party, the parties shall mutually agree on the person or alternative dispute resolution agency to conduct the mediation. If the Parties are unable to agree on the person or alternative dispute resolution agency to conduct the mediation, the initiating party may arrange for the office of the American Arbitration Association in downtown San Diego, California, to perform the mediation. The initiating party shall then schedule the mediation so that it is conducted within five (5) business days of the mediator's appointment. The costs of the mediation and fees of the mediator, if any, shall be shared equally by the Parties.

(c) Any dispute not resolved through the mediation required by Paragraph (b) of this Section, may proceed to litigation unless the Parties agree in writing to submit the dispute to binding arbitration.

IN WITNESS WHEREOF, the parties hereto have caused this CMA to be executed by and through their respective officers duly authorized on the date written below their signatures.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM CITY OF NATIONAL CITY

By:  _____
Sharon Cooney, CEO

By: _____
Ron Morrison, Mayor

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By:  _____
Karen Landers, General Counsel

By: _____
Barry J. Schultz, City Attorney

List of Exhibits

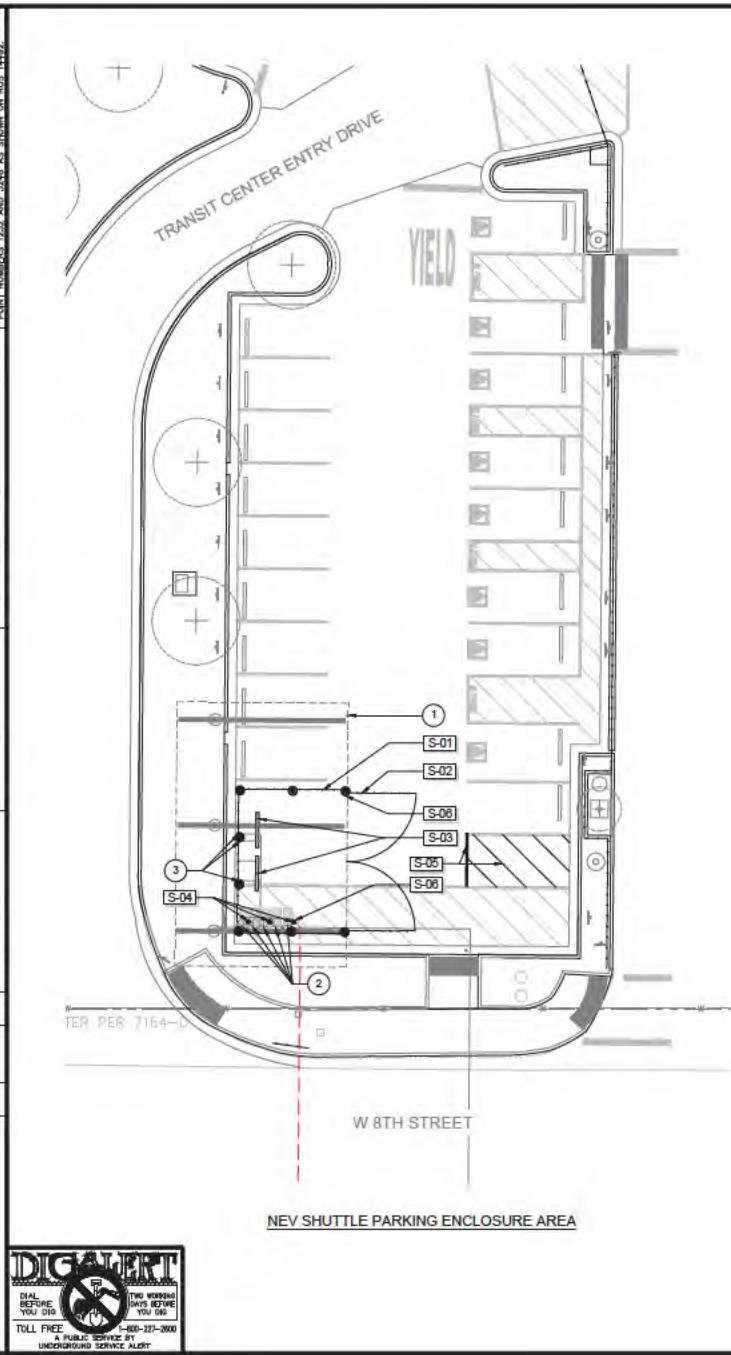
- A. CITY'S 8TH STREET MOBILITY HUB CONSTRUCTION PLAN SHEET LC-1.0
- B. Site Area for FRANC Shuttle Enclosed Storage and Charging Facility
- C. Rendering for FRANC Shuttle Enclosed Storage and Charging Facility
- D. USA Easement
- E. USA Approval of 8th Street Mobility Hub use
- F. Sample MTS ROE Permit

EXHIBIT A

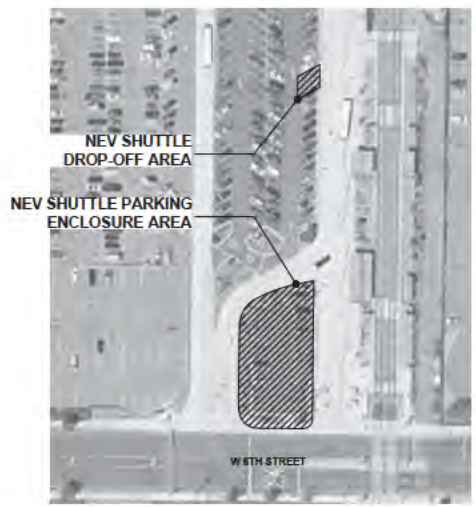
CITY'S 8TH STREET MOBILITY HUB CONSTRUCTION PLAN SHEET LC-1.0

Printed by Stephen Turner Sheet: 366-114 Layout: LC-1.0 Date: 05/08/2023 08:20:43am Z:\070\070-070-008 040 Construction Documents\Working Files\Construction Documents\070-070-008 LC-1.dwg

CONSTRUCTION SUPERVISOR
 NAME: _____ COMPANY: _____ SIGNATURE: _____
 DATE STARTED: _____ INSPECTOR: _____ DATE COMPLETED: _____
CONSTRUCTION RECORDS
 SURVEYOR: SAMPO ENGINEERING, INC.
 BENCHMARK: A STANDARD 2" BRASS DISK STAMPED 220 1977
 WITH AN ELEVATION OF 19.34' LOCATED AT STATION AND ADJACENT
 WITHIN THE RIGHT-OF-WAY OF STATE ST. & 1ST STREET.
 DATUM: NAVD83 ELEVATION: 19.34'
 SURVEYED ON 07/16/2019
 HORIZONTAL CONTROL: BASIS OF BEARINGS FOR THIS SURVEY IS
 FROM CALIFORNIA STATE PLAT 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000



NEV SHUTTLE DROP-OFF AREA



KEY MAP - NOT TO SCALE

PERMIT NUMBER 11-00-XXX-XXXX
 CO. 30 RTE. 5 PM XXXXX
 AS-BUILT PLANS FOR ROADWAY
 GEOMETRIC AND ABOVE GROUND
 FEATURES
 STATE REPRESENTATIVE DATE

