

AGENDA
Board of Directors Meeting
May 4, 2022
10:00 a.m.

LOCATION:
San Bernardino County Transportation Authority
First Floor Lobby Board Room
1170 W. 3rd Street, San Bernardino, CA

VIDEO CONFERENCING WILL BE AVAILABLE AT THE FOLLOWING LOCATION:

City Council Chambers
1111 Bailey Ave.
Needles, CA 92363

Board of Directors

President

Curt Hagman, Supervisor
County of San Bernardino

Vice-President

Art Bishop, Mayor Pro Tem
Town of Apple Valley

Daniel Ramos, Mayor Pro Tem
City of Adelanto

Paul Courtney, Mayor
City of Barstow

Rick Herrick, Mayor
City of Big Bear Lake

Eunice Ulloa, Mayor
City of Chino

Ray Marquez, Mayor
City of Chino Hills

Frank Navarro, Mayor
City of Colton

Acquanetta Warren, Mayor
City of Fontana

Darcy McNaboe, Mayor
City of Grand Terrace

Rebekah Swanson, Council Member
City of Hesperia

Larry McCallon, Mayor
City of Highland

Rhodes "Dusty" Rigby, Council Member
City of Loma Linda

John Dutrey, Mayor
City of Montclair

Edward Paget, Vice Mayor
City of Needles

Alan Wapner, Mayor Pro Tem
City of Ontario

L. Dennis Michael, Mayor
City of Rancho Cucamonga

Paul Barich, Mayor
City of Redlands

Deborah Robertson, Mayor
City of Rialto

John Valdivia, Mayor
City of San Bernardino

Joel Klink, Council Member
City of Twentynine Palms

Carlos A. Garcia, Council Member
City of Upland

Debra Jones, Mayor
City of Victorville

David Avila, Mayor
City of Yucaipa

Rick Denison, Mayor Pro Tem
Town of Yucca Valley

Paul Cook, Supervisor
County of San Bernardino

Janice Rutherford, Supervisor
County of San Bernardino

Dawn Rowe, Supervisor
County of San Bernardino

Joe Baca, Jr., Supervisor
County of San Bernardino

Michael Beauchamp, Caltrans
Ex-Officio Member

Ray Wolfe, *Executive Director*

Julianna Tillquist, *General Counsel*

**San Bernardino County Transportation Authority
San Bernardino Council of Governments**

AGENDA

Board of Directors

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City Council Chambers, 1111 Bailey Ave., Needles, CA 92363**

To obtain additional information on any items, please contact the staff person listed under each item. You are encouraged to obtain any clarifying information prior to the meeting to allow the Board to move expeditiously in its deliberations. Additional ***“Meeting Procedures”*** and agenda explanations are attached to the end of this agenda.

CALL TO ORDER

(Meeting Chaired by Curt Hagman)

- i. Pledge of Allegiance
- ii. Attendance
- iii. Announcements
Calendar of Events
- iv. Agenda Notices/Modifications

Pg. 16

Possible Conflict of Interest Issues

Note agenda item contractors, subcontractors and agents which may require member abstentions due to conflict of interest and financial interests. Board Member abstentions shall be stated under this item for recordation on the appropriate item.

1. Information Relative to Possible Conflict of Interest

Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

Pg. 17

This item is prepared monthly for review by Board and Committee members.

CONSENT CALENDAR

Items listed on the Consent Calendar are expected to be routine and non-controversial. These items have been discussed at Policy Committee meetings and made available for public review as noted in the agenda. The Consent Calendar will be acted upon as a single motion. Items on the Consent Calendar may be removed for discussion by Board Member Request. Items pulled from the consent calendar will be brought up immediately following the vote on the Consent Calendar.

Consent - Administrative Matters

2. March 2022 Procurement Report

Pg. 20

Receive the March 2022 Procurement Report.

Presenter: Beatriz Valdez

This item was received by the General Policy Committee on April 13, 2022.

- 3. Measure I Revenue** Pg. 30
- Receive report on Measure I receipts for Measure I 2010-2040.
Presenter: Lisa Lazzar
- This item was reviewed and unanimously recommend for approval by the General Policy Committee on April 13, 2022.**
- 4. Investment Policy No. 20100** Pg. 32
- That the Board, acting as the San Bernardino County Transportation Authority, effective July 1, 2022:
- A. Approve Investment Policy No. 20100, with staff recommending no revisions; and
 - B. Delegate to SBCTA's Treasurer, who shall serve as SBCTA's Chief Financial Officer and Treasurer, authority for a one-year period to invest or reinvest SBCTA funds and to sell or exchange securities so purchased, pursuant to Policy No. 20100; and
- That the Board, acting as the San Bernardino Associated Governments (SBCOG), effective July 1, 2022:
- C. Reauthorize pooling SBCOG funds with SBCTA funds, to be invested in accordance with SBCTA's Investment Policy No. 20100; and
 - D. Delegate to SBCTA's Treasurer, who shall serve as SBCOG's Chief Financial Officer and Treasurer, authority for a one-year period to invest or reinvest SBCOG funds and to sell or exchange securities so purchased, pursuant to Policy No. 20100.
- Presenter: Lisa Lazzar**
- This item was reviewed and unanimously recommended for approval by the General Policy Committee on April 13, 2022. SBCTA General Counsel has reviewed this item and the policy.**
- 5. Adoption of Policy No. 10100** Pg. 43
- That the Board, acting as the San Bernardino County Transportation Authority and San Bernardino Associated Governments:
- Adopt Policy No. 10100 - Board of Directors Alternates, which sets forth the rules and procedures for attendance of City alternates at Board and Policy Committee meetings.
Presenter: Julianna Tillquist
- This item was reviewed and unanimously recommended for approval by the General Policy Committee on April 13, 2022.**
- 6. Executive Director Employment Contract Amendment** Pg. 45
- Approve Amendment No. 8 to Employment Contract No. C12222 with Executive Director Raymond W. Wolfe. **Presenter: Curt Hagman**
- The increase to the Executive Director's annual compensation was reviewed and recommended by the Board of Directors in Closed Session on April 6, 2022. SBCTA General Counsel has reviewed this item and the draft amendment.**
- 7. General Counsel Employment Contract No.19-1002111 Amendment No. 1** Pg. 49
- Approve Amendment No. 1 to Employment Contract No. 19-1002111 with General Counsel, Julianna K. Tillquist. **Presenter: Curt Hagman**
- The compensation set forth in this item was reviewed and recommended for approval by the Board of Directors in Closed Session on April 6, 2022.**

Consent - Project Delivery

8. I-10 Cedar Avenue Interchange Improvement Project - Assignment Agreement, Release of Invitation for Bids, and Construction Cooperative Agreement Pg. 52

That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve Assignment and Assumption Agreement No. 22-1002741 with San Bernardino County (County), assigning the construction rights and responsibilities from the County to SBCTA, as the implementing agency for the Right-of-Way and Construction phases of the Cedar Avenue railroad crossing structure. Under this agreement, SBCTA will assume the County's responsibility to pay Union Pacific Railroad (UPRR), an estimated total of \$975,000 for additional permanent and temporary rights and work to be performed by UPRR.

B. Authorize the release of Invitation for Bids No. 22-1002784 for construction of the Interstate 10 (I-10) Cedar Avenue Interchange Improvement Project (Project), in the County of San Bernardino, California District 8, I-10, subject to the Project Right-of-Way Certification.

C. Approve Construction Cooperative Agreement No. 22-1002716 with the California Department of Transportation (Caltrans) for the construction of the Project, which specifies roles, responsibilities and funding between the two agencies including identifying SBCTA as the implementing agency for construction, and Caltrans providing design support services and oversight during the construction. This agreement also includes an estimated amount of \$67,000 for State Furnished Materials to be procured from Caltrans for the construction work.

D. Approve an exception to SBCTA's Policy No. 40001/VS-28, which requires that Surface Transportation Program funds apportioned to the urbanized area of the San Bernardino Valley be allocated to the Valley Freeway Program, to allow \$480,000 of federal funds to be used for the Construction Support phase of the project under the Valley Interchange Program.

Presenter: Khalid Bazmi

This item was reviewed and recommended for approval (16-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on April 14, 2022. MVSS reviewed and recommended approval of Agreement No. 22-1002716 in a substantially similar format. The draft agreement has been updated to incorporate formatting and non-substantive revisions made by Caltrans. SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft agreements.

9. Construction and Maintenance Agreement No. 22-1002699 for Mount Vernon Avenue Bridge Project Pg. 137

That the Board, acting as the San Bernardino County Transportation Authority:

Approve Agreement No. 22-1002699 with Southern California Regional Rail Authority (SCRRA) and the City of San Bernardino (City), for defining roles, responsibilities, and funding for the construction and maintenance of the new Mount Vernon Avenue bridge in the City. These responsibilities include provisions whereby SBCTA constructs the portion of the new bridge over SCRRA rail lines, SBCTA conveys an aerial easement and footing easements to the City upon completion of construction, the City maintains that portion of the bridge after completion of construction, and SBCTA pays for actual costs for SCRRA construction support, utility relocations, and other SCRRA expenses defined in the agreement at an estimated cost of \$2,936,681. **Presenter: Dennis Saylor**

This item was reviewed and recommended for approval (16-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on April 14, 2022. SBCTA General Counsel and Risk Manager have reviewed this item and the draft agreement.

10. North First Avenue Bridge over Burlington Northern Santa Fe in the City of Barstow - Cooperative Agreement Amendments, California Department of Transportation High Cost Agreement, and Release of Invitation for Bids Pg. 204

That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve Amendment No. 1 to Cooperative Agreement No. 19-1002226 for the Construction phase of the North First Avenue Bridge over Burlington Northern Santa Fe Intermodal Yard (Project) with the City of Barstow (City), to update the Project construction costs and funding based on the current funding sources available for the Project, which includes a decrease in North Desert Measure I funds of \$488,615, a decrease in Federal funds of \$2,132,487, additional State funds of \$305,102, and an increase in City funds of \$892,000.

B. Authorize the Executive Director, or his designee, to finalize negotiations, approve and execute Contract No. 22-1002785 with the California Department of Transportation (Caltrans), which will be based on the draft letter and funding table agreement attached, upon General Counsel's final approval as to form. This agreement addresses funding reimbursement for the Construction phase of the Project, where San Bernardino County Transportation Authority will be responsible for the initial funding of the Construction phase, with repayment of 88.53% of the federally participating costs from the Federal Highway Bridge Program anticipated up to \$54 million to start in Federal Fiscal Year 2023/2024, at a planned not-to-exceed amount of \$20 million per year.

C. Approve Amendment No. 4 to Funding Agreement No. 15-1001119 for the Project pre-construction phases with the City, to update the Project milestones, costs and funding based on the current funding sources available for the Project, which includes a decrease in North Desert Measure I funds of \$1,619,089, a decrease in Federal funds of \$3,501,911, and additional City funds of \$2,270,000, which include City's Section 190/California Public Utilities Commission funds. The amendment also includes extending the termination date to July 31, 2025, to cover Design Support Services during construction and as-built preparation during Project closeout phase.

D. Authorize the release of Invitation for Bids No. 22-1002780 for construction of the Project, upon notification from Caltrans that the Federal Authorization Request (FAR) package has been approved.

Presenter: Dennis Saylor

This item was reviewed and unanimously recommended for approval by the Mountain/Desert Policy Committee on April 15, 2022. SBCTA's Acting Procurement Manager and Risk Manager have reviewed this item, the draft amendments and draft Scope of Work. SBCTA General Counsel has reviewed the IFB and draft amendments, but not the Scope of Work.

Consent - Regional/Subregional Planning

11. Funding Memorandum of Understanding with San Bernardino County Department of Public Health and San Bernardino County Superintendent of Schools regarding Safe Routes to Schools Program Pg. 230

That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve the Memorandum of Understanding No. 22-1002801 with San Bernardino County Department of Public Health for the implementation of the countywide Safe Routes to School (SRTS) Program in the receivable amount not-to-exceed \$200,000.

Agenda Item 11 (cont.)

B. Approve the Memorandum of Understanding No. 22-1002802 with San Bernardino County Superintendent of Schools for the development of the countywide SRTS Program in the receivable amount not-to-exceed \$100,000.

C. Authorize the Executive Director, or his designee, to release a Request for Proposals for a consultant to implement the SRTS Program.

Presenter: Josh Lee

This item was reviewed and unanimously recommended for approval by the General Policy Committee on April 13, 2022. SBCTA General Counsel and Risk Manager have reviewed this item and the draft MOUs.

12. Amendment No. 1 to Agreement No. 21-1002497 with Southern California Association of Governments for Regional Early Action Planning Pg. 244

That the Board, acting as the San Bernardino Associated Governments:

Approve Amendment No. 1 to Agreement No. 21-1002497 with Southern California Association of Governments for the Regional Early Action Planning Program, amending invoicing requirements and increasing the receivable amount by \$122,066 for a total receivable amount of \$2,563,390.

Presenter: Josh Lee

This item was reviewed and unanimously recommended for approval by the General Policy Committee on April 13, 2022. SBCTA General Counsel and Risk Manager have reviewed this item and the draft amendment.

Consent - Transit

13. Award Contract No. 21-1002658 to CPM Partners, Inc. for Arrow Maintenance Facility Hydrogen Fuel Upgrade Project Construction Management Consultant Services Pg. 251

That the Board, acting as the San Bernardino County Transportation Authority:

A. Award Contract No. 21-1002658 to CPM Partners, Inc., for Construction Management Consultant Services for the construction of the hydrogen fueling station and the retrofit needed to support hydrogen vehicle operations, also referred to as the Arrow Maintenance Facility (AMF) Hydrogen Fuel Upgrade Project, for an amount not-to-exceed \$1,041,815.21, a contract term through June 30, 2024, and two (2) one-year option terms.

B. Approve contingency of an amount not-to-exceed \$104,181.52 for Contract No. 21-1002658 and authorize the Executive Director, or his designee, to release contingency as necessary for the AMF Hydrogen Fuel Upgrade Project.