CONSTRUCTION LEGEND (FULL LEGEND ON LC-2.0)			
KEY	SYMBOL	DESCRIPTION	DETAIL
S-01	[Symbol]	NEV ENCLOSURE FENCING W/ SIGN	1/LC-3.0
S-02	[Symbol]	NEV ENCLOSURE DOUBLE SWING GATE W/ SIGN	1/LC-4.0
S-03	[Symbol]	RELOCATED WHEEL STOP	2/LC-4.0
S-04	[Symbol]	STEEL PIPE BOLLARD	3/LC-4.0
S-05	[Symbol]	PARKING STRIPING	1/LC-5.0
S-06	[Symbol]	ASPHALT REPLACEMENT AT ENCLOSURE POSTS AND BOLLARDS	
S-07	[Symbol]	NEV DROP-OFF SIGN	2/LC-5.0
S-08	[Symbol]	FLEXIBLE DELINEATOR POST	3/LC-5.0
S-09	[Symbol]	BENCH	4/LC-5.0
S-10	N/A	NEV DROP-OFF AREA STRIPING	4/LC-5.0

SHEET KEYNOTES	
KEY	DESCRIPTION
1	SHADE SHELTER WITH SOLAR PANELS, SEE STRUCTURAL ENGINEER'S DRAWINGS.
2	ELECTRICAL EQUIPMENTS AND WIRES, SEE ELECTRICAL DRAWINGS
3	NEV CHARGERS. REFER TO ELECTRICAL PLAN.
4	ADA COMPANION SEATING AREA

PLANS FOR THE IMPROVEMENTS OF
CNO MOBILITY HUB
CONSTRUCTION PLAN
 CITY OF NATIONAL CITY

KTUA PLANNING & LANDSCAPE ARCHITECTURE
 3010 NORMAL STREET
 SAN DIEGO, CA 92108
 WWW.KTUA.COM

ROBERTO "BOB" REYES
 DIRECTOR OF PUBLIC WORKS
 CITY ENGINEER

LC-1.0

SP. NO. 18-44

SHEET 02 OF 02 SHEETS

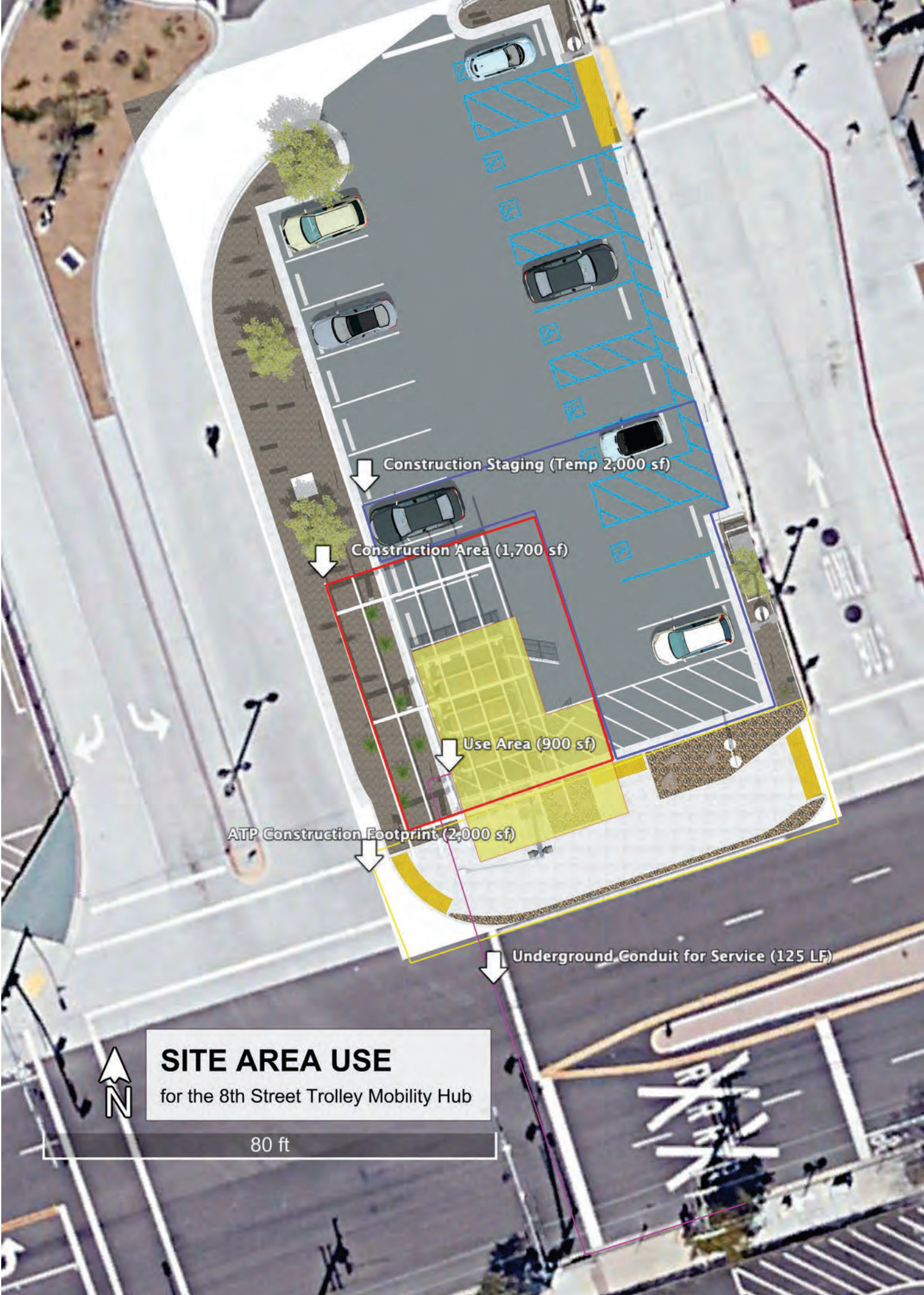
XXXX-XX-D

DIAL BEFORE YOU DIG
 TWO WORKING DAYS BEFORE YOU DIG
 TOLL FREE 1-800-377-2000
 A PUBLIC SERVICE BY UNDERGROUND SERVICE ALERT

50X CD - CITY OF NATIONAL CITY - CNO MOBILITY HUB

EXHIBIT B

Site Area for FRANCO Shuttle Enclosed Storage and Charging Facility



Construction Staging (Temp 2,000 sf)

Construction Area (1,700 sf)

Use Area (900 sf)

ATP Construction Footprint (2,000 sf)

Underground Conduit for Service (125 LF)



SITE AREA USE

for the 8th Street Trolley Mobility Hub

80 ft

EXHIBIT C

Rendering for FRANCO Shuttle Enclosed Storage and Charging Facility



EXHIBIT D

USA Easement

**Recording Requested By:
And When Recorded Mail To:**

San Diego Metropolitan Transit System
Attn: Manager of Real Estate Assets
1255 Imperial Avenue, Ste. 1000
San Diego, CA 92101-7490

THE ORIGINAL OF THIS DOCUMENT
WAS RECORDED ON DEC 23, 2013
DOCUMENT NUMBER 2013-0733968
Ernest J. Dronenburg, Jr., COUNTY RECORDER
SAN DIEGO COUNTY RECORDER'S OFFICE
TIME: 3:10 PM

Space above this line is reserved for Recorder's use only

GRANT OF EASEMENT

NO RECORDING FEE IS REQUIRED, Section 6103 of the California Code.

RS.
NO DOCUMENT TAX IS DUE, Section 11922 of the California Revenue and Taxation Code.

THIS PAGE WAS ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION

All correspondence pertaining
to this Easement should include
reference to N6247313RP00148

Prepared by Department of the Navy
Naval Facilities Engineering Command,
Southwest
1220 Pacific Highway
San Diego, CA 92132-5190

GRANT OF EASEMENT

THIS INDENTURE, made this 5th day of December, 2013, between the UNITED STATES OF AMERICA, the grantor, hereinafter called the GOVERNMENT, represented by the Commanding Officer, Naval Facilities Engineering Command, Southwest, acting by and through the Secretary of the Navy, and San Diego Metropolitan Transit System, hereinafter called the GRANTEE.

WHEREAS, the GOVERNMENT owns that certain real property identified as those portions of Blocks 199 and 200 and of Taft Avenue (vacated), Sixth Street (vacated), and Seventh Street (vacated), of the map of National City according to map thereof No. 348 filed October 2, 1882, located in Naval Base San Diego, CA, hereinafter called the Installation; and

WHEREAS, the GRANTEE has requested an easement for the construction, installation, operation, maintenance, repair, and replacement of a bus terminal, which will be used by the GRANTEE on, in, through, under, upon, across and over that portion of the Installation hereinafter described; and

WHEREAS, the Secretary of the Navy has found that the granting of such an easement on the terms and conditions hereinafter stated is not incompatible with the public interest;

NOW THEREFORE, this INDENTURE witnesseth that, in consideration of \$ 0 DOLLARS paid by the GRANTEE, the receipt of which is hereby acknowledged, the GOVERNMENT, pursuant to the authority of 10 U.S.C. Section 2668, hereby grants to the GRANTEE and its successors and assigns, (for a period of 25 years from the date hereof), an easement for the construction, installation, operation, maintenance, repair, and replacement of a bus terminal, such easement being on, in, through, under, upon, across and over that portion of the Installation hereinafter called the PREMISES, containing 2.198 acres, more or less and more specifically described in Exhibit "A", attached hereto and made a part hereof.

THIS EASEMENT is granted subject to the following terms and conditions, which GRANTEE, by its acceptance hereof, specifically agrees to and consents to be bound by:

1. CONSIDERATION. Credit is allowed against the fair market value of this easement. As such, no consideration shall be collected.
2. ACCESS BY GRANTEE. The GOVERNMENT grants to the GRANTEE the right to use the PREMISES, together with the necessary rights of ingress and egress authorized by the Installation Commanding Officer. The GRANTEE and its invitees and contractors agree to absorb all costs, including time and expenses, associated with gaining access to the Installation under the RAPIDGATE or similar program. Any parking that accompanies the use of, and any routes of access to and from, the PREMISES are subject to change at the sole discretion of the Installation Commanding Officer.
3. USE BY GOVERNMENT. The GOVERNMENT may use the PREMISES of this Easement for any purpose that does not unreasonably interfere with the use and enjoyment by the GRANTEE of the rights granted by this Easement.
4. SUBJECT TO EXISTING AND FUTURE EASEMENTS. This Easement is granted subject to all other existing easements, if any, of public record, and to such utility lines, roadways, or other improvements as may now be located on, over, or under the PREMISES. This Easement is subject to all existing easements, all other outstanding rights, recorded and unrecorded, and to all such utility lines, roadways, or other improvements as may be located on, in, under, across, through and over the PREMISES, and to the right of the GOVERNMENT to grant such additional easements and rights of way on in, under, across, through and over the PREMISES as it shall determine to be in the public interest, provided that such additional easements and rights of way will not unreasonably interfere with the GRANTEE's use of the PREMISES in accordance with this Easement.
5. APPROVAL OF PLANS. All work performed by the GRANTEE, its agents, or contractors in connection with the construction, installation, operation, maintenance, repair, and replacement of the bus terminal shall be done without cost or expense to the GOVERNMENT and in accordance with plans previously approved by the Real Estate Contracting Officer, Naval Facilities Engineering Command, Southwest or his/her designated local representative.
6. RESTORATION. Upon completion of any work performed in or upon the PREMISES, GRANTEE, as its own expense, shall remove all equipment and unused or surplus materials, if any, and shall restore the PREMISES to the same, or as good a condition as existed prior to the initiation of such work, and in a manner satisfactory to the GOVERNMENT as determined by the Real Estate Contracting Officer, Naval Facilities Engineering Command, Southwest, or his/her designated local representative.
7. PROTECTION AND MAINTENANCE OF PREMISES. The GRANTEE, at its own cost and expense, shall maintain the PREMISES and the bus terminal in

good condition at all times and shall promptly make all repairs that may be necessary for the preservation of the condition of the PREMISES and the continued operation and maintenance of the bus terminal.

8. DAMAGE TO THE PREMISES. GRANTEE, at its expense, shall repair or restore any damage to GOVERNMENT property that may occur during the construction, operation, maintenance, repair and replacement of the bus terminal in a manner satisfactory to the GOVERNMENT as determined by the Real Estate Contracting Officer, Naval Facilities Engineering Command, Southwest or his/her designated local representative. GRANTEE, its employees, authorized agents and contractors shall reimburse the GOVERNMENT for any and all actual costs, direct and indirect, incurred by the GOVERNMENT as a result of any damage to the PREMISES caused by their individual or collective actions.
9. APPLICABLE RULES AND REGULATIONS. The GRANTEE's rights hereunder shall be subject to such reasonable rules and regulations as may be prescribed by the GOVERNMENT to assure that the exercise of those rights will not unreasonably interfere with the GOVERNMENT's activities at the Installation. The GRANTEE shall adhere to all GOVERNMENT imposed security rules and regulations in the exercise of such rights.
10. INDEMNIFICATION. GRANTEE shall indemnify and defend the GOVERNMENT against, and hold the GOVERNMENT harmless from, any costs, expenses, liabilities, fines, suits, actions, damages, liability and cause of action arising or growing out of, or in any way connected with, the occupation or use of the PREMISES by the GRANTEE and its employees, agents, servants, guests, and invitees. However, this liability shall not extend to matters caused by the GOVERNMENT's negligent or willful acts. This provision shall survive the expiration or termination of this Easement and GRANTEE's obligations hereunder shall apply whenever the GOVERNMENT incurs costs or liabilities for the GRANTEE's actions.
11. GRANTEE'S RESPONSIBILITY. The GOVERNMENT shall not be responsible for damages to property or injuries to persons that may arise from, or be incident to, the use and occupation of the PREMISES by the GRANTEE, or for damages to the property or injuries to the persons of the GOVERNMENT's officers, agents, servants, or employees, or others who may be on the PREMISES at their invitation or the invitation of any one of them arising from or incident to governmental activities except as permitted under the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680.
12. ROAD CONNECTIONS / GOVERNMENT RESERVATION. The GOVERNMENT reserves the right to make whatever connections between the Road herein authorized and other roads on the Installation that the GOVERNMENT may consider necessary. It also reserves to itself easements for

all purposes on, in, through, under, upon, across and over the PREMISES; provided, however, that such reserved easements shall be used in a manner that will not unreasonably interfere with the use and enjoyment by the GRANTEE of the easement rights granted herein.