Presenter: Carrie Schindler

This item was reviewed and unanimously recommended for approval by the Transit Committee on April 14, 2022. SBCTA General Counsel, Acting Procurement Manager and Risk Manager have reviewed this item and the draft contract.

14. Amendment No. 4 to Contract No. 16-1001363 with Kaplan Kirsch & Rockwell, LLP Pg. 310

That the Board, acting as the San Bernardino County Transportation Authority:

Approve Amendment No. 4 to Contract No. 16-1001363 between San Bernardino County Transportation Authority and Kaplan Kirsch & Rockwell, LLP, for railroad right-of-way legal services, extending the contract term to June 30, 2024.

Presenter: Ryan Aschenbrenner

This item was reviewed and unanimously recommended for approval by the Transit Committee on April 14, 2022. SBCTA General Counsel, Acting Procurement Manager and Risk Manager have reviewed this item and the draft amendment.

15. Bi-Annual Fiscal Year 2021/2022 Railroad Right-of-Way Grants of Right of Use Report Pg. 315

Receive and file the first half of Fiscal Year 2021/2022 (July 2021 through December 2021) Right-of-Way Grants of Right of Use Report.

Presenter: Ryan Aschenbrenner

This item was received by the Transit Committee on April 14, 2022.

16. San Bernardino County Multimodal Transportation Quarterly Update Pg. 317

Receive and file the San Bernardino County Multimodal Transportation Quarterly Update.

Presenter: Nancy Strickert

This item was received by the Transit Committee on April 14, 2022.

Consent - Council of Governments

17. Update on Forest Management Plans for Cucamonga Canyon and Lytle Creek Recreation Areas Pg. 346

Receive an update on the Forest Management Plans for Cucamonga Canyon and Lytle Creek.

Presenter: Monique Reza-Arellano

This item was received by the General Policy Committee on April 13, 2022.

Consent - Legislative/Public Outreach

18. State Legislative Update Pg. 353

Receive and file the April 2022 State Legislative Update.

Presenter: Otis Greer

This item was received by the Legislative Policy Committee on April 13, 2022.

19. Federal Legislative Update Pg. 373

Receive and file the April 2022 Federal Legislative Update.

Presenter: Otis Greer

This item was received by the Legislative Policy Committee on April 13, 2022.

20. Bill Recommendation Pg. 380

That the Board, acting as the San Bernardino County Transportation Authority:

Approve a support position on Senate Bill 942 by Senator Josh Newman regarding use of Low Carbon Transit Operations Program funds for free or reduced-fare transit programs on an on-going basis.

Presenter: Otis Greer

This item was reviewed and unanimously recommended for approval by the Legislative Policy Committee on April 13, 2022.

Consent Calendar Items Pulled for Discussion

Items removed from the Consent Calendar shall be taken under this item in the order they were presented on the agenda.

DISCUSSION ITEMS

Discussion - Transit

21. Hearing to Consider Resolutions of Necessity for Property Interests for the West Valley Connector Project Pg. 386

That the Board, acting as the San Bernardino County Transportation Authority:

A. Conduct public hearings to consider condemnation of interests in real property described more particularly in each of the Resolutions of Necessity described below (referred to below collectively as the “Subject Property Interests”), which are required for the West Valley Connector Project.

B. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-102 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by RFA Montclair, LP, a California limited partnership (Assessor’s Parcel Number (APN 1012-071-03). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

C. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-104 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by 1401 Holt Investments, LLC, a California limited liability company (APN 1011-111-05). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

D. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-106 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Ronald A. Hendrickson & Susan C. Hendrickson, Trustees UTD November 5, 2007, FBO Ronald A. Hendrickson & Susan C. Hendrickson; William K. Harden & Judith L. Harden; Gary Harden; Michael Harden (APN 1011-121-13). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

E. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-109 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Sylverio Malagon, a single man, as his sole and separate property (APN 1010-552-14 & 15). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

F. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-111 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Gregory L. Johnson & Thea M. Johnson, Co-Trustees of The Johnson Family Trust Established June 9, 2011 (APN 1011-111-21). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

G. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-112 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Frank J. Cuccia & Susan K. Cuccia, Co-Trustees of the Frank J. Cuccia Family Trust, Dated May 22, 1989 (APN 1010-543-01, 02 & 03). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

H. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-113 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by HBL Family, LLC, a California limited liability company (APN 1010-611-12). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

I. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-119 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Linda L. Robinson, Trustee of the Linda L. Robinson Living Trust dated February 11, 1992 (APN 1010-543-09). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

J. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-122 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by 14255 Ellsworth Street, LLC, a California limited liability company (APN 8323-025-025). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

K. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-123 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Fountain of Love Christian Center, Inc., a California non-profit corporation (APN 8326-024-041). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

L. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-060 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Elias Properties, LLC, a California limited liability company (APN 1048-523-16). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

M. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-135 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Ron J. Goodin, Trustee of The R.J. Goodin Family Trust under Trust Instrument dated September 30, 1988 (APN 0110-111-06, 07 & 08). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

N. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-146 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Thomas G. Matlock & Judith L. Matlock, Co-Trustees of The Matlock Living Trust - 1997, dated April 2, 1997 (APN 0110-111-01). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

O. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-152 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Amazing Grace Clothing, LLC, a Texas limited liability company (APN 0110-061-01). The Resolution must be approved by at least a two-thirds vote of the Board of Directors. **Presenter: Ramie Dawit**

This item was reviewed and unanimously recommended for approval by the Transit Committee on April 14, 2022. SBCTA General Counsel has reviewed this item and the draft resolutions.

Discussion - Air Quality/Traveler Services

22. Update on the Freeway Service Patrol Program and 2021 Freeway Service Patrol Driver Recognition Awards Pg. 418

Receive information pertaining to the Freeway Service Patrol (FSP) Program in San Bernardino County and acknowledge the 2021 FSP Driver Awards.

Presenter: Kelly Lynn

This item was received by the General Policy Committee on April 13, 2022.

Discussion - Transit

23. Fiscal Year 2021/2022 SCRRA Arrow Service Operations Subsidy Pg. 421

That the Board, acting as the San Bernardino County Transportation Authority:

Approve a Fiscal Year 2021/2022 operating allocation of \$5,643,000 to the Southern California Regional Rail Authority for the Arrow service pre-revenue operations, to be paid with Measure I Valley Fund-Metrolink/Rail Service.

Presenter: Victor Lopez

This item has not received prior policy committee or technical advisory committee review.

Discussion - Air Quality/Traveler Services

24. Amendment No. 2 to Contract No. 20-1002324 with Royal Coaches Auto Body & Towing for Construction Freeway Service Patrol Pg. 423

That the Board, acting as the San Bernardino County Transportation Authority:

Approve Amendment No. 2 to Contract No. 20-1002324 with Royal Coaches Auto Body & Towing to increase the contract amount by \$488,284, which is fully funded by the California Department of Transportation (Caltrans) Cooperative Agreement No. 20-1002356 (08A3133), for a revised not-to-exceed amount of \$2,788,357, to provide weekday Construction Freeway Service Patrol (CFSP) support services for the Caltrans Victorville Oak Hill Road to Bear Valley Road Project No. 0815000244.

Presenter: Cheryl Wilson

This item has not received prior policy committee or technical advisory committee review. SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft amendment.

Discussion - Administrative Matters

25. Fiscal Year 2022/2023 Proposed SBCTA and SBCOG Budget Workshop and Adoption of SBCOG Budget Pg. 431

That the Board, acting as the San Bernardino County Transportation Authority (SBCTA):

A. Receive the Fiscal Year 2022/2023 Budget Action Plan; and

B. Receive a presentation of the Proposed Fiscal Year 2022/2023 Budget; and

C. Conduct a Board of Directors Workshop for SBCTA's Proposed Fiscal Year 2022/2023 Budget.

That the Board, acting as the San Bernardino Associated Governments (SBCOG):

D. Adopt the SBCOG Fiscal Year 2022/2023 Budget with appropriations of \$3,031,191, transfers out of \$554,771, and estimated revenues of \$2,780,253.

Presenter: Hilda Flores

The Budget Overview for each program was reviewed during the Metro Valley Study Session on February 10, 2022, and the Mountain/Desert Policy Committee on February 18, 2022. All SBCTA policy committees have reviewed task descriptions and budget for activities under their purview. The Budget Action Plan was received by the General Policy Committee on April 13, 2022.

Public Comment

Brief Comments from the General Public

Comments from Board Members

Brief Comments from Board Members

Executive Director's Comments

Brief Comments from the Executive Director

ADJOURNMENT

Additional Information

Attendance

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Acronym List

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Agency Reports

Mobile Source Air Pollution Reduction Review Committee Agency Report

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Committee Membership

Representatives on SCAG Committees

Pg. 457

Appointments to External Agencies

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Committee Membership

Pg. 460

Mission Statement

Mission Statement

Pg. 465

Meeting Procedures and Rules of Conduct

Meeting Procedures - The Ralph M. Brown Act is the state law which guarantees the public's right to attend and participate in meetings of local legislative bodies. These rules have been adopted by the Board of Directors in accordance with the Brown Act, Government Code 54950 et seq., and shall apply at all meetings of the Board of Directors and Policy Committees.

Accessibility - The meeting facility is accessible to persons with disabilities. If assistive listening devices or other auxiliary aids or services are needed in order to participate in the public meeting, requests should be made through the Clerk of the Board at least three (3) business days prior to the Board meeting. The Clerk can be reached by phone at (909) 884-8276 or via email at clerkoftheboard@gosbcta.com and office is located at 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA.

Agendas – All agendas are posted at www.gosbcta.com/board/meetings-agendas/ at least 72 hours in advance of the meeting. Staff reports related to agenda items may be reviewed online at that web address. Agendas are also posted at 1170 W. 3rd Street, 1st Floor, San Bernardino at least 72 hours in advance of the meeting.

Agenda Actions – Items listed on both the “Consent Calendar” and “Discussion” contain recommended actions. The Board of Directors will generally consider items in the order listed on the agenda. However, items may be considered in any order. New agenda items can be added and action taken by two-thirds vote of the Board of Directors or unanimous vote of members present as provided in the Ralph M. Brown Act Government Code Sec. 54954.2(b).

Closed Session Agenda Items – Consideration of closed session items excludes members of the public. These items include issues related to personnel, pending litigation, labor negotiations and real estate negotiations. Prior to each closed session, the Chair will announce the subject matter of the closed session. If action is taken in closed session, the Chair may report the action to the public at the conclusion of the closed session.

Public Testimony on an Item – Members of the public are afforded an opportunity to speak on any listed item. Individuals wishing to address the Board of Directors or Policy Committee Members should complete a “Request to Speak” form, provided at the rear of the meeting room, and present it to the Clerk prior to the Board's consideration of the item. A "Request to Speak" form must be completed for each item an individual wishes to speak on. When recognized by the Chair, speakers should be prepared to step forward and announce their name and address for the record. In the interest of facilitating the business of the Board, speakers are limited to three (3) minutes on each item. Additionally, a twelve (12) minute limitation is established for the total amount of time any one individual may address the Board at any one meeting. The Chair or a majority of the Board may establish a different time limit as appropriate, and parties to agenda items shall not be subject to the time limitations. Members of the public requesting information be distributed to the Board of Directors must provide 40 copies of such information in advance of the meeting, except for noticed public hearings. Information provided as public testimony is not read into the record by the Clerk.

The Consent Calendar is considered a single item, thus the three (3) minute rule applies. Consent Calendar items can be pulled at Board member request and will be brought up individually at the specified time in the agenda allowing further public comment on those items.

Agenda Times – The Board is concerned that discussion take place in a timely and efficient manner. Agendas may be prepared with estimated times for categorical areas and certain topics to be discussed. These times may vary according to the length of presentation and amount of resulting discussion on agenda items.

Public Comment – At the end of the agenda, an opportunity is also provided for members of the public to speak on any subject within the Board’s authority. Matters raised under “Public Comment” may not be acted upon at that meeting. “Public Testimony on any Item” still applies.

Disruptive or Prohibited Conduct – If any meeting of the Board is willfully disrupted by a person or by a group of persons so as to render the orderly conduct of the meeting impossible, the Chair may recess the meeting or order the person, group or groups of person willfully disrupting the meeting to leave the meeting or to be removed from the meeting. Disruptive or prohibited conduct includes without limitation addressing the Board without first being recognized, not addressing the subject before the Board, repetitiously addressing the same subject, failing to relinquish the podium when requested to do so, bringing into the meeting any type of object that could be used as a weapon, including without limitation sticks affixed to signs, or otherwise preventing the Board from conducting its meeting in an orderly manner. Your cooperation is appreciated!

General Practices for Conducting Meetings of Board of Directors and Policy Committees

Attendance.

- The Chair of the Board or a Policy Committee (Chair) has the option of taking attendance by Roll Call or Self-Introductions. If attendance is taken by Roll Call, the Clerk of the Board will call out by jurisdiction or supervisorial district. The Member or Alternate will respond by stating his/her name. If attendance is by Self-Introduction, the Member or Alternate will state his/her name and jurisdiction or supervisorial district.
- A Member/Alternate, who arrives after attendance is taken, shall announce his/her name prior to voting on any item.
- A Member/Alternate, who wishes to leave the meeting after attendance is taken but before remaining items are voted on, shall announce his/her name and that he/she is leaving the meeting.

Basic Agenda Item Discussion.

- The Chair announces the agenda item number and states the subject.
- The Chair calls upon the appropriate staff member or Board Member to report on the item.
- The Chair asks members of the Board/Committee if they have any questions or comments on the item. General discussion ensues.
- The Chair calls for public comment based on “Request to Speak” forms which may be submitted.
- Following public comment, the Chair announces that public comment is closed and asks if there is any further discussion by members of the Board/Committee.
- The Chair calls for a motion from members of the Board/Committee.
- Upon a motion, the Chair announces the name of the member who makes the motion. Motions require a second by a member of the Board/Committee. Upon a second, the Chair announces the name of the Member who made the second, and the vote is taken.
- The “aye” votes in favor of the motion shall be made collectively. Any Member who wishes to oppose or abstain from voting on the motion, shall individually and orally state the Member’s “nay” vote or abstention. Members present who do not individually and orally state their “nay” vote or abstention shall be deemed, and reported to the public, to have voted “aye” on the motion.