13. ROAD SURFACE AND DESIGN. The road crossing surface and design shall be done in accordance with American Railway and Engineering and Maintenance-of-Way Association (AREMA).

14. ENVIRONMENTAL PROVISIONS.

- (a) GRANTEE shall comply with all applicable environmental laws, ordinances, rules, and regulations and all other Federal, state, and local laws, ordinances, regulations, and standards that are or may become applicable to GRANTEE's activities on the PREMISES.
- (b) GRANTEE shall, at its sole cost and expense, be solely responsible for obtaining any environmental permits required for its activities on the PREMISES.
- (c) GOVERNMENT's rights under this Easement specifically include the right for its representatives to inspect the PREMISES upon reasonable notice for compliance with environmental, safety, and occupational health laws and regulations, whether or not the GOVERNMENT is responsible for enforcing them. The inspections shall be made without prejudice to the right of duly constituted enforcement officials to make them. The GRANTEE shall have no claim on account of any entries against the United States or any of its officers, agents, employees, contractors, or subcontractors.
- (d) Storage, treatment, or disposal of toxic or hazardous materials on the PREMISES is prohibited except as authorized by the GOVERNMENT in accordance with 10 U.S.C. § 2692.
- (e) The GRANTEE will not use Installation accumulation points for hazardous and other wastes or permit its hazardous wastes to be commingled with hazardous waste of the GOVERNMENT.
- (f) The GRANTEE shall be solely responsible for the release, or substantial threat of a release, into the environment of any hazardous substance, pollutant or contaminant as the result of any activity under this Easement, and any preceding easements, licenses, or rights-of-way. Any reporting, containment, removal, or other remedial action relating to a release or threat of release required by law or regulation shall also be the responsibility of the GRANTEE.

- (g) The GRANTEE agrees to comply with the provisions of any health or safety plan in effect under the Installation Restoration Plan (IRP) or the Resource Conservation Recovery Act (RCRA) Corrective Action Program during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action will, to the extent practicable, be coordinated with representatives designated by the GOVERNMENT. The GRANTEE shall have no claim on account of any entries against the United States or its officers, agents, employees, contractors, or subcontractors. In addition, GRANTEE shall comply with all applicable Federal, state and local occupational safety and health regulations.
- (h) GRANTEE shall, to the extent permitted under applicable law, indemnify and hold harmless GOVERNMENT from, and defend GOVERNMENT against, any damages, costs, expenses, liabilities, fines, suits, actions, or penalties resulting from releases, discharges, emissions, spills, storage, treatment, disposal, or other acts or omissions by GRANTEE, its officers, employees, agents, contractors, licensees, or the invitees of any of them, giving rise to GOVERNMENT liability, civil or criminal, or responsibility under federal, state or local environmental laws. This Paragraph shall survive the expiration or termination of this Easement, and the GRANTEE's obligations under this Paragraph shall apply whenever the GOVERNMENT incurs costs or liabilities for GRANTEE's actions. However, this liability shall not extend to matters caused by the GOVERNMENT's negligent or willful acts.
- (i) The GRANTEE shall strictly comply with the hazardous waste permit, storage, handling, and disposal requirements under the Solid Waste Disposal Act or its equivalent. The GRANTEE must provide at its own expense any hazardous waste storage facilities, complying with all laws and regulations that it may need for storage. Installation hazardous waste storage facilities will not be available to the GRANTEE.
- (j) GRANTEE shall manage the natural and cultural resources on the PREMISES in a manner that is consistent with the philosophies and supportive of the objectives of the Installation's Integrated Natural Resource Management Plan and Integrated Cultural Resource Management Plan. GRANTEE shall identify any activity that may affect Federally regulated resources (listed species, wetlands, waters of the United States, etc.) and provide information and mitigation that may be required to support consultation with the applicable regulatory agency.
- (k) GRANTEE shall, during the construction, installation, operation, maintenance, and repair of the bus terminal, upon inadvertently discovering Native American human remains, funerary objects, sacred objects, objects of cultural patrimony, as those terms are defined in 43.C.F.R. § 10.2(d), immediately notify by telephone the Installation Public Works Officer at (619) 556-1332x, followed by written confirmation. The GRANTEE shall cease all

activity in the area of the inadvertent discovery until directed otherwise by the Installation. Additionally, the GRANTEE shall take all reasonable efforts to protect any Native American human remains, funerary objects, sacred objects, objects of cultural patrimony, so discovered consistent with 43 C.F.R. § 10.2(d).

15. ENVIRONMENTAL CONDITION OF PROPERTY.

(a) For purposes of this Easement the following terms shall have the following meanings:

- "Toxic or Hazardous Materials" means all manner of substances, pollutants, contaminants, and waste to which Applicable Environmental Laws pertain, expressly including petroleum, petroleum products, and materials defined in 48 C.F.R. § 252.223-7006 (a)(ii) and (iii).
- "Contamination" means a level of Toxic or Hazardous Materials in the air, soil, or water (surface water or ground water), that exceeds levels allowed by Applicable Environmental Laws.
- "Applicable Environmental Laws" means:
 - Federal, state, and local statutes, laws, ordinances, rules, and regulations, to which the GOVERNMENT is made subject by Federal law or to which the GRANTEE is made subject by Federal and state law;
 - Executive Orders of the President of the United States;
 - decisions of courts and administrative tribunals of competent jurisdiction;
 - administrative orders of regulatory agencies of competent jurisdiction (involuntary or on consent); and
 - regulations and directives of the Department of Defense, the Department of the Navy, and the Marine Corps (for Marine Corps installations only),

which pertain to the human environment (as defined in the National Environmental Policy Act of 1969); transportation of hazardous material; and human health and safety (including occupational safety).

- Applicable Environmental Laws include, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Material Transportation Act

(49 U.S.C. § 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251, et seq.), the Clean Air Act (42 U.S.C. § 7401, et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601, et seq.), the Occupational Safety and Health Act (29 U.S.C. § 651, et seq.), and 10 U.S.C. § 2692, as amended.