The Vote as specified in the SANBAG Bylaws.

- Each Member of the Board of Directors shall have one vote. In the absence of the official representative, the alternate shall be entitled to vote. (Board of Directors only.)
- Voting may be either by voice or roll call vote. A roll call vote shall be conducted upon the demand of five official representatives present, or at the discretion of the presiding officer.

Amendment or Substitute Motion.

- Occasionally a Board Member offers a substitute motion before the vote on a previous motion. In instances where there is a motion and a second, the maker of the original motion is asked if he or she would like to amend his or her motion to include the substitution or withdraw the motion on the floor. If the maker of the original motion does not want to amend or withdraw, the substitute motion is voted upon first, and if it fails, then the original motion is considered.
- Occasionally, a motion dies for lack of a second.

Call for the Question.

- At times, a Member of the Board/Committee may “Call for the Question.”
- Upon a “Call for the Question,” the Chair may order that the debate stop or may allow for limited further comment to provide clarity on the proceedings.
- Alternatively and at the Chair’s discretion, the Chair may call for a vote of the Board/Committee to determine whether or not debate is stopped.
- The Chair re-states the motion before the Board/Committee and calls for the vote on the item.

The Chair.

- At all times, meetings are conducted in accordance with the Chair’s direction.
- These general practices provide guidelines for orderly conduct.
- From time-to-time circumstances require deviation from general practice.
- Deviation from general practice is at the discretion of the Chair.

Courtesy and Decorum.

- These general practices provide for business of the Board/Committee to be conducted efficiently, fairly and with full participation.
- It is the responsibility of the Chair and Members to maintain common courtesy and decorum.

Adopted By SANBAG Board of Directors January 2008

Revised March 2014

Revised May 4, 2016



Important Dates to Remember...

May 2022

SBCTA Meetings – Cancelled: None

SBCTA Meetings – Scheduled:

General Policy Committee	May 11	9:00 am	SBCTA Lobby, 1st Floor
Legislative Policy Committee	May 11	9:30 am	SBCTA Lobby, 1st Floor
Transit Committee	May 12	9:00 am	SBCTA Lobby, 1st Floor
Metro Valley Study Session	May 12	9:30 am	SBCTA Lobby, 1st Floor
I-10/I-15 Corridor Joint Sub-Committee	May 12	10:00 am	SBCTA Lobby, 1st Floor
Mountain/Desert Committee	May 20	9:30 am	Mojave Desert AQMD

Other Meetings/Events:

None			
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For additional information, please call SBCTA at (909) 884-8276

Minute Action

AGENDA ITEM: 1

Date: May 4, 2022

Subject:

Information Relative to Possible Conflict of Interest

Recommendation:

Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

Background:

In accordance with California Government Code 84308, members of the Board may not participate in any action concerning a contract where they have received a campaign contribution of more than \$250 in the prior twelve months from an entity or individual, except for the initial award of a competitively bid public works contract. This agenda contains recommendations for action relative to the following contractors:

Item No.	Contract No.	Principals & Agents	Subcontractors
6	C12222-08	Raymond W. Wolfe	None
7	19-1002111-01	Julianna K. Tillquist	None
8	22-1002741	San Bernardino County	None
		Union Pacific Railroad Peggy Ygbuhay, <i>Project Manager</i>	None
	22-1002716	California Department of Transportation	None
9	22-1002699	Southern California Regional Rail Authority	None
		City of San Bernardino	None
10	19-1002226-01	City of Barstow	None
	22-1002785	California Department of Transportation	None
	15-1001119-04	City of Barstow	None
11	22-1002801	San Bernardino County Department of Public Health	None
	22-1002802	San Bernardino County Superintendent of School	None
12	21-1002497-01	Southern California Association of Governments	None
13	21-1002658	CPM Partners, Inc. <i>Maribel Janecek</i>	None

Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority

Board of Directors Agenda Item

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Item No.	Contract No.	Principals & Agents	Subcontractors
14	16-1001363-04	Kaplan, Kirsch & Rockwell, LLP <i>Charles Spitulnik</i>	None

Item No. 21 – Hearing to Consider Resolutions of Necessity for Property Interests for the West Valley Connector Project

APN#	Principals & Agents
1012-071-03	RFA Montclair, LP, a California limited partnership
1011-111-05	1401 Holt Investments, LLC, a California limited liability company
1011-121-13	Ronald A. Hendrickson & Susan C. Hendrickson, Trustees UTD November 5, 2007, FBO Ronald A. Hendrickson & Susan C. Hendrickson; William K. Harden & Judith L. Harden; Gary Harden; Michael Harden
1010-552-14 & 15	Sylverio Malagon, a single man, as his sole and separate property
1011-111-21	Gregory L. Johnson & Thea M. Johnson, Co-Trustees of The Johnson Family Trust Established June 9, 2011
1010-543-01, 02 & 03	Frank J. Cuccia & Susan K. Cuccia, Co-Trustees of the Frank J. Cuccia Family Trust, Dated May 22, 1989
1010-611-12	HBL Family, LLC, a California limited liability company
1010-543-09	Linda L. Robinson, Trustee of the Linda L. Robinson Living Trust dated February 11, 1992
8323-025-025	14255 Ellsworth Street, LLC, a California limited liability company
8326-024-041	Fountain of Love Christian Center, Inc., a California non-profit corporation
1048-523-16	Elias Properties, LLC, a California limited liability company
0110-111-06, 07 & 08	Ron J. Goodin, Trustee of The R.J. Goodin Family Trust under Trust Instrument dated September 30, 1988
0110-111-01	Thomas G. Matlock & Judith L. Matlock, Co-Trustees of The Matlock Living Trust - 1997, dated April 2, 1997
0110-061-01	Amazing Grace Clothing, LLC, a Texas limited liability company

Item No.	Contract No.	Principals & Agents	Subcontractors
23	N/A	Southern California Regional Rail Authority	None
24	20-1002324-02	Royal Coaches Auto Body & Towing <i>William Salazar, Owner</i>	None

Financial Impact:

This item has no direct impact on the budget.

Reviewed By:

This item is prepared monthly for review by Board and Committee members.

Responsible Staff:

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Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

San Bernardino Council of Governments
San Bernardino County Transportation Authority

Minute Action

AGENDA ITEM: 2

Date: May 4, 2022

Subject:

March 2022 Procurement Report

Recommendation:

Receive the March 2022 Procurement Report.

Background:

The Board of Directors adopted the Procurement and Special Risk Assessment Policy (Policy No. 11000) on January 3, 1997, and approved the last revision on October 6, 2021. The Board of Directors authorized the Executive Director, or his designee, to approve: a) contracts and Purchase Orders up to \$100,000; b) Contract Task Orders (CTO) up to \$500,000 and for CTOs originally \$500,000 or more, increasing the CTO amount up to \$250,000; c) amendments with a zero dollar value; d) amendments to exercise the option term if the option term was approved by the Board of Directors in the original contract; e) amendments that cumulatively do-not-exceed 50% of the original contract or Purchase Order value or \$100,000, whichever is less; f) amendments that do-not-exceed contingency amounts authorized by the Board of Directors; and g) release Request for Proposals (RFP), Request for Qualifications (RFQ), and Invitation for Bids (IFB) for proposed contracts from which funding has been approved in the Annual Budget, and are estimated not-to-exceed \$1,000,000.

The Board of Directors further authorized General Counsel to award and execute legal services contracts up to \$100,000 with outside counsel as needed, and authorized Department Directors to approve and execute Contingency Amendments that do-not-exceed contingency amounts authorized by the Board of Directors. Below is a summary of the actions taken:

- Nine (9) contract amendments were executed for a total costs of \$140,000.
- One (1) CTO was executed for a total cost of \$68,345.
- One (1) contingency release was executed for a total cost of \$67,280.40.
- Five (5) Purchase Orders were executed for a total cost of \$46,450.
- Two (2) Purchase Order Amendments were executed for a total cost of \$23.
- One RFP for on-call services was released.

A list of all Contracts and Purchase Orders that were executed by the Executive Director, Department Director and/or General Counsel during the month of March 2022 are presented herein as Attachment A, and all RFPs and IFBs are presented in Attachment B.

Financial Impact:

This item is consistent with the Fiscal Year 2021/2022 Budget. Presentation of the monthly procurement report demonstrates compliance with the Procurement and Special Risk Assessment Policy No. 11000.

Reviewed By:

This item was received by the General Policy Committee on April 13, 2022.

Responsible Staff:

Beatriz Valdez, Director of Special Projects/Strategic Initiatives

Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority

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Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

San Bernardino Council of Governments
San Bernardino County Transportation Authority

Attachment A

March Contract Actions

New Contracts Executed:

Contract No.	Description of Services	Vendor Name	Contract Amount
None			

Attachment A

March Amendment Actions

Contract Amendments Executed:

Contract No. & Amendment No.	Reason for Amendment (Include a Description of the Amendment)	Vendor Name	Contract History	Contract Amount
19-1002203 No. 3	To exercise the first option year to extend contract through June 30, 2023 and modify insurance to incorporate additional insured coverage to include Los Angeles County Metropolitan Transportation Authority, Orange County Transportation Authority, Riverside County Transportation Commission, and Ventura County Transportation Commission.	Trapeze Software Group, Inc.	Original	\$350,000.00
			Prior Amendments	\$817,042.00
			Current Amendment	\$0.00
			Total Contract Amount	\$1,167,042.00
19-1002171 No. 2	To revise the insurance requirements due to changing insurance market conditions.	E&S Towing Enterprises, Inc DBA Steve's Towing	Original	\$2,875,132.00
			Prior Amendments	\$0.00
			Current Amendment	\$0.00
			Total Contract Amount	\$2,875,132.00
19-1002091 No.1	To revise the insurance requirements due to changing insurance market conditions.	Royal Coaches Auto Body & Towing	Original	\$1,570,683.00
			Prior Amendments	\$0.00
			Current Amendment	\$0.00
			Total Contract Amount	\$1,570,683.00
18-1001969 No. 1	To revise the insurance requirements due to changing insurance market conditions.	Royal Coaches Auto Body & Towing	Original	\$2,156,410.00
			Prior Amendments	\$0.00
			Current Amendment	\$0.00
			Total Contract Amount	\$2,156,410.00
20-1002324 No. 1	To revise the insurance requirements due to changing insurance market conditions.	Royal Coaches Auto Body & Towing	Original	\$2,300,073.00
			Prior Amendments	\$0.00
			Current Amendment	\$0.00
			Total Contract Amount	\$2,300,073.00
16-1001472 No. 2	To extend the contract by one year through June 30, 2023 and approve a not-to-exceed amount of \$10,000.	Wells Fargo Bank, National Association	Original	\$0.00
			Prior Amendments	\$0.00
			Current Amendment	\$10,000.00
			Total Contract Amount	\$10,000.00

Attachment: March procurement report attachment A (8564 : March 2022 Procurement Report)

Attachment A

March Amendment Actions

Contract Amendments Executed, Continued:

Contract No. & Amendment No.	Reason for Amendment (Include a Description of the Amendment)	Vendor Name	Contract History	Contract Amount
17-1001683 No. 4	To exercise the third option year to extend contract through June 30, 2023 and increase the contract not-to-exceed amount by \$60,000.	Trapeze Software Group, Inc.	Original	\$372,919.00
			Prior Amendments	
			Current Amendment	\$60,000.00
			Total Contract Amount	\$432,919.00
22-1002750 No. 1	To increase the contract not-to-exceed amount by \$10,000.	Kaplan, Kirsch & Rockwell, LLP	Original	\$20,000.00
			Prior Amendments	\$0.00
			Current Amendment	\$10,000.00
			Total Contract Amount	\$30,000.00
19-1002105 No. 1	To exercise the first option year to extend contract through March 31, 2023 and increase the contract not-to-exceed amount by \$60,000.	Lambert 20/20 Inc.	Original	\$180,000.00
			Prior Amendments	\$0.00
			Current Amendment	\$60,000.00
			Total Contract Amount	\$240,000.00

Attachment: March procurement report attachment A (8564 : March 2022 Procurement Report)

Attachment A

March Contract Task Order Actions

Contract Task Order (CTO) Executed:

Contract No. & CTO No.	Description of CTO	Vendor Name	Contract History	Contract Amount
18-1001823 CTO No. 11	To increase CTO amount for additional Utility Coordination and property appraisals for the I-215 University Parkway Interchange Improvement Project.	Bender Rosenthal	Original	\$1,500,000.00
			Prior Amendments	\$0.00
			Prior CTOs	\$162,126.74
			Current CTO	\$68,345.00
			Available Contract Amount	\$1,269,528.26

Attachment: March procurement report attachment A (8564 : March 2022 Procurement Report)

Attachment A

March Contingency Released Actions

Contingency Released Executed:

Contract No. & Contingency No.	Reason for Contingency Amendment (Include a Description of the Contingency Amendment)	Vendor Name	Contract History	Contract Amount
20-1002271 No. 11.2	To perform additional geotechnical borings at overhead signs and signal/lighting pole foundations and additional electrical design for revised temporary traffic signals for the I-215 University Avenue Interchange Project.	HDR Engineering, Inc.	Original	\$650,461.79
			Prior Amendments	\$0.00
			Prior Contingencies	\$5,670.50
			Current Contingency	\$67,280.40
			Amended Contract Amount	\$723,412.69

Attachment: March procurement report attachment A (8564 : March 2022 Procurement Report)

Attachment A

March Purchase Order Actions

Purchase Orders Executed:

PO No.	PO Posting Date	Vendor Name	Description of Services	PO Dollar Amount
4002239	03/04/2022	CDW Government LLC	Microsoft Office 365 licenses	\$10,251.90
4002240	03/04/2022	Chargepoint, Inc.	5-year maintenance services of the Electric Vehicle charging stations	\$4,145.00
4002241	03/04/2022	Chargepoint, Inc.	5-year cloud services Plan for management of the Electric Vehicle charging stations	\$21,185.00
4002242	03/04/2022	Cintas Corporation No. 2	Automated External Defibrillator (AED) cabinet and 1 AED	\$7,070.00
4002243	03/10/2022	Wells Fargo Bank N.A.	Credit card payment for 19 Zoom licenses	\$3,798.10

Attachment: March procurement report attachment A (8564 : March 2022 Procurement Report)

Attachment A

March Purchase Order Amendment Actions

Purchase Order Amendments Executed:

Purchase Order No. & Amendment No.	Description of Services and Reason for Amendment	Vendor Name	Purchase Order History	Purchase Order Amount
4002214	Increase purchase order to cover shipping fees for the purchase of hard hats and vests.	Calolympic Safety	Original	\$1,429.15
			Prior Amendments	\$0.00
			Current Amendment	\$23.00
			Amended PO Amount	\$1,452.15
4002224	Corrected funding source for the owner contribution funding request for the operations of the Santa Fe Depot facility.	Citycom Real Estate Services	Original	\$180,883.50
			Prior Amendments	\$0.00
			Current Amendment	\$0.00
			Amended PO Amount	\$180,883.50

Attachment: March procurement report attachment A (8564 : March 2022 Procurement Report)

Attachment B**March RFP's, RFQ's and IFB's****Release of RFP's, RFQ's and IFB's**

Release Date	RFP/RFQ/IFB No.	Anticipated Dollar Amount	Anticipated Award Date	Description of Overall Program and Program Budget
03/07/2022	RFQ 22-1002744	Amount to be awarded will depend on each project	09/01/2022	On-call transit and rail services to support the activities necessary to develop, study, plan, design, and implement a variety of projects, studies, and goals as they relate to transit, rail, and mobility.

Attachment: March procurement report attachment B (8564 : March 2022 Procurement Report)

Minute Action

AGENDA ITEM: 3

Date: May 4, 2022

Subject:

Measure I Revenue

Recommendation:

Receive report on Measure I receipts for Measure I 2010-2040.

Background:

Sales tax revenue collections for Measure I 2010 through 2040 began on April 1, 2010. Cumulative total receipts as of March 31, 2022, were \$1,934,494,935.

Included, is a summary of the current Measure I receipts by quarter and cumulative total since its inception. The quarterly receipts represent sales tax collection from the previous quarter taxable sales. For example, receipts for January through March represent sales tax collections from October through December.

Measure I revenue for the Fiscal Year 2021/2022 Budget was estimated to be \$196,000,000. Actual Measure I receipts for Fiscal Year 2021/2022, January through March are \$64,329,895, in comparison to \$52,728,566 received during the quarter ending March 2020/2021, with an increase of 22% due mainly to continued strong consumer spending.

Financial Impact:

Measure I revenues for the third quarter of Fiscal Year 2021/2022 exceeded both the budgeted amount and prior years' collections.

Reviewed By:

This item was reviewed and unanimously recommend for approval by the General Policy Committee on April 13, 2022.

Responsible Staff:

Lisa Lazzar, Chief of Fiscal Resources

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

Entity: San Bernardino County Transportation Authority

Summary of SANBAG Measure I Receipts 2010-2040

Fiscal Year	July- September	October- December	January- March	April- June	Fiscal Year Total	Cumulative Total To Date
Receipts Prior to FY 2010/11						\$7,158,800
Fiscal Year 2010/11	28,188,907	29,207,950	28,808,766	29,397,456	115,603,079	\$122,761,879
Fiscal Year 2011/12	31,027,319	33,547,956	32,757,419	33,476,051	130,808,745	\$253,570,624
Fiscal Year 2012/13	34,279,449	35,076,980	34,336,570	34,309,171	138,002,171	\$391,572,794
Fiscal Year 2013/14	35,430,012	35,403,641	36,843,452	35,789,045	143,466,150	\$535,038,944
Fiscal Year 2014/15	37,253,007	38,007,716	38,225,122	37,132,591	150,618,437	\$685,657,380
Fiscal Year 2015/16	39,298,056	40,309,825	40,950,261	38,929,588	159,487,730	\$845,145,110
Fiscal Year 2016/17	41,123,141	40,742,242	41,465,217	39,801,939	163,132,539	\$1,008,277,649
Fiscal Year 2017/18	43,117,814	42,305,693	44,007,900	39,149,611	168,581,018	\$1,176,858,666
Fiscal Year 2018/19	41,560,927	49,358,825	46,035,191	43,531,556	180,486,500	\$1,357,345,167
Fiscal Year 2019/20	46,250,572	46,514,574	49,729,997	35,959,684	178,454,827	\$1,535,799,994
Fiscal Year 2020/21	48,366,423	51,588,776	52,728,566	56,391,035	209,074,800	\$1,744,874,794
Fiscal Year 2021/22	64,058,781	61,231,465	64,329,895	0	189,620,141	\$1,934,494,935
% Increase Over 20/21	32.44%	18.69%	22.00%			

Attachment: MSI Receipts (8578 : *Measure I Revenue - 3rd Qtr 2021/2022)

Minute Action

AGENDA ITEM: 4

Date: May 4, 2022

Subject:

Investment Policy No. 20100

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority, effective July 1, 2022:

- A. Approve Investment Policy No. 20100, with staff recommending no revisions; and
- B. Delegate to SBCTA's Treasurer, who shall serve as SBCTA's Chief Financial Officer and Treasurer, authority for a one-year period to invest or reinvest SBCTA funds and to sell or exchange securities so purchased, pursuant to Policy No. 20100; and

That the Board, acting as the San Bernardino Associated Governments (SBCOG), effective July 1, 2022:

- C. Reauthorize pooling SBCOG funds with SBCTA funds, to be invested in accordance with SBCTA's Investment Policy No. 20100; and
- D. Delegate to SBCTA's Treasurer, who shall serve as SBCOG's Chief Financial Officer and Treasurer, authority for a one-year period to invest or reinvest SBCOG funds and to sell or exchange securities so purchased, pursuant to Policy No. 20100.

Background:

The California Government Code, which governs the investment and the deposit of public funds (Section 53600 et seq.), requires that the agency's governing body annually review the investment policy at a public meeting.

San Bernardino County Transportation Authority's (SBCTA) staff and investment advisor, PFM Asset Investment Management LLC (PFM), have reviewed the current SBCTA Investment Policy No. 20100 (Policy) and concur that the Policy meets all requirements. As such, no changes are recommended at this time.

The Government Code also provides that if an agency's legislative body elects to delegate investment authority to the agency treasurer, it may do so for a one-year period, and delegation may be renewed annually. Recommendations B and D request the Boards of Directors of SBCTA and San Bernardino Associated Governments (SBCOG) approve the annual delegation of investment authority, pursuant to the Policy, for a one-year period, to the SBCTA Treasurer, who is also the SBCTA Chief Financial Officer and the SBCOG Treasurer.

Financial Impact:

This item has no financial impact on the Fiscal Year 2021/2022 or 2022/2023 Budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the General Policy Committee on April 13, 2022. SBCTA General Counsel has reviewed this item and the policy.

Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority

Board of Directors Agenda Item

May 4, 2022

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Responsible Staff:

Lisa Lazzar, Chief of Fiscal Resources

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

San Bernardino Council of Governments
San Bernardino County Transportation Authority

March 28, 2022

Memorandum

To: Lisa Lazzar, CPA, Chief of Fiscal Resources
San Bernardino County Transportation Authority

From: Sarah Meacham, Managing Director
Richard Babbe, CCM, Senior Managing Consultant
PFM Asset Management LLC

RE: 2022 Investment Policy Review

At your request, we reviewed the San Bernardino County Transportation Authority's ("Authority") Investment Policy (the "Policy"), as part of the Authority's annual review process. As written, the Policy is in compliance with all applicable California Government Code (the "Code") sections regulating the investment of public funds. Furthermore, there have been no changes to the relevant Code sections, effective January 1, 2022, that would require any changes to the Authority's Policy. Therefore, we are not recommending any changes to the Policy at this time.

Please contact us if you have any questions.

Attachment: SBCTA_PFM_Memo_3-28-22_Final (8577 : Investment Policy No. 20100)

San Bernardino County Transportation Authority	Policy	20100
Adopted by the Board of Directors October 2, 1996	Revised	05/05/2021
Investment Policy	Revision No.	25

Important Notice: A hardcopy of this document may not be the document currently in effect. The current version is always the version on the SBCTA Intranet.

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I. PURPOSE

The purpose of this policy is to provide guidelines for the investment of funds based upon prudent cash management practices and in conformity with all applicable statutes.

II. POLICY

The Board of Directors of the San Bernardino County Transportation Agency (SBCTA) and of the San Bernardino Council of Governments (SBCOG) recognize their responsibility to direct the investment of funds under their care. This policy is designed to meet the specific needs of SBCTA and SBCOG while ensuring the safety of funds. This revised policy is effective July 1, 2019.

III. INVESTMENT GOALS

The investment of funds by SBCTA and SBCOG shall be guided by the goals of safety, liquidity, diversification, and a reasonable market rate of return.

Safety: Safety of principal is the foremost objective of the investment program. Investments of SBCTA and SBCOG will be undertaken in a manner that seeks to ensure the preservation of capital in the portfolio.

Liquidity: SBCTA's and SBCOG's investment portfolio will remain sufficiently liquid to enable SBCTA and SBCOG to meet all operating requirements and budgeted expenditures, including an additional amount to cover reasonably estimated contingencies.

Diversification: The investment portfolio will be diversified to avoid risk regarding specific security types or individual financial institutions.

Reasonable Market Rate of Return: The investment portfolio will be designed to attain a market average rate of return through economic cycles which is consistent with SBCTA's and SBCOG's primary goals of safety, liquidity and diversification.

IV. PRUDENT INVESTOR STANDARD

SBCTA and SBCOG investments are governed by the prudent investor standard, set forth as follows:

When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds, a trustee shall act with care, skill, prudence and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency that a prudent person acting in a like capacity and familiarity with those matters would use in the investment of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part of an overall investment strategy, investments may be acquired as authorized by law.

V. SCOPE

The investment policy applies to all financial assets held by SBCTA and SBCOG, including bond proceeds. Funds specifically exempt from this policy include employee deferred compensation plans, employee pension plans, or assets held in trust by SBCTA and SBCOG with specific investment instructions.

VI. DELEGATION OF AUTHORITY

SBCTA's Board Administrative Code and SBCOG's Bylaws designate the SBCTA Chief Financial Officer (CFO) as Treasurer for each Agency.

Under the direction and oversight of the Chief Financial Officer, and in consultation with SBCTA's and SBCOG's investment adviser, the Chief Financial Officer or designee shall direct the investment of SBCTA and SBCOG combined operating funds, which are not invested in the County Pool or in LAIF ("DIRECT INVESTMENTS") in accordance with this Policy. All officials, staff members and consultants are directly accountable to the SBCTA and SBCOG Boards for investment functions.

VII. CONFLICTS OF INTEREST

All officials, staff members and consultants involved in the investment functions will refrain from personal business activity that could conflict with the execution of the investment function or which could impair their ability to make impartial investment decisions. Officials, staff members, and consultants will disclose to the Executive Director any financial interest with a financial institution or broker that conducts business with SBCTA and SBCOG. Officials, staff members and consultants will further disclose any personal financial positions that could be related to the performance of SBCTA's and SBCOG's portfolio.

VIII. PORTFOLIO MATURITY LIMITS

Investment maturities shall be based on a review of cash flow forecasts. Maturities will be scheduled so as to permit SBCTA and SBCOG to meet all projected obligations.

The maximum maturity of any other investment of operating funds ("direct investments") may not exceed five years unless otherwise noted in Paragraph IX.

Investment of bond proceeds shall be made in consideration of the liquidity needs of the bond fund, and may not exceed five years, except for securities to be held in a defeasance escrow for refunded bonds and bond debt service reserve funds.

Investments in the San Bernardino County Pool and in LAIF are subject to maturity limits and other investment restrictions as imposed by the governing bodies of those agencies.

IX. ALLOWABLE INVESTMENTS FOR SBCTA and SBCOG OPERATING FUNDS

Investment of SBCTA's and SBCOG's funds is governed by the California Government Code, Sections 53600 et seq. and 53635 et seq. Should the Government Code become more restrictive than this policy, the Government Code restrictions shall prevail.

The following investment vehicles are permitted for the investment of operating funds.

- A. Government obligations for which the full faith and credit of the United States are pledged for the payment of principal and interest.
- B. Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. No more than 40% of SBCTA's and SBCOG's combined investment portfolio may be invested in the obligations of any one federal agency or United States government-sponsored enterprise.
- C. Obligations of the State of California or any local agency within the state, including bonds payable solely out of revenues from a revenue producing property owned, controlled or operated by the state or any local agency or by a department, board, agency or authority of the state or any local agency. Obligations of the State of California or any California local agency may not represent more than 20%

of SBCTA's and SBCOG's combined portfolio and no more than 10% may be invested in the obligations of any one issuer.

- D. Registered treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California. Obligations of the other 49 states may not represent more than 20% of SBCTA's and SBCOG's combined portfolio and no more than 10% may be invested in the obligations of any one issuer.

- E. Repurchase Agreements used solely as short-term investments not to exceed 30 days.

The following collateral restrictions will be observed: Only U.S. Treasury securities or Federal Agency securities, as described in Paragraph IX. A and B, will be acceptable collateral. All securities underlying Repurchase Agreements must be delivered to SBCTA's custodian bank by book entry, physical delivery, or held by a third party custodial agreement. The total of all collateral for each Repurchase Agreement must equal or exceed, on the basis of market value, 102% of the funds borrowed against those securities. For any Repurchase Agreement with a term of more than one day, the value of the underlying securities must be reviewed on a weekly basis and the value of the underlying securities brought back up to 102% no later than the next business day.