- "Release" means any discharge, spill, emission, leaking, pumping, injection, excavation, deposit, disposal, leaching, or migration into the environment, accidental or otherwise, or introduction into the environment by any other means or method.
 - "Remedial Action" means: investigating or monitoring the environmental condition of the PREMISES and clean-up, removal, response (including emergency response), and restoration of the PREMISES, as per Applicable Environmental Laws, due to the presence or suspected presence of Contamination or a Release or suspected Release of Toxic or Hazardous Materials.
- (b) If during the term of this Easement the GRANTEE becomes aware that a Release of Toxic or Hazardous Materials has occurred due to acts or omissions of the GRANTEE, its agents, or contractors, whether or not such Release results in Contamination of the PREMISES, the GRANTEE will give verbal notice to the GOVERNMENT within 24 hours of becoming aware of the Release, providing all relevant facts and circumstances. The GOVERNMENT may direct the GRANTEE to make a detailed written report of these facts and circumstances within a time certain.
- (c) The GRANTEE, at its sole expense, will promptly take all action necessary to comply with Applicable Environmental Laws pertaining to a Release described in subparagraph 17.b, including but not limited to: report the occurrence to appropriate Federal, state, or local regulatory authorities, if so directed by the GOVERNMENT; take timely and effective steps to minimize the Release and its impact on human health and the environment; and take Remedial Action. The GOVERNMENT may direct the GRANTEE to provide all information requested by the GOVERNMENT regarding such actions within a time certain.
- (d) The GRANTEE will ensure that all activities conducted on the PREMISES by the GRANTEE, its agents, or contractors are carried out in compliance with Applicable Environmental Laws. The GRANTEE will provide verbal notice to the GOVERNMENT within 24 hours of receiving any complaint, order, directive, claim, citation, or notice from any governmental authority or any other person or entity alleging noncompliance with or a violation of Applicable Environmental Laws on the PREMISES. The GRANTEE, at its sole expense, will promptly take all necessary action directed by Federal,

state, or local regulatory authorities of competent jurisdiction to achieve or regain compliance with Applicable Environmental Laws. The GOVERNMENT may direct the GRANTEE to make a detailed written report, within a time certain, of the facts and circumstances underlying the alleged noncompliance or violation. Without limitation of the foregoing, the GOVERNMENT, in response to acts or omissions of the GRANTEE, its agents, or contractors may, in its discretion, take Remedial Action to remedy Contamination on the PREMISES or to achieve or regain compliance with Applicable Environmental Laws.

- (e) The GOVERNMENT may at any time inspect the PREMISES or cause the PREMISES to be inspected, to assess whether the operations of the GRANTEE, its agents, or contractors are in compliance with Applicable Environmental Laws. To assist in this evaluation, the GRANTEE, its agents, and contractors will provide to the GOVERNMENT, or another entity, as the GOVERNMENT may direct, for examination and copying, all relevant books, records, documents, and other material in their possession.
- (f) The GOVERNMENT, with good cause, may from time-to-time require the GRANTEE to conduct tests and analyses to assess whether the PREMISES are in compliance with Applicable Environmental Laws, and based on the results thereof, to so certify to the GOVERNMENT. Such tests and analyses shall be conducted in a manner satisfactory to the GOVERNMENT by recognized professionals approved by the GOVERNMENT. If the GOVERNMENT and the GRANTEE cannot reach agreement as to what tests and analyses shall be conducted, by whom, and when, the GOVERNMENT may perform such tests and analyses or cause such tests and analyses to be performed.

16. FAILURE TO INSIST ON COMPLIANCE. The failure of the GOVERNMENT to insist, in any one or more instances, upon performance of any of the terms, covenants or conditions of this Easement shall not be construed as a waiver or relinquishment of GOVERNMENT'S right to the future performance of any such terms, covenants or conditions and GRANTEE's obligations for their future performance shall continue in full force and effect.

17. FEDERAL FUNDS. This Easement does not obligate the GOVERNMENT to expend any appropriated funds.

18. ASSIGNMENT / TRANSFER OF RIGHTS. The GRANTEE shall not transfer or assign this Easement or any interest in it, or otherwise make any portion of, or rights in, the PREMISES available to any party without the prior written consent of the GOVERNMENT. If any assignment is made, with or without consent, the assignee shall be deemed to have assumed all of the obligations of the GRANTEE. However, in no event shall the GRANTEE be relieved of any of its obligations under this Easement, except for an extension of its term that begins

after an assignment, and then only if the GOVERNMENT shall have consented to it.

19. TERMINATION.

- (a) If, at any time, the GOVERNMENT determines that the bus terminal, or any portion thereof, unduly interferes with any of its activities, the GOVERNMENT shall have the right to terminate this Easement, in whole or in part, to the extent necessary to eliminate the interference; However, unless the GOVERNMENT shall have determined that relocation is not feasible, it shall offer to convey to the GRANTEE, without charge, a substitute easement permitting the GRANTEE to relocate the bus terminal, or any portion thereof, on adjacent GOVERNMENT property, which relocation shall be accomplished at the GRANTEE's cost and expense. The substitute easement shall contain the same terms and conditions as those in this Easement, and shall bear the same expiration date, if any.
- (b) All or any part of this Easement may be terminated upon failure by the GRANTEE to comply with any of its terms and conditions; upon abandonment of the rights granted herein; or upon non-use of those rights for a period of two consecutive years. Additionally, the GOVERNMENT may terminate all or any part of this Easement in the interest of anti-terrorism force protection or national security.

20. ADMINISTRATIVE COSTS AT EXPIRATION/TERMINATION OF EASEMENT: At the termination or expiration of this Easement, at the GOVERNMENT'S discretion, GRANTEE shall be responsible for administrative costs associated with completing a final inspection of the premises and updating the Environmental Condition of Property Report.

21. SURRENDER. Upon any termination or expiration of this Easement, the GRANTEE, at its own expense and risk, shall promptly remove, to the extent required by the GOVERNMENT, improvements, fixtures, and equipment installed or constructed hereunder, and shall restore the PREMISES to the same or as good a condition as that which existed prior to the exercise by the GRANTEE of its rights hereunder. The restoration shall be done in a manner satisfactory to the Real Estate Contracting Officer, Naval Facilities Engineering Command, Southwest, or his/her designated representative and in accordance with applicable laws and regulations. If the GRANTEE fails to remove the property as required by the GOVERNMENT, all improvements, chattels, and other items abandoned by the GRANTEE become GOVERNMENT property ninety (90) days following the date of termination or expiration. If the GOVERNMENT incurs any cost to remove the items abandoned by the GRANTEE, the GRANTEE shall reimburse the GOVERNMENT for any and all actual costs, direct and indirect, incurred by the GOVERNMENT.

IN WITNESS WHEREOF, the parties hereto have caused this GRANT OF EASEMENT to be executed by their duly authorized representatives as of the day and year first written above.