Market value must be calculated each time there is a substitution of collateral.

SBCTA and SBCOG or their trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to the Repurchase Agreement.

SBCTA and SBCOG may enter into Repurchase Agreements only with primary dealers of the Federal Reserve Bank of New York.

SBCTA and SBCOG will have specific written agreements with each firm with which it enters into Repurchase Agreements.

Reverse repurchase agreements will not be allowed.

Repurchase agreements may not represent more than 20% of SBCTA's and SBCOG's combined investment portfolio.

- F. Bankers' Acceptances issued by domestic or foreign banks, which are eligible for purchase by the Federal Reserve System, the short-term paper of which is rated in the highest category by a nationally recognized statistical-rating organization (NRSRO).

Purchases of Bankers' Acceptances may not exceed 180 days maturity or 40% of SBCTA's and SBCOG's combined investment portfolio. No more than 3% of SBCTA and SBCOG's investment portfolio may be invested in the securities of any one non-government issuer regardless of security type.

- G. Commercial paper rated in the highest short-term rating category, as provided by a NRSRO. The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):

- (1) The entity meets the following criteria: (a) is organized and operating in the United States as a general corporation; (b) has total assets in excess of five hundred million dollars (\$500,000,000); (c) has debt other than commercial paper, if any, that is rated in a rating category of "A" or its equivalent or higher by a NRSRO.
- (2) The entity meets the following criteria: (a) is organized within the United States as a special purpose corporation, trust, or limited liability company; (b) has program-wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond; (c) has commercial paper that is rated "A-1" or higher, or the equivalent, by a NRSRO.

Purchases of eligible commercial paper may not exceed 270 days maturity.

Purchases of commercial paper may not exceed 40% of SBCTA's and SBCOG's combined investment portfolio. No more than 3% of SBCTA's and SBCOG's combined investment portfolio may be invested in the securities on any one non-government issuer regardless of security type.

- H. Medium-term corporate notes issued by corporations organized and operating within the United States or by depository institutions licensed by the U.S. or any state and operating within the U.S. Medium-term corporate notes shall be rated in a rating category "A", or its equivalent or better, by a NRSRO.

Purchase of medium-term corporate notes may not exceed 30% of SBCTA's and SBCOG's combined investment portfolio. No more than 3% of SBCTA's and SBCOG's combined investment portfolio may be invested in the securities of any one non-government issuer regardless of security type.

- I. Negotiable certificates of deposit or deposit notes issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a federally- or state-licensed branch of a foreign bank. Investments under this subdivision shall be rated in a rating category of "A" for long-term, "A-1" for short-term, their equivalent or better by a NRSRO.

Purchase of negotiable certificates of deposit may not exceed 30% of SBCTA's and SBCOG's combined investment portfolio. No more than 3% of SBCTA's and SBCOG's combined investment portfolio may be invested in the securities of any one non-government issuer regardless of security type.

- J. State of California's Local Agency Investment Fund (LAIF)

Investment in LAIF may not exceed 60% of SBCTA's and SBCOG's combined operating funds or up to the maximum amount permitted by the State Treasurer, whichever is less.

- K. California Asset Management Program (CAMP)'s money market pool, which is rated AAAM. Investment in CAMP may be up to the maximum amount permitted by the State.

- L. San Bernardino County Investment Pool.

- M. Insured savings accounts.

- N. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1, et seq.). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) have attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs, or (2) have an investment advisor registered or exempt from registration with the Securities and Exchange Commission with not less than five years experience managing money market mutual funds and with assets under management in excess of \$500,000,000.

The purchase price of shares of beneficial interest purchased shall not include any commission that the companies may charge and shall not exceed 20% of SBCTA's and SBCOG's combined investment portfolio. Further, no more than 10% of SBCTA's and SBCOG's combined investment portfolio may be invested in shares of beneficial interest of any one money market fund.

- O.

- (1) Bonds issued by SBCTA, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by SBCTA or by a department, board, agency, or authority of SBCTA, provided the SBCTA Board first specifically approves investing in such bonds.
- (2) Bonds, notes, warrants, or other evidences of indebtedness of a local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency, provided the SBCTA Board first specifically approves of SBCTA investing in such bonds, notes, warrants or other evidences of indebtedness of SBCTA.

- P. United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development (IBRD), International Finance Corporation (IFC), or Inter-American Development Bank (IADB), with a maximum remaining maturity of five years or less, and eligible for purchase and sale within the United States. Investments under this subdivision shall be rated "AAA" or its equivalent by a NRSRO and may not exceed 30% of SBCTA's and SBCOG's combined investment portfolio.

- Q. A mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or

consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subdivision shall be rated "AAA" or its equivalent by a NRSRO and may not exceed 20% of SBCTA's and SBCOG's combined investment portfolio. No more than 3% of SBCTA's and SBCOG's combined investment portfolio may be invested in the securities of any one non-government issuer regardless of security type.

For purposes of determining compliance with this policy, where this section specifies a percentage limitation for a particular category of investment, that percentage is applied on the date of purchase. Credit criteria listed in this section refers to the credit of the issuing organization at the time the security is purchased.

X. ADDITIONAL ALLOWABLE INVESTMENTS FOR BOND PROCEEDS

- A. Investment agreement with an AA rated bank or collateralized investment agreement with an A rated bank or an investment acceptable to a bond insurance company and approved specifically by the SBCTA and SBCOG Board.
- B. Debt service reserve funds and debt service funds may be invested longer than five years as long as they are permitted by state law and investments are readily available for bond payments and other bond purposes (refundings, defeasance, etc.).
- C. U.S. Treasury Securities and State and Local Government Securities having a maturity longer than five years are permitted for escrowed defeasances.
- D. Forward purchase agreements, forward delivery agreements and debt service reserve agreements approved specifically by the SBCTA and SBCOG Board.
- E. Other investments as permitted by bond indentures.

XI. PROHIBITED INVESTMENT TRANSACTIONS

Any investment not specifically allowed by this policy is prohibited.

XII. INVESTMENT IN "DERIVATIVE" SECURITIES

Direct investment in derivative securities is prohibited. A "derivative security" is any investment the value of which is derived from an underlying security, commodity or index. For purposes of this policy, a derivative is any security that has principal and/or interest payments which are subject to significant uncertainty as to timing, and/or amount.

It is understood that the County Pool and LAIF may invest in certain derivative securities.

XIII. LEVERAGING

All forms of portfolio leverage, including, but not limited to, securities lending programs, reverse repurchase agreements, and margin accounts, are prohibited.

XIV. SAFEKEEPING OF SECURITIES

SBCTA shall enter into an agreement with a bank trust department to serve as the safekeeping agent for all deliverable investments. The safekeeping agent shall hold all investments in an account for the sole benefit of SBCTA and SBCOG. All deliverable investments shall be delivered by the broker to SBCTA's and SBCOG's combined safekeeping account on a delivery versus payment basis.

XV. COMPETITIVE BIDDING OF INVESTMENTS

The investment procedures require that approved broker/dealers compete for direct investment purchases and sales to ensure that all investment transactions are free from favoritism. The CFO in conjunction with SBCTA's and SBCOG's investment advisor shall determine the best execution price for SBCTA and SBCOG, and act accordingly.

XVI. BROKER/DEALERS

A. If a third party investment advisor is authorized to conduct investment transactions on SBCTA's and SBCOG's behalf, the investment advisor may use their own list of approved issuers, broker/dealers and financial institutions for investment purposes. The investment advisor's approved list must be made available to SBCTA and SBCOG upon request.

B. For any investment transactions conducted by the Treasurer on behalf of SBCTA and SBCOG, and not conducted directly with the issuer, the Treasurer shall comply with the following requirements:

C. Transactions initiated by SBCTA and SBCOG shall be executed through government securities dealers reporting as primary dealers to the New York Federal Reserve Bank of New York or direct issuers (defined as corporations that issue their own securities) and through secondary dealers who have received prior approval to do business with SBCTA and SBCOG.

D. Primary dealers wishing to do business with SBCTA and SBCOG must meet the following criteria:

1. The primary dealer representative must have demonstrated experience providing investment services to public agencies in California.
2. The primary dealer representative must provide SBCTA and SBCOG with a minimum of three references of finance officials from public agencies in California.

E. Secondary dealers must complete a broker/dealer application provided by SBCTA and SBCOG, and must meet the following criteria to the satisfaction of SBCTA's Chief Financial Officer:

1. The broker/dealer must qualify under SEC Rule 15C3-1 (uniform net capital rule).
2. The broker/dealer and the broker/dealer representative must be properly registered with the appropriate state and federal regulatory bodies.
3. The broker/dealer should be a market maker and have a strong market presence in one or more product areas that are pertinent to SBCTA's and SBCOG's investment goals.
4. The broker/dealer and its representative should be well established in the business and have an acceptable track record.

F. Each broker/dealer will be sent a copy of this Policy, a broker/dealer application, and a list of persons authorized to execute transactions on SBCTA's and SBCOG's behalf. In order to be considered for investment business opportunities with SBCTA and SBCOG, each firm must acknowledge receipt of such materials.

XVII. REPORTING

A. Quarterly Report

The CFO will provide a quarterly report to the General Policy Committee and to the Board of Directors providing the following information:

1. Breakout of all securities, investments and moneys held by SBCTA and SBCOG by investment type, issuer, date of maturity, par, dollar amount and percent of portfolio invested in each.
2. A description of all SBCTA's and SBCOG's funds, investments or programs that are under the management of any outside party that is not a local agency. This report must also include market valuation of the portfolio and the source of the valuation.
3. A statement of compliance with investment policy and a statement denoting the ability of SBCTA and SBCOG to meet all expenditures for the next six months.

B. Monthly Report

The CFO will provide a monthly list of investment transactions to the Board of Directors as required by the California Government Code §53607 when investment authority has been delegated by the Board.

XVIII. SUBMISSION OF INVESTMENT POLICY

SBCTA's CFO shall render a statement of investment policy to the Board of Directors of SBCTA and SBCOG as required by the California Government Code. If changes are proposed, the Board shall consider the policy, and proposed changes, in a public meeting.

XIX. REVISION HISTORY

Revision No.	Revisions	Adopted
0	Adopted by the Board of Directors.	10/02/96
1	20100: Added paragraph starting with "It shall be SANBAG's long term objective . . .".	09/03/97
2	No changes.	12/02/98
3	20100.10: Changed percentage of operating funds amount to 20%. 20100.10: Changed percentage of San Bernardino portfolio to 20%.	11/03/99
4	No changes. Re-approved by the Board of Directors.	11/01/00
5	Added Para. 20100.16 Qualifications of Broker/Dealers; re-sequenced existing paragraphs. 20100.16, 20100.17, 20100.18, 20100.19, 20100.20, and 20100.21 to 20100.17, 20100.18, 20100.19, 20100.20, and 20100.22. Revised Par. 20100.10: Revised "...not to exceed 20% of SANBAG's operating funds..." to "...not to exceed 30% of SANBAG's operating funds...", and "Portion of Portfolio: 20% maximum" to "Portion of Portfolio: 30% maximum".	11/07/01
6	Changed paragraph numbering style from 20100.1, 20100.2, 20100.3 etc. to I, II, III, etc. Par. IX: Changed "one year" to "two years". Par. X.4: Changed "1 year maximum" to "2 year maximum". Par. X.5: Changed "1 year maximum" to "2 year maximum". Par. X.6: Changed "180 days maximum" to "270 day maximum".	11/06/02
7	No changes. Re-approved by the Board of Directors	11/05/03
8	No changes. Re-approved by the Board of Directors	01/05/05
9	No changes. Re-approved by the Board of Directors	11/02/05
10	Paragraphs on DEFINITIONS, ANNUAL MANAGEMENT REVIEW AND AUDIT, AND SEGREGATED INVESTMENT, and EXECUTION AND RECORD KEEPING: Deleted. Paragraphs III, IV, IX, and XVII: Minor revisions. Paragraphs VIII, IX, and XVI: Major revisions.	07/05/06
11	Par. IX.J: Removed limitation.	09/13/06
12	No changes. Re-approved by the Board of Directors	01/09/08
13	Par. VI: Delete "In addition, the CFO, under the direction and oversight of the Executive Director, and consultation with SANBAG's investment advisor, shall review the alternatives for the investment of bond proceeds, and shall recommend such investments to the SANBAG Board for approval". The investment of bond proceeds is identified under par. X. and will be authorized by bond covenant. Par. IX: Add (C) Obligations of the State of California or any local agency within the state and (D) Registered treasury notes or bonds of other states in addition to California to diversify the number of sectors and issuers; revise (C) to be (E) and add "held" before "by a third party custodial agreement". Also add "Repurchase agreements may not represent more than 20% of SANBAG's investment portfolio", to limit the amount to be invested in repurchase agreements; delete "(G) 'provided that the issuing corporation is organized and operating within the United States, has total assets in excess of \$500 million and has an 'A' or higher rating for its long-term debt, if any, as provided by a nationally recognized statistical rating organization.'" This is also stated in paragraphs (G) (1) and (2); increase (J) from \$40 million to \$50 million limitation on LAIF investment per State Treasurer's Office authorization to increase the dollar amount for investment. Par. X: Change (A) For CAMP, rating from AAA to AAAM and average maturity from one year to 60 days or less. This is to improve safety and liquidity. Par. XV: Add "in conjunction with SANBAG's investment advisor" for clarification purposes.	09/01/10
14	Par. VIII: Changed four years to five years and added "unless otherwise noted in Par. IX. Par. IX.B: Changed 10% to 40%. Par. IX.F: Changed 20% to 40% and changed "No more than 5% of SANBAG's investment portfolio may be invested in the Bankers' Acceptances of any one commercial bank." to "No more than 3% of SANBAG's investment portfolio may be invested in the securities of any one non-government issuer regardless of security type."	07/06/11

Revision No.	Revisions	Adopted
	<p>Par. IX.G: Changed “No more than 5% of SANBAG’s investment portfolio may be invested in commercial paper of one issuer.” to “No more than 3% of SANBAG’s investment portfolio may be invested in the securities on any one non-government issuer regardless of security type.</p> <p>Par. IX.H: Changed 20% to 30 and changed “No more than 5% of SANBAG’s investment portfolio may be invested in a medium-term note of any one corporation.” to “No more than 3% of SANBAG’s investment portfolio may be invested in the securities of any one non-government issuer regardless of security type.”</p> <p>Par. IX.I: Changed 20% to 30% and added “No more than 3% of SANBAG’s investment portfolio may be invested in the securities of any one non-government issuer regardless of security type.”</p> <p>Par. XVII: Removed ‘QUARTERLY’ from title, renumbered paragraphs, and added “B. Monthly Report. The CFO will provide a monthly list of investment transactions to the Board of Directors as required by the California Government Code 53607 when investment authority has been delegated by the Board.</p>	
15	<p>Par. IX.H: Changed rating of “AA” to “A”.</p> <p>Par. IX.I: Changed “. . . by a state-licensed branch . . . ” to “. . . by a federally or state-licensed branch . . . ” and changed “. . . rated AA . . . ” to “. . . rated A or its equivalent . . . ”.</p> <p>Re-approved by the Board of Directors.</p>	08/01/12
16	No changes. Re-approved by the Board of Directors on 9/4/13, Agenda Item 5.	09/04/13
17	Re-approved by the Board of Directors on 7/2/14, Agenda Item 4. Updated Par. VI to mirror bylaws that designate the CFO as Treasurer.	07/02/14
18	Re-approved by the Board of Directors on 9/2/15, Agenda Item 6. Updated Par. IX – Allowable Investments for SANBAG Operating Funds, including modifications to subparagraph I, and adding subparagraphs N and O.	09/02/15
19	BOD approved on 11/05/15, Agenda Item 3. Updated Par. IX section N permitting investment in certain obligations issued by SANBAG entities.	11/04/15
20	BOD approved on 9/07/16, Agenda Item 8. Updated Par. IX – Allowable Investments for SANBAG Operating Funds, modifying subparagraph J and to Par. XVIII – Annual Submission of Investment Policy.	09/07/16
21	BOD approved on 3/01/17, Agenda Item 6. Updated entity name from SANBAG to SBCTA, Par. IX section K allowing investment in CAMP, Par. VI – designate the CFO as Treasurer of SBCTA & SBCOG with one year authority to invest or reinvest SBCTA and SBCOG funds.	03/01/17
22	BOD approved on 6/6/18, Agenda Item 4. Minor modifications for clarification purposes to Paragraphs IX (sections F, G, H, I, N, P, and Q).	06/06/18
23	BOD approved on 6/05/19, Agenda Item 24. Minor modification to paragraphs VI and IX, K..	06/05/19
24	BOD approved on 05/06/20 agenda item 5.	05/06/20
25	BOD approved on 5/5/21 agenda item 6. Amend Section IX, G to comply with SB998 allowing to invest in commercial paper up to 40% and eliminate 10% limit on any one issuer.	05/05/21

Minute Action

AGENDA ITEM: 5

Date: May 4, 2022

Subject:

Adoption of Policy No. 10100

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority and San Bernardino Associated Governments:

Adopt Policy No. 10100 - Board of Directors Alternates, which sets forth the rules and procedures for attendance of City alternates at Board and Policy Committee meetings.

Background:

Recently it came to staff's attention that there is no policy guidance regarding the participation of City alternates at Board and Committee meetings. Policy No. 10100 has been prepared to provide guidance to Board members representing Cities and their alternates.

Financial Impact:

This item has no financial impact on the Fiscal Year 2021/2022 Budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the General Policy Committee on April 13, 2022.

Responsible Staff:

Julianna Tillquist, General Counsel

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority

San Bernardino County Transportation Authority	Policy	10100
Adopted by the Board of Directors	May 4, 2022	Revised
Participation of City Alternates	Revision No.	0

Important Notice: A hardcopy of this document may not be the document currently in effect. The current version is always the version on the SBCTA Intranet.

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I. PURPOSE

The purpose of this policy is to establish the rules and procedures for attendance of City alternates at Board and Policy Committee meetings.

II. REFERENCES

Policy 10002, Policy Committee Membership
 Policy 10005, Board and Policy Committees – Meeting Dates and Times
 Policy 10007, Board of Directors Study Sessions for Metro Valley Issues

III. POLICY

The Board of Directors provides for involvement of all county supervisors and representatives from each of the cities within the County. In addition to their regular member, member Cities also designate alternates. This allows Cities to participate in Board meetings when the regular member is unable to attend.

IV. PROCEDURES

- A. Alternates may participate in meetings of the Board of Directors and Metro Valley Study Session. Alternates may not participate in policy committee meetings, with the exception of Mountain/Desert Policy Committee.
- B. When attendance is taken at a meeting, the regular member or alternate answering as “present” will be that City’s representative for the entirety of the meeting except in the following circumstances:
 1. If the alternate answered “present” and the regular member subsequently arrives, the regular member shall represent the City for the remainder of the meeting; or,
 2. If the regular member answered “present” and then subsequently affirmatively cedes to the alternate, in which case the alternate shall represent the City for the remainder of the meeting.
- C. No City may have more than one representative participating in a meeting at the same time.
- D. In the event both a City’s representative and alternate participate in a single meeting, pursuant to IV.B., above, only one stipend and mileage reimbursement will be paid. The member and alternate may jointly advise the Clerk of the Board which shall receive the stipend and mileage reimbursement. In the event no such joint direction is provided, the individual answering “present” when attendance is taken shall receive the stipend and mileage reimbursement.

V. REVISION HISTORY

Revision No.	Revisions	Adopted
0	Adopted by the Board of Directors.	05/04/2022

Minute Action

AGENDA ITEM: 6

Date: May 4, 2022

Subject:

Executive Director Employment Contract Amendment

Recommendation:

Approve Amendment No. 8 to Employment Contract No. C12222 with Executive Director Raymond W. Wolfe.

Background:

On March 7, 2012, the Board of Directors approved a three-year contract with Raymond W. Wolfe to serve as the Executive Director. The contract provided that the Board review and evaluate the performance of the Executive Director during the month of April 2013, and annually thereafter, and to review his compensation level and possible extension of the contract.

In April 2015, the Board reviewed and evaluated the Executive Director's performance. On May 6, 2015, the Board approved a Second Amendment to his contract increasing his annual salary, extending his contract to April 9, 2021, and providing that his contract be extended by one-year each year the Board assigns him a performance rating of four or more on a scale of one to five, with five being the highest rating. After a performance evaluation, the Board approved a Third Amendment to his contract in September 2016, increasing his annual salary and extending his contract term. In May 2017, the Board evaluated the Executive Director's performance, and in recognition of his exemplary performance, the Board approved a Fourth Amendment to his contract on July 12, 2017, increasing his annual salary and extending his contract term to April 9, 2023. The Board evaluated the Executive Director's performance in June 2018, and approved a Fifth Amendment to increase his annual salary and extend his contract term. The Sixth Amendment to the Executive Director's contract was approved in May 2019, increasing his annual salary and extending the contract term to April 9, 2025. In June 2021, the Board approved a Seventh Amendment extending the Executive Director's contract to April 9, 2026. After the Board's evaluation of the Executive Director's performance in April 2022, the Board desires to further amend the contract, extending the contract term one year and increasing his annual salary to \$353,202.20, effective June 18, 2022. This increase includes a four percent merit increase, and the cost of living adjustment approved by the Board for all SBCTA employees (approximately 3.7%).

Financial Impact:

This item is consistent with the Proposed Fiscal Year 2022/2023 Budget.

Reviewed By:

The increase to the Executive Director's annual compensation was reviewed and recommended by the Board of Directors in Closed Session on April 6, 2022. SBCTA General Counsel has reviewed this item and the draft amendment.

Responsible Staff:

Curt Hagman, County of San Bernardino

Entity: San Bernardino County Transportation Authority

Board of Directors Agenda Item
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Approved
Board of Directors
Date: May 4, 2022
Witnessed By:

**EIGHTH AMENDMENT TO SAN BERNARDINO COUNTY TRANSPORTATION
AUTHORITY EXECUTIVE DIRECTOR EMPLOYMENT CONTRACT NO. C12222
(C12222-08)**

This Eighth Amendment to the Executive Director Employment Contract No. C12222 (Contract) is made and entered into this _____ day of May, 2022, by and between Raymond W. Wolfe (Employee) and San Bernardino County Transportation Authority (SBCTA or Employer).

RECITALS

A. On March 7, 2012, the Board of Directors approved an Employment Contract (Contract No. C12222) with Employee (“Contract”).

B. The Contract provides that the Board shall annually review Employee’s performance and his compensation level and consider extending his Contract term.

C. On June 5, 2013, the Board approved a First Amendment to the Contract adjusting Employee’s compensation and extending his Contract term.

D. On May 6, 2015, the Board approved a Second Amendment to the Contract adjusting Employee’s compensation and extending his Contract term.

E. On September 7, 2016, the Board approved a Third Amendment to the Contract adjusting Employee’s compensation and extending his Contract term.

F. On July 12, 2017, the Board approved a Fourth Amendment to the Contract adjusting Employee’s compensation and extending his Contract term.

G. On July 11, 2018, the Board approved a Fifth Amendment to the Contract adjusting Employee’s compensation and extending his Contract term.

H. On June 5, 2019, the Board approved a Sixth Amendment to the Contract adjusting Employee’s compensation and extending the Contract term.

I. On May 5, 2021, the Board approved a Seventh Amendment to the Contract extending the Contract term to April 9, 2026.

J. In recognition of Employee’s performance, the Board desires to amend Employee’s Contract to adjust his salary effective June 18, 2022.

NOW THEREFORE, in consideration of the foregoing recitals that are incorporated herein, the Parties desire to amend the Contract as follows:

1. Pursuant to Paragraph B of Section 8 of the Contract, the Contract term is extended by one year. Section 1 of the Contract is amended and resatated as follows:

“SECTION 1. TERM

The term of this Agreement shall be through April 9, 2027, subject to extensions as provided in Section 8, and subject to the early termination provisions as provided in Section 9. Employee serves at the pleasure of SBCTA’s Board of Directors.”

2. Paragraph A of Section 3 of the Contract is amended and restated as follows:

“SECTION 3. SALARY AND COMPENSATION

A. For the services rendered under this Contract, Employee’s annual salary shall be Three Hundred Fifty-three Thousand Two Hundred Two Dollars and Twenty Cents (\$353,202.20) effective June 18, 2022, which shall be paid in the same manner and at the same time as all other salaries of SBCTA employees.”

3. The Contract is incorporated into this Eighth Amendment.

4. All other terms and conditions of the Contract not expressly amended by this Eighth Amendment shall remain the same.

5. This Eighth Amendment is the full and complete understanding of the Parties regarding the rights and obligations of the Parties with respect to Employee’s provision of services.

This Eighth Amendment is duly executed by the Parties on the dates indicated below.

SBCTA/EMPLOYER

EMPLOYEE

Curt Hagman, Board President

Raymond W. Wolfe

Date:_____

Date:_____

APPROVED AS TO FORM

Julianna K. Tillquist
General Counsel

Date:_____

Minute Action

AGENDA ITEM: 7

Date: May 4, 2022

Subject:

General Counsel Employment Contract No.19-1002111 Amendment No. 1

Recommendation:

Approve Amendment No. 1 to Employment Contract No. 19-1002111 with General Counsel, Julianna K. Tillquist.

Background:

On April 3, 2019, the Board of Directors approved Contract No. 19-1002111 with Julianna K. Tillquist to serve as SBCTA/SANBAG General Counsel, following the retirement of Eileen Monaghan Teichert. The contract provides for the Board to review and evaluate the performance of the General Counsel annually, and to grant merit increases in recognition of General Counsel's performance and accomplishments.

In recognition of the General Counsel's performance, on April 6, 2022, the Board approved an amendment to General Counsel's contract increasing her compensation to \$224,303.10, effective June 18, 2022. This increase includes a three percent (3%) merit increase, and the cost of living adjustment approved by the Board for all SBCTA employees (approximately 3.7%).

Financial Impact:

This item has no financial impact on the proposed budget for Fiscal Year 2022/2023.

Reviewed By:

The compensation set forth in this item was reviewed and recommended for approval by the Board of Directors in Closed Session on April 6, 2022.

Responsible Staff:

Curt Hagman, County of San Bernardino

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

Entity: San Bernardino County Transportation Authority

**AMENDMENT NO. 1 TO SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY (SBCTA)
GENERAL COUNSEL EMPLOYMENT AGREEMENT NO. 19-1002111**

THIS AMENDMENT NO. 1 to Contract No. 19-1002111 is made and entered into by and between the San Bernardino County Transportation Authority ("SBCTA" or "Employer"), and Julianna K. Tillquist ("Employee").

A. On April 3, 2019, the Board of Directors of SBCTA (hereinafter referred to as "the Board") appointed Employee as General Counsel effective June 1, 2019 ("Contract"); and

B. The Board has evaluated Employee's performance, and in recognition of Employee's performance, the Board desires to amend Employee's Contract to adjust her salary, effective June 18, 2022, by a three percent (3%) merit increase plus the cost of living allowance awarded to all of Employer's employees (approximately 3.7%).

NOW, THEREFORE, in consideration of mutual covenants herein contained, the parties agree as follows:

1. Section 5. Salary of the Contract is amended and restated as follows:

"5. Salary. Employer agrees to pay Employee for services rendered, Two Hundred Twenty-four Thousand Three Hundred Three Dollars and Ten Cents (\$224,303.10) per year, effective June 18, 2022, payable in installments at the same time and in the same manner as other SBCTA employees. Employer agrees to modify the salary base and other benefits of Employee, by not more or less than the same percentage and amounts, and at the same time and same manner, as the salary and benefits adjustments given to other Professional/Administrative employees of SBCTA. Additionally, in recognition of Employee's accomplishments and outstanding performance, SBCTA may, in its sole discretion, grant merit increases to Employee."