UNITED STATES OF AMERICA

By:

[Redacted Signature]
DAVID B. BIXLER
Real Estate Contracting Officer
Naval Facilities Engineering Command,
Southwest

STATE OF California
CITY/COUNTY OF SAN DIEGO

The foregoing document was acknowledged before me, this 10th day of December, 2013 by MARK ANTHONY BONCACAS LADEMORA

[Redacted Signature]
NOTARY PUBLIC

My Commission Expires Jul 2, 2017
Registration No. 2032092



GRANTEE

By:

[Redacted Signature]
PAUL C. JABLONSKI
Chief Executive Officer

STATE OF California
CITY/COUNTY OF San Diego

The foregoing document was acknowledged before me, this 5th day of December, 2013 by Ann Nicole Machado

[Redacted Signature]
NOTARY PUBLIC

My Commission Expires April 9, 2014
Registration No. 1885326



EXHIBIT "A"
LEGAL DESCRIPTION

1 THOSE PORTIONS OF BLOCKS 199 AND 200 AND OF TAFT AVENUE , SIXTH STREET, AND SEVENTH
2 STREET, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS PER THE MAP OF
3 NATIONAL CITY ACCORDING TO MAP THEREOF NO. 348 FILED OCTOBER 2, 1882, IN THE OFFICE OF THE
4 COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

5
6 **BEGINNING** AT A FOUND 2-INCH IRON PIPE WITH DISC MARKED "L.S. 7019" AS SHOWN ON RECORD OF
7 SURVEY NO. 20257, RECORDS OF SAID COUNTY, SAID POINT BEING ALSO THE INTERSECTION OF THE
8 SOUTHWESTERLY LINE OF PARCEL NO. 14 AS DESCRIBED IN EASEMENT TO SAN DIEGO AND ARIZONA
9 EASTERN RAILWAY COMPANY IN DOCUMENT RECORDED OCTOBER 17, 1979 AS INSTRUMENT NO. 79-
10 434062, OFFICIAL RECORDS OF SAID COUNTY, WITH THE NORTHWESTERLY RIGHT-OF-WAY LINE OF
11 EIGHTH AVENUE, 80.00 FEET WIDE, A FOUND 2-INCH IRON PIPE WITH DISC MARKED "L.S. 7019" PER
12 SAID RECORD OF SURVEY BEARS SOUTH 72°14'18" WEST 422.41 FEET FROM SAID POINT;
13 THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE SOUTH 72°14'18" WEST 160.00 FEET;
14 THENCE LEAVING SAID NORTHWESTERLY RIGHT-OF-WAY LINE NORTH 17°45'42" WEST 572.52 FEET;
15 THENCE NORTH 54°17'14" EAST 168.19 FEET TO THE SOUTHWESTERLY LINE OF SAID PARCEL NO. 14;
16 THENCE ALONG SAID SOUTHWESTERLY LINE SOUTH 17°45'42" EAST 624.36 FEET TO THE **POINT OF**
17 **BEGINNING.**

18
19 CONTAINING 95,750 SQUARE FEET OR 2.198 ACRE, MORE OR LESS.


20
21 ALL AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF


MICHAEL JAMES KNAPTON

9/13/13
DATE



P.L.S.8012 REV: 9/12/2013

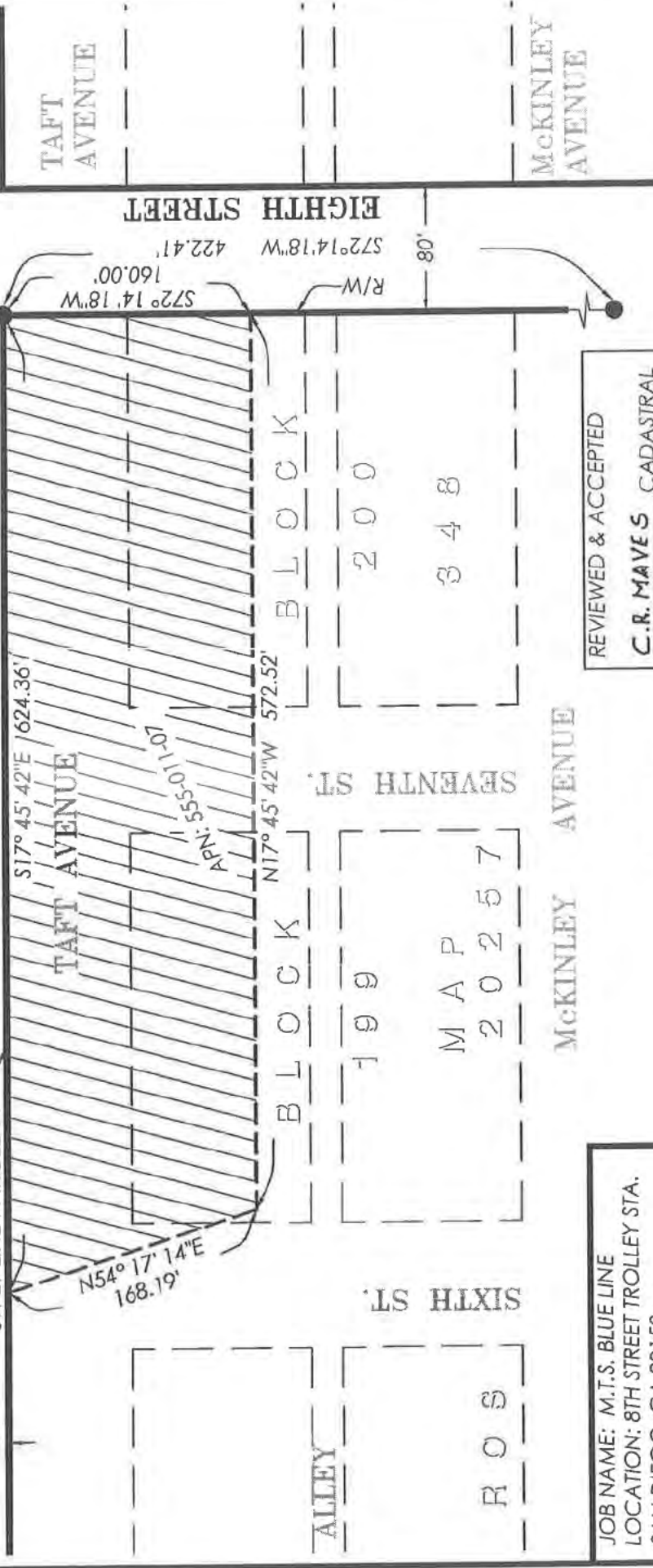
REVIEWED & ACCEPTED
 CADASTRAL
DATE <u>9-16-2013</u>

SAN DIEGO AND ARIZONA EASTERN RAILROAD

SW'LY LINE PARCEL 14 PCL 14 OF 79-434062, O.R.

34

33



REVIEWED & ACCEPTED
C.R. MAVES CADASTRAL
 DATE **9-16-2013**

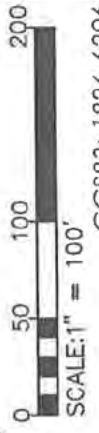
LEGEND

- FEDERAL BOUNDARY
- RIGHT-OF-WAY EASEMENT 95,750 SQ. FT. / 2.198 AC.
- P.O.B. POINT OF BEGINNING
- FOUND 2" IRON PIPE WITH DISC MARKED "L.S. 7019" PER R.O.S. 20257



JOB NAME: M.T.S. BLUE LINE
 LOCATION: 8TH STREET TROLLEY STA.
 SAN DIEGO, CA 92150
 DATE: 9/12/2013
 SCALE: 1"=100'
 THOMAS BROS. PAGE/GRID: 1309 G-1
 DRAWING NO.: 095721020-1
 REVISION NO.: 2
 BASE: U.S. NAVAL BASE SAN DIEGO
 XREFS: NONE

Kimley-Horn and Associates, Inc.
 ENGINEERING, PLANNING & ENVIRONMENTAL CONSULTANTS
 401 B Street, SUITE 600 SAN DIEGO, CA 92101
 TEL: (619) 234-9411 FAX: (619) 234-9433



CCS83: 1826-6296

ALL PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA }

COUNTY OF SAN DIEGO }

On DECEMBER 10, 2013 before me, MARK ANTHONY BONCACAS LADEMORA, NOTARY
(Insert name and title of the officer)

personally appeared DAVID BIXLER

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

[Redacted signature]



(This area for official notarial seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego }

On 12/16/2013 before me, Ann Nicole Machado

Date

Here Insert Name and Title of the Officer

personally appeared Paul C. Jablonski

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature

Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by this instrument to the San Diego Metropolitan Transit System, is hereby accepted by the undersigned officer on behalf of the San Diego Metropolitan Transit System pursuant to the authority granted to it under California Public Utilities Code section 120040, and the grantee consents to the recordation thereof by its duly authorized officer.

Date: 12/17/13

By:



Paul C. Jablonski
Chief Executive Officer

EXHIBIT E

USA Approval of 8th Street Mobility Hub use



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND SOUTHWEST
750 PACIFIC HIGHWAY
SAN DIEGO CA 92132-5190

IN REPLY REFER TO:

11011
Ser GRRQ11.ML/24161
26 January 2024

VIA EMAIL TRANSMITTAL: SMANGANIELLO@NATIONALCITYCA.GOV

Stephen Manganiello, T.E.
City of National City
1243 National City Blvd.
National City, CA 91950

Dear Mr. Manganiello,

This letter is in regard to Metropolitan Transit System's ("MTS") proposed 8th Street Mobility Hub that is planned to be built within the boundary of Navy Easement N6247313RP00148 for MTS's bus terminal located at Naval Base San Diego ("NBSD"), San Diego, CA. Provision 5 of the Easement states that "all work performed by the GRANTEE, its agents, or contractors in connection with the construction, installation, operation, maintenance, repair, and replacement of the bus terminal shall be done ... in accordance with plans previously approved by the Real Estate Contracting Officer, Naval Facilities Engineering Command, Southwest ..."

The Real Estate Contracting Officer has consulted with NBSD Public Works Department in review of the plans for the 8th Street Mobility Hub, and the plans are approved. Please coordinate the construction of the 8th Street Mobility Hub with NBSD Public Works Department.

If you have any questions, please contact Matt Lutey, Realty Specialist, at (619) 705-4483 or at matthew.k.lutey.civ@us.navy.mil.

Sincerely,

KIMBERLY SPENCER
Real Estate Contracting Officer

EXHIBIT F

Sample MTS ROE Permit

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

RIGHT OF ENTRY PERMIT

1. Permission is hereby granted by the San Diego Metropolitan Transit System (MTS), to **[PERMITTEE NAME]** (hereinafter called “Permittee”) to enter upon MTS property (as shown on the project site plans attached hereto and made a part thereof) for the **purposes of [INSERT SCOPE], more particularly described in Exhibit A.**

This permission is granted with the understanding that the Permittee agrees to release MTS, and San Diego Trolley, Inc. (SDTI), San Diego & Arizona Eastern Railway (SD&AE), San Diego and Imperial Valley (SD&IV) Railroad, the United States of America (USA), and San Diego Transit Corporation (SDTC) from any liability arising out of Permittee’s operations under this agreement. Furthermore, Permittee agrees to assume responsibility for any damages caused by reason of Permittee’s operations under this agreement and will, at MTS’s option, either repair or pay for such damage.

2. Prior to beginning work, Permittee shall have provided MTS with satisfactory certification by a properly qualified representative of the insurer(s) that the Permittee’s insurance complies with this section.

Permittee shall include the MTS Document number and/or brief description of project including type of construction and location on all insurance-related correspondence, i.e., the insurance certificate itself.

All policies required shall be issued by companies who are licensed to do business in the State of California and hold a current policyholder’s alphabetic and financial-size category rating of not less than A-VI, in accordance with A.M. Best.

MTS reserves the right to stop Permittee work in the event of material noncompliance with the insurance requirements outlined in this Section. MTS utilizes the services of a third party insurance monitoring company. Upon request, Permittee agrees to submit any required insurance policies to the third party monitoring company of MTS choosing.

A. COVERAGE REQUIRED - ALL PERMITS

(1) Liability

- (a) Commercial General Liability. At all times during this contract and, with respect to Products and Completed Operations Liability, for 12 months following the acceptance of the work by MTS, Permittee agrees to maintain Commercial General Liability Insurance for bodily injury and property damage in an occurrence form and with insurance companies acceptable to MTS. Commercial General Liability Insurance must include coverage for the following:

- Premises/Operations Liability
- Per Project Aggregate
- Products/Completed Operations Liability

- No Explosion, Collapse, and Underground (XCU) exclusion
- Contractual Liability, with respect to this agreement
- Personal Injury Liability
- Broad Form Property Damage
- Independent Contractors

All such policies shall name in the endorsement as additional insureds the following entities including their directors, officers, agents, and employees as their interests may appear:

- San Diego Metropolitan Transit System (MTS)
- San Diego Trolley, Inc. (SDTI),
- San Diego and Arizona Eastern Railway (SD&AE),
- San Diego and Imperial Valley Railroad (SD&IV),
- The United States of America (USA) and
- San Diego Transit Corporation (SDTC)

- (b) Automobile Liability. At all times during this contract, Permittee agrees to maintain Automobile Liability Insurance for bodily injury and property damage including coverage for all owned, nonowned, and hired vehicles.
- (c) Workers' Compensation/Employer Liability. At all times during this contract, Permittee agrees to maintain Workers' Compensation and Employers' Liability Insurance in compliance with the applicable statutory requirements.

B. ADDITIONAL COVERAGES REQUIRED (AS INDICATED)

- (1) Railroad Protective or Equivalent
REQUIRED

Any exclusions relating to performance of operations within the vicinity of any railroad, bridge, trestle, track, roadbed, tunnel, underpass, or crossing must be deleted from insurance policies by endorsement. Purchase separate Railroad Protective Liability Policy as deemed necessary by MTS.

- (2) Pollution Liability
REQUIRED

At all times during this contract, and for 24 months following, Permittee agrees to maintain Pollution Legal Liability Insurance with respect to services or operations under this agreement. The extended discovery period must be no less than 24 months.

- (3) Professional Liability
REQUIRED

At all times during this contract, and for 24 months following, Permittee agrees to maintain Professional Legal Liability Insurance with respect to services or operations under this agreement. The extended discovery period must be no less than 24 months.