2. The Recitals set forth above are incorporated herein by this reference.
3. Except as amended by this Amendment No. 1, all other provisions of the Contract, shall remain in full force and effect and are incorporated herein by this reference.

----- SIGNATURES ON FOLLOWING PAGE -----

This Amendment No. 1 is executed by the Parties on the dates indicated below.

SBCTA/EMPLOYER

EMPLOYEE

Curt Hagman, Board President

Julianna K. Tillquist, General Counsel

Date _____

Date _____

Minute Action

AGENDA ITEM: 8

Date: May 4, 2022

Subject:

I-10 Cedar Avenue Interchange Improvement Project - Assignment Agreement, Release of Invitation for Bids, and Construction Cooperative Agreement

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

- A. Approve Assignment and Assumption Agreement No. 22-1002741 with San Bernardino County (County), assigning the construction rights and responsibilities from the County to SBCTA, as the implementing agency for the Right-of-Way and Construction phases of the Cedar Avenue railroad crossing structure. Under this agreement, SBCTA will assume the County's responsibility to pay Union Pacific Railroad (UPRR), an estimated total of \$975,000 for additional permanent and temporary rights and work to be performed by UPRR.
- B. Authorize the release of Invitation for Bids No. 22-1002784 for construction of the Interstate 10 (I-10) Cedar Avenue Interchange Improvement Project (Project), in the County of San Bernardino, California District 8, I-10, subject to the Project Right-of-Way Certification.
- C. Approve Construction Cooperative Agreement No. 22-1002716 with the California Department of Transportation (Caltrans) for the construction of the Project, which specifies roles, responsibilities and funding between the two agencies including identifying SBCTA as the implementing agency for construction, and Caltrans providing design support services and oversight during the construction. This agreement also includes an estimated amount of \$67,000 for State Furnished Materials to be procured from Caltrans for the construction work.
- D. Approve an exception to SBCTA's Policy No. 40001/VS-28, which requires that Surface Transportation Program funds apportioned to the urbanized area of the San Bernardino Valley be allocated to the Valley Freeway Program, to allow \$480,000 of federal funds to be used for the Construction Support phase of the project under the Valley Interchange Program.

Background:

The Interstate 10 (I-10) Cedar Avenue Interchange Improvement Project, in the County of San Bernardino, California District 8, I-10 (Project) is the highest priority project in the Measure I 2010-2040 Freeway Interchange Program. Cedar Avenue is a north – south arterial in the unincorporated community of Bloomington and forms a tight diamond interchange with the I-10. This location has been experiencing high levels of traffic congestion resulting in low levels of service. This prompted the County of San Bernardino (County) to proceed with obtaining environmental clearance for the Project, which was completed in July 2013. Project costs, independent of San Bernardino County Transportation Authority (SBCTA) Project management costs, which will be funded 100% by the County, are distributed based on the fair share percentages defined in the Development Mitigation Nexus Study. The fair share percentages include a public share of 70% and local agency development contributions (Development Share funds) of 30%, which is further distributed as: City of Rialto – 5.85%, City of Fontana - 3.57%, and County – 20.58%.

Entity: San Bernardino County Transportation Authority

On February 7, 2018, the SBCTA Board of Directors (Board) approved Cooperative Agreement No. 17-1001710 between SBCTA and the County. The Cooperative Agreement documented the specific roles and funding responsibilities for the Environmental and Design phases of the Project. The County has been the lead agency for the Project Approval/Environmental Document (PA/ED) phase, which has been completed, and the Plans, Specifications & Estimates (PS&E) phase. The agreement transferred Project Management responsibilities for the PS&E phase to SBCTA.

On January 9, 2019, the Board approved Cooperative Agreement No. 18-1001962 between SBCTA and the County. This Cooperative Agreement documented the roles and funding responsibilities for the right-of-way (ROW) and Construction phases. SBCTA will be the lead agency for the ROW and Construction phases with the County providing support by performing railroad coordination and ROW tasks.

Recommendation A: In addition to widening the Cedar Avenue Overcrossing Bridge over the I-10 freeway, the Project includes replacement of the Cedar Avenue Overhead Bridge over the Union Pacific Railroad (UPRR). In 1965, the County entered into an agreement (the Original Agreement) with the Railroad companies (Railroad) covering the construction, use, maintenance, and repair of the existing railroad crossing structure. As a result of the Project, UPRR determined that the ROW granted by Railroad under the Original Agreement is insufficient to allow for the reconstruction of the existing structure. Therefore, UPRR required that the County, who was a party of the Original Agreement, enter into a Construction and Maintenance Agreement (Overpass Agreement) to grant additional rights to the County to perform the Project work, and to outline construction and maintenance requirements and responsibilities of the proposed railroad crossing structure. Since SBCTA will be advertising, awarding and administering the construction of the Project, the County shall assign its rights and responsibilities to construct the railroad crossing under the Overpass Agreement to SBCTA via Assignment and Assumption Agreement No. 22-1002741. Pursuant to the terms of the Overpass Agreement, UPRR grants to the County the additional permanent and temporary rights necessary to construct, maintain the Structure and the slope area in support of the structure, for and in consideration, in the amounts of \$287,000 and \$133,000, respectively, as well as an estimated \$555,000 in work to be performed by UPRR, for an estimated total of \$975,000, the costs of which shall be assumed by SBCTA under Assignment and Assumption Agreement No. 22-1002741. The Overpass Agreement and the Assignment and Assumption Agreement have been reviewed by all parties and approved by County Board of Supervisors on March 29, 2022.

Recommendation B: The 100% PS&E were approved by Caltrans on October 4, 2021, and ROW Certification is anticipated within the next month. An Invitation for Bids (IFB) has been prepared based on the PS&E package. Staff is recommending that the Board authorize the release of IFB No. 22-1002784, subject to the approval of the ROW Certification. The Project can then be advertised for construction with an anticipated award of a construction contract to be brought directly to the Board for approval in summer 2022.

Recommendation C: As the Project is ready to be advertised, a construction cooperative agreement with Caltrans is required to define roles, responsibilities, and funding commitments for the Construction phase. Under Cooperative Agreement No. 22-1002716, SBCTA would be

Board of Directors Agenda Item

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Page 3

the implementing agency for the Construction phase with Caltrans providing design support services and oversight during construction. This agreement also includes an estimated amount of \$67,000 for State Furnished Materials to be procured from Caltrans for the construction work. Staff is recommending approval of Cooperative Agreement No. 22-1002716 with Caltrans for the Construction phase of the Project.

Recommendation D: While the public share for an interchange project would typically be funded with Measure I funds, any non-state or non-federal funds expended by Caltrans are subject to the Caltrans Indirect Cost Rate Proposal (ICRP) and administration cost, which would add approximately \$162,000 to the cost of the Construction Support completion. To avoid this additional cost, staff recommends the Board approve an exception to SBCTA Policy No. 40001/VS-28, which requires that Surface Transportation Program funds apportioned to the urbanized area of the San Bernardino Valley be allocated to the Valley Freeway Program. This would allow \$480,000 of federal funds to be used in the Valley Freeway Interchange Program for Caltrans to complete the Construction Support phase. Caltrans will access these funds directly, so they are not required to be reflected in the SBCTA budget.

Financial Impact:

This item is consistent with the Fiscal Year 2021/2022 Budget under Task No. 830 Interchange Projects, Sub-Task No. 0897 I-10 Cedar Avenue Interchange.

Reviewed By:

This item was reviewed and recommended for approval (16-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on April 14, 2022. **MVSS reviewed and recommended approval of Agreement No. 22-1002716 in a substantially similar format. The draft agreement has been updated to incorporate formatting and non-substantive revisions made by Caltrans.** SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft agreements.

Responsible Staff:

Khalid Bazmi, Construction Manager

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

Contract Summary Sheet

8.a

General Contract Information

Contract No: 22-1002741 Amendment No.: _____
 Contract Class: Payable Department: Project Delivery
 Vendor No.: 00559 Vendor Name: County of San Bernardino
 Description: I-10 Cedar Avenue Interchange Improvement Project - Assignment and Assumption Agreement for Union Pacific Railroad (UPRR)

List Any Related Contract Nos.: 22-1002804 (payable admin to UPRR)

Dollar Amount							
Original Contract		\$	-	Original Contingency		\$	-
Prior Amendments		\$	-	Prior Amendments		\$	-
Current Amendment		\$	-	Current Amendment		\$	-
Total/Revised Contract Value		\$	-	Total Contingency Value		\$	-
	Total Dollar Authority (Contract Value and Contingency)					\$	-

Contract Authorization

Board of Directors Date: 05/04/2022 Board Item # 8572

Contract Management (Internal Purposes Only)

Other Contracts Local Sole Source? N/A No Budget Adjustment N/A
Construction and Maintenance Agreement

Accounts Payable

Estimated Start Date: 05/04/2022 Expiration Date: 12/31/2039 Revised Expiration Date: _____

NHS: Yes QMP/QAP: Yes Prevailing Wage: N/A

								Total Contract Funding:	Total Contingency:
Fund	Prog	Task	Sub-Task	Object	Revenue	PA Level	Revenue Code Name	\$	\$
GL								-	-
GL								-	-
GL								-	-
GL								-	-
GL								-	-
GL								-	-
GL								-	-
GL								-	-
GL								-	-
GL								-	-

Heng Chow

Henry Stultz

Project Manager (Print Name)

Task Manager (Print Name)

Additional Notes: The County of San Bernardino entered into a two party Construction & Maintenance Agreement with UPRR for the UPRR bridge. SBCTA is assuming the responsibilities to pay the Right-of-Way (ROW) and construction costs related to the UPRR bridge as the lead agency for the ROW and construction of the project.

Attachment: CSS-22-1002741 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)

**ASSIGNMENT AND ASSUMPTION AGREEMENT 22-1002741
BY AND BETWEEN
THE SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
AND
SAN BERNARDINO COUNTY
FOR
CEDAR AVENUE OVERPASS AGREEMENT**

This Assignment and Assumption Agreement ("Assumption Agreement") is by and between the San Bernardino County Transportation Authority (hereinafter the "Authority") and San Bernardino County (hereinafter the "County").

RECITALS

A. Union Pacific Railroad Company, a Delaware corporation, ("Railroad") and San Bernardino County, a municipal corporation or political subdivision of the State of California, have entered into a Public Highway Overpass Agreement ("Overpass Agreement"). By instrument dated July 26, 1965, Central Pacific Railway Company, the Southern Pacific Company and the County entered into an agreement (the "Original Agreement") covering the construction, use, maintenance and repair of a grade separated overpass structure that carries vehicular traffic traversing on Cedar Ave., over Railroad's track(s) at Railroad's Milepost 534.736 at DOT Number 746980Y on Railroad's Alhambra Subdivision at or near Bloomington, San Bernardino County, California. The Railroad named herein is successor in interest to the Southern Pacific Company.

B. The County now desires to undertake as its project (the "Project") the reconstruction and improvement of the structure that was constructed under the Original Agreement. In furtherance of the Project, County entered into the Overpass Agreement attached hereto as Exhibit A. The reconstructed structure, as improved, is hereinafter the "Structure". The County's plans showing the type, size and location of the Structure are attached as Exhibit A-1 to the Overpass Agreement.

C. The right of way granted by Railroad to the County under the terms of the Original Agreement is insufficient to allow for the reconstruction and maintenance of the Structure. Therefore, pursuant to the terms of the Overpass Agreement, Railroad grants to the County the additional permanent and temporary rights necessary to construct, maintain the Structure and the slope area in support of the Structure, for and in consideration in the amounts of \$287,000 and \$133,000, respectively, as well as an estimated \$555,000 in work to be performed by the Railroad, for an estimated total of \$975,000, the costs of which shall be borne exclusively by the Authority.

D. Railroad consented to the assignment to and assumption by the Authority of a portion of the County's rights and obligations under the Overpass Agreement, Section 14.

E. It is the intent of the Parties to assign the County's obligations to perform construction work under the Overpass Agreement during the Structure's construction phase and costs for the permanent, construction, and maintenance easement rights to construct and maintain the Structure to the Authority. It is further the intent of the parties that upon completion of the

Structure, the County will be responsible for the ownership and maintenance of the Structure and shall retain all obligations related thereto as set forth in the Overpass Agreement.
NOW THEREFORE, THE PARTIES HEREBY AGREE:

1. County hereby assigns to the Authority and the Authority hereby assumes all of the County's rights and obligations under the Overpass Agreement that are necessary to construct the Structure.
2. County retains all of County's rights and obligations under the Agreement that:
 - a) are applicable after completion of the construction of the Structure;
 - b) arise out of occupation and use of the Railroad's property or right-of-way, and ownership or maintenance of the Structure; and
 - c) are not necessary for construction of the Structure.
3. The Authority shall be solely responsible for the costs necessary for the additional permanent and temporary property rights, and construction and maintenance rights to construct and maintain the structure in the amounts of \$287,000 and \$133,000, respectively, as well as work to be performed by Railroad associated with the Project in the estimated amount of \$555,000, for an estimated total of \$975,000 and as set forth in the Overpass Agreement.
4. The Authority agrees to incorporate into the Special Provisions for Construction of the Interstate 10 (I-10) Cedar Avenue Interchange Improvement Project and all conditions of the Overpass Agreement, attached to this Assumption Agreement as Exhibit A, that are required by the Overpass Agreement to be so incorporated.
5. The Recitals set forth above are incorporated into and made a part of this Assumption Agreement.
6. This Assumption Agreement is not intended to amend, supersede or modify any obligations set forth in Cooperative Agreement No. 18-1001962 between County and Authority.
7. This Assignment Agreement has been entered into, is to be performed entirely within, and shall be governed by and construed in accordance with the laws of the State of California.
8. If any provision of the Assignment Agreement is determined by a court to be invalid or unenforceable it shall be deemed severed here from, and the remaining provisions shall remain in full force and effect as if the invalid or unenforceable provision had not been a part hereof.
9. With the exception of Cooperative Agreement No. 18-1001962, noted above, this Assignment Agreement embodies the entire understanding of the parties hereto and there are no other agreements or understandings written or oral in effect between the parties relating to the subject matter hereof unless expressly referred to by reference herein. This Assignment

Agreement may be amended or modified only by a written instrument signed by the parties or their duly authorized agents.