- (4) Primary and Non-Contributory Insurance
REQUIRED

Permittee agrees that all general liability coverages required under this insurance section are PRIMARY insurance and that any insurance of MTS, SDTI, SD&AE, SD&IV, USA, and SDTC shall be excess and noncontributory (endorsement required).

C. MINIMUM POLICY LIMITS REQUIRED

	Combined Single Limit (CSL)
Commercial General Liability (Per Occurrence)	<u>\$2,000,000</u>
General Aggregate	<u>\$4,000,000</u>
Automobile Liability	<u>\$2,000,000</u>
Worker's Compensation Employer's Liability	<u>\$1,000,000</u>

Additional Coverages (as indicated under Section B, Additional Coverages Required):

- B (1) Railroad Protective \$3,000,000 Per Occurrence/\$6,000,000 Aggregate
- B (2) Pollution Liability \$1,000,000 Per Occurrence/\$2,000,000 Aggregate
- B (3) Professional Liability \$1,000,000 Per Occurrence/\$2,000,000 Aggregate

D. POLICY PROVISION REQUIRED

All policies and coverages shall contain a provision for 30 days' written notice by the Insurer(s) to MTS Contracts Specialist of any cancellation or material reduction of coverage. A ten-day notice is required for non-payment of premium.

E. SPECIAL PROVISIONS

The foregoing requirements as to the types and limits of insurance coverage to be maintained by Permittee, and any approval of said insurance by MTS, SDTI, SD&AE, SD&IV, USA and SDTC, or their insurance Contractor(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Permittee pursuant to this agreement, including but not limited to the provisions concerning indemnification.

3. Permittee shall at all times, defend, indemnify, and save harmless MTS against, and pay in full, all loss, damage, or expense, including attorney's fees, that MTS may sustain, incur, or become liable for, resulting in any manner from Permittee's construction, maintenance, use, state of repair, or presence of Permittee's facilities and all necessary and proper fixtures and equipment for use in connection therewith, including any such loss, damage, or expense arising out of (a) loss of or damage to property and (b) injury to or death of persons, excepting any loss, damage, or expense and claims for loss, damage, or expense resulting from the negligence or willful act of MTS, its contractors, officers, agents, or employees.
4. The following condition(s) apply to all work:
 - A. Permittee agrees to coordinate on a daily basis a reasonable access to all MTS/SD&AE facilities with contract operator SDTI. Trolley operations are generally from the hours of 4:00 a.m. to 2:00 a.m. the following day.

- B. Permittee agrees to restore all facilities, improvements, landscaping, etc., to their original condition by the completion of work.
- C. Permittee agrees that no work by itself or its authorized agent will interfere with Railroad/Trolley and Bus operations.
- D. Permittee shall deposit with MTS the sum of **XXX (\$X,XXX.XX)** representing the total non-refundable permit fee in connection with the work. The total includes a seven hundred fifty dollars (\$750.00) application fee and (\$) for estimated costs incurred per Section 4.J, excluding the costs for flagging, traction power removal, project consultant engineering oversight, plan review, inspection, and safety training.
- E. Permittee shall notify and submit work plan in writing to MTS Right of Way Engineer at email: mtsrow@sdmts.com Tel. (619) 557-4520 for review and at least thirty (30) business days prior to the date to start work to arrange preconstruction meeting, review work plan, procedures and possible facility conflicts in the vicinity of the proposed work. No work shall begin without holding the preconstruction meeting and approved work plan. Permittee shall provide written notice within 24 hours after completion of work.
- F. Permittee shall obtain approval from MTS/SDTI upon completion of work that all facilities have been restored to original or better condition. Permittee shall submit in writing a notice of completion of work per Section 4.E when work is completed in the right-of-way.
- G. Permittee shall maintain, at Permittee's expense, competent flagmen to protect and control movement of vehicles, public and equipment of Permittee while upon MTS's premises. Work that involves personnel or equipment within fifteen (15) feet of any active track, or as deemed necessary by SDTI Operations, must have an SDTI-supplied rail flagperson for the duration of the work. A Flagperson/Right-of-Way Work Request form must be submitted to SDTI a minimum of three (3) business days prior to the beginning of work and will be billed directly to the Permittee by SDTI and is not included in the fee per Section 4.D.
- H. Permittee shall not store equipment, tools, and materials within fifty (50) feet from any operable track. No vehicular crossing over MTS's tracks shall be installed or used by Permittee without prior written permission of MTS.
- I. Permittee shall remove all of Permittee's tools, equipment, and materials from MTS premises promptly upon completion of work, restoring MTS premises to the same state and condition as when Permittee entered thereon.
- J. Permittee shall reimburse MTS for all cost and expenses incurred by MTS in connection with the work, plan review and approval, and permit processing including without limitation the expense of project consultant oversight, furnishing such inspectors, watchmen, flagmen and as MTS deems necessary, and restoration of MTS's property to the same condition as when Permittee entered thereon, or a condition satisfactory to MTS's representative. MTS Rail Safety Training will be billed directly to the Permittee by MTS and is not included in the fee per Section 4.D.

- K. Permittee shall perform all work in accordance with applicable California Public Utilities Commission, OSHA regulations, MTS LRT and American Railway Engineering and Maintenance Association (AREMA) Design Criteria, MTS/SDTI rail operation procedures and safety policies. Reflective orange safety vest and hard hat shall be worn at all times within the right-of-way.
 - L. A power shutdown may be necessary for the work. Permittee shall submit the attached Red Tag/Traction Power Removal Request form to SDTI at least three (3) business days prior to the start of work. Power shutdowns shall only be allowed during non-operating Trolley hours and will be billed directly to the Permittee by SDTI and is not included in the fee per Section 4.D.
 - M. Permittee shall maintain safe pedestrian access to all trolley platforms and bus stops at all times. A minimum five-foot-wide accessible pedestrian path through the construction site shall be maintained at all times. The construction boundary shall consist of, OSHA plastic mesh, or approved equal. Yellow caution tape is not acceptable.
 - N. Permittee shall provide MTS upon request with a set of as-built plans signed by a licensed engineer in the State of California and various project files submitted in electronic pdf file format within thirty (30) days of work acceptance by MTS.
 - O. Permittee shall maintain a copy of the executed right of entry permit at the site during this work.
 - P. Permittee shall contact and schedule at Permittee's expense Dig-Alert at Tel. (800) 422-4133 and Cable Pipe and Leak ("CPL") at Tel. (619) 873-1530 prior to any excavation in the Right of Way. Permittee shall notify MTS Right of Way Engineer and submit rail flagging request form three (3) business days prior to coordinate SDTI utility markout request. SDTI personnel shall accompany CPL for any markout of Trolley facilities.
 - Q. Permittee shall comply with the following special conditions:
5. This permission is non-transferable and shall remain in force until **MONTH DAY, XXXX**. MTS reserves the right to modify, suspend and/or terminate this permission at any time.

Sharon Cooney
Chief Executive Officer

Date _____

Name:

Date _____

Title:

Permittee Name
Permittee Address
Attention: Permittee POC

Attachments: Work Plan, Plans
Application:

Exhibit A