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

By: _____
Curt Hagman, Board President

Dated _____

APPROVED AS TO FORM:

By: _____
Juanda Daniel
Assistant General Counsel

SAN BERNARDINO COUNTY

By: _____
Curt Hagman, Chairman of the Board

Date: _____

APPROVED AS TO FORM:

By: _____
Aaron D. Gest
Deputy County Counsel

EXHIBIT A
OVERPASS AGREEMENT

DRAFT

UP Real Estate Folder No.: 2187-32
Agreement Number _____

PUBLIC HIGHWAY OVERPASS AGREEMENT

**Cedar Ave.
DOT 746980Y
534.736 Alhambra Sub.
Bloomington, San Bernardino County, California**

THIS AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 2022 ("Effective Date"), by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, to be addressed at Real Estate Department, 1400 Douglas Street, Mail Stop 1690, Omaha, Nebraska 68179 ("Railroad") and **COUNTY OF SAN BERNARDINO**, a municipal corporation or political subdivision of the State of California to be addressed at 385 N. Arrowhead Ave., San Bernardino, California 92415 ("Political Body").

By instrument dated July 26, 1965, Central Pacific Railway Company, the Southern Pacific Company and the County of San Bernardino entered into an agreement (the "Original Agreement") covering the construction, use, maintenance and repair of a grade separated overpass structure that carries vehicular traffic traversing on Cedar Ave., over Railroad's track(s) at Railroad's Milepost 534.736 at DOT Number 746980Y on Railroad's Alhambra Subdivision at or near Bloomington, San Bernardino County, California.

The Railroad named herein is successor in interest the Southern Pacific Company.

The Political Body now desires to undertake as its project (the "Project") the reconstruction and improvement of the structure that was constructed under the Original Agreement. The reconstructed structure as improved is hereinafter the "Structure". The Political Body's type, size and location prints of the Structure are marked **Exhibit A-1**, attached hereto and hereby made a part hereof.

The right of way granted by Railroad to the Political Body under the terms of the Original Agreement or a separate document is insufficient to allow for the reconstruction of the Structure. Therefore, under this Agreement, the Railroad will be granting additional permanent rights to the Political Body so that the Political Body can perform the Project work. The portion of Railroad's property that Political Body needs for the reconstructed Structure is described as the Crossing Area as shown on the survey print marked **Exhibit A** and also described in the detailed plan set also marked **Exhibit A-1**, with each exhibit being attached hereto and hereby made a part hereof (the "Crossing Area"). The Crossing

Area includes the Existing Structure Area, Slope Easement Area and Aerial Easement Area as described on **Exhibit A**. The portion of Railroad's property that Political Body needs for the Temporary Constriction Area or TCE Area for the reconstruction of the Structure is described as the TCE Area as shown on the prints and legal descriptions marked **Exhibit A** and **A-2** and the legal descriptions for the Slope Area and Aerial rights are demonstrated on **Exhibits A** and **A-3**.

The Railroad and the Political Body are entering into this Agreement to cover the above.

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

Section 1. EXHIBITS B AND D

The general terms and conditions marked **Exhibit B**, and the Railroad's Coordination Requirements marked **Exhibit D**, are attached hereto and hereby made a part hereof.

Section 2. RAILROAD GRANTS RIGHT

For and in consideration **TWO HUNDRED EIGHTY SEVEN THOUSAND DOLLARS (\$287,000.00)** to be paid by the Political Body to the Railroad upon the execution and delivery of this Agreement and in further consideration of the Political Body's agreement to perform and comply with the terms of this Agreement, the Railroad hereby grants to the Political Body the right to construct, maintain the Structure, and the Slope Area in support of the Structure, over and across the Crossing Area.

For in consideration of **ONE HUNDRED THIRTY THREE THOUSAND DOLLARS (\$133,000.00)**, the Railroad hereby grants to the Political Body temporary construction rights to use 21,724 sq ft of Railroad's property shown and described and shown on **Exhibits A-2** as the Temporary Construction Easement. The Political Body's use of such property shall be subject to the terms and conditions of this Agreement and the obligation of Political Body and its contractors to comply with such provisions. The temporary rights granted herein shall commence as of the effective date of this Agreement and continue for thirty six (36) months, or until the project has been completed, whichever occurs earlier.

Section 3. DEFINITION OF CONTRACTOR

For purposes of this Agreement the term "Contractor" shall mean the contractor or contractors hired by the Political Body or its authorized agent to perform any Project work on any portion of the Railroad's property and shall also include the Contractor's subcontractors and the Contractor's and subcontractor's respective employees, officers and agents, and others acting under its or their authority.

Section 4. CONTRACTOR'S RIGHT OF ENTRY AGREEMENT - INSURANCE

A. Prior to Contractor performing any work within the Crossing Area involving the

Project, and any subsequent maintenance or repair work, the Political Body shall require the Contractor to:

- execute the Railroad's then current Contractor's Right of Entry Agreement
- obtain the then current insurance required in the Contractor's Right of Entry Agreement; and
- provide such insurance policies, certificates, binders and/or endorsements to the Railroad.

B. The Railroad's current Contractor's Right of Entry Agreement is marked **Exhibit E**, attached hereto and hereby made a part hereof. The Political Body confirms that it will inform its Contractor that it is required to execute such form of agreement and obtain the required insurance before commencing any work on any Railroad property. Under no circumstances will the Contractor be allowed on the Railroad's property without first executing the Railroad's Contractor's Right of Entry Agreement and obtaining the insurance set forth therein and also providing to the Railroad the insurance policies, binders, certificates and/or endorsements described therein.

C. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

Senior Manager - Contracts
Union Pacific Railroad Company
Real Estate Department
1400 Douglas Street, Mail Stop 1690
Omaha, NE 68179-1690
UP File Folder No. 2187-32

D. If the Political Body's own employees will be performing any of the Project work, the Political Body may self-insure all or a portion of the insurance coverage subject to the Railroad's prior review and approval.

Section 5. FEDERAL AID POLICY GUIDE

If the Political Body will be receiving any federal funding for the Project the current rules, regulations and provisions of the Federal Aid Policy Guide as contained in 23 CFR 140, Subpart I and 23 CFR 646, Subparts A and B are incorporated into this Agreement by reference.

Section 6. NO PROJECT EXPENSES TO BE BORNE BY RAILROAD

The Political Body agrees that no Project costs and expenses are to be borne by the Railroad. In addition, the Railroad is not required to contribute any funding for the Project.

Section 7. WORK TO BE PERFORMED BY RAILROAD; BILLING SENT TO POLITICAL BODY; POLITICAL BODY'S PAYMENT OF BILLS

A. The work to be performed by the Railroad, at the Political Body's sole cost and expense, is described in the Railroad's Material and Force Account Estimate marked **Exhibit C-1**, attached hereto and hereby made a part hereof (the "Estimate"). As set forth in the Estimate, the Railroad's estimated cost for the Railroad's work associated with the Project is **Five Hundred Fifty-Five Thousand Dollars and 0/100 (\$555,000.00)**.

B. The Railroad, if it so elects, may recalculate and update the Estimate submitted to the Political Body in the event the Political Body does not commence construction on the portion of the Project located on the Railroad's property within six (6) months from the date of the Estimate.

C. The Political Body acknowledges that if the Estimate does not include any estimate of flagging or other protective service costs that are to be paid by the Political Body or the Contractor in connection with flagging or other protective services provided by the Railroad in connection with the Project. All of such costs incurred by the Railroad are to be paid by the Political Body or the Contractor as determined by the Railroad and the Political Body. If it is determined that the Railroad will be billing the Contractor directly for such costs, the Political Body agrees that it will pay the Railroad for any flagging costs that have not been paid by any Contractor within thirty (30) days of the Contractor's receipt of billing.

D. The Railroad shall send progressive billing to the Political Body during the Project, and final billing to the Political Body within one hundred eighty (180) days after receiving written notice from the Political Body that all Project work affecting the Railroad's property has been completed.

E. The Political Body agrees to reimburse the Railroad within thirty (30) days of its receipt of billing from the Railroad for one hundred percent (100%) of all actual costs incurred by the Railroad in connection with the Project including, but not limited to, all actual costs of engineering review (including preliminary engineering review costs incurred by Railroad prior to the Effective Date of this Agreement), construction, inspection, flagging (unless flagging costs are to be billed directly to the Contractor), procurement of materials, equipment rental, manpower and deliveries to the job site and all direct and indirect overhead labor/construction costs including Railroad's standard additive rates.

Section 8. PLANS

A. The Political Body, at its expense, shall prepare, or cause to be prepared by others, the detailed plans and specifications for the Project and the Structure and submit such plans and specifications to the Railroad's Assistant Vice President Engineering-Design, or his authorized representative, for prior review and approval. The plans and

specifications shall include all appurtenances, associated drainage, shoring, sheeting and excavations for bents and/or abutments next to or adjacent to the Railroad's tracks and, if applicable, all demolition and removal plans for the existing structure.

B. The final one hundred percent (100%) completed plans that are approved in writing by the Railroad's Assistant Vice President Engineering-Design, or his authorized representative, are hereinafter referred to as the "Plans". The Plans are hereby made a part of this Agreement by reference.

C. No changes in the Plans shall be made unless the Railroad has consented to such changes in writing.

D. Upon completion of the Structure, the Political Body, at its expense, shall furnish to the Railroad one set of as-built digitally reproducible "as constructed" Plans of the Structure.

E. The Railroad's review and approval of the Plans in no way relieves the Political Body or the Contractor from their responsibilities, obligations and/or liabilities under this Agreement, and will be given with the understanding that the Railroad makes no representations or warranty as to the validity, accuracy, legal compliance or completeness of the Plans and that any reliance by the Political Body or Contractor on the Plans is at the risk of the Political Body and Contractor.

Section 9. NON-RAILROAD IMPROVEMENTS

A. Submittal of plans and specifications for protecting, encasing, reinforcing, relocation, replacing, removing and abandoning in place all non-railroad owned facilities (the "Non Railroad Facilities") affected by the Project including, without limitation, utilities, fiber optics, pipelines, wirelines, communication lines and fences is required under Section 8. The Non Railroad Facilities plans and specifications shall comply with Railroad's standard specifications and requirements, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines. Railroad has no obligation to supply additional land for any Non Railroad Facilities and does not waive its right to assert preemption defenses, challenge the right-to-take, or pursue compensation in any condemnation action, regardless if the submitted Non Railroad Facilities plans and specifications comply with Railroad's standard specifications and requirements. Railroad has no obligation to permit any Non Railroad Facilities to be abandoned in place or relocated on Railroad's property.

B. Upon Railroad's approval of submitted Non Railroad Facilities plans and specifications, Railroad will attempt to incorporate them into new agreements or supplements of existing agreements with Non Railroad Facilities owners or operators. Railroad may use its standard terms and conditions, including, without limitation, its standard license fee and administrative charges when requiring supplements or new agreements for Non Railroad Facilities. Non Railroad Facilities work shall not commence before a supplement or new agreement has been fully executed by Railroad and the Non

Railroad Facilities owner or operator, or before Railroad and Political Body mutually agree in writing to (i) deem the approved Non Railroad Facilities plans and specifications to be Plans pursuant to Section 8B, (ii) deem the Non Railroad Facilities part of the Structure, and (iii) supplement this Agreement with terms and conditions covering the Non Railroad Facilities.

Section 10. RAILROAD'S COORDINATION REQUIREMENTS

The Political Body, at its expense, shall ensure that the Contractor complies with all of the terms and conditions contained in the Railroad's Coordination Requirements that are described in **Exhibit D**, attached hereto and hereby made a part hereof, and other special guidelines and/or requirements that the Railroad may provide to the Political Body for this Project.

Section 11. EFFECTIVE DATE; TERM; TERMINATION

A. This Agreement is effective as of the Effective Date first herein written and shall continue in full force and effect for as long as the Structure remains on the Railroad's property.

B. The Railroad, if it so elects, may terminate this Agreement effective upon delivery of written notice to the Political Body in the event the Political Body does not commence construction on the portion of the Project located on the Railroad's property within twelve (12) months from the Effective Date.

C. If the Agreement is terminated as provided above, or for any other reason, the Political Body shall pay to the Railroad all actual costs incurred by the Railroad in connection with the Project up to the date of termination, including, without limitation, all actual costs incurred by the Railroad in connection with reviewing any preliminary or final Project Plans.

Section 12. CONDITIONS TO BE MET BEFORE POLITICAL BODY CAN COMMENCE WORK

Neither the Political Body nor the Contractor may commence any work within the Crossing Area or on any other Railroad property until:

- (i) The Railroad and the Political Body have executed this Agreement.
- (ii) The Railroad has provided to the Political Body the Railroad's written approval of the Plans.
- (iii) Each Contractor has executed Railroad's Contractor's Right of Entry Agreement and has obtained and/or provided to the Railroad the insurance policies, certificates, binders, and/or endorsements required under the Contractor's Right of Entry Agreement.

(iv) Each Contractor has given the advance notice(s) required under the Contractor's Right of Entry Agreement to the Railroad Representative named in the Contractor's Right of Entry Agreement.

Section 13. FUTURE PROJECTS

Future projects involving substantial maintenance, repair, reconstruction, renewal and/or demolition of the Structure shall not commence until Railroad and Political Body agree on the plans for such future projects, cost allocations, right of entry terms and conditions and temporary construction rights, terms and conditions.

Section 14. ASSIGNMENT; SUCCESSORS AND ASSIGNS

A. Political Body shall not assign this Agreement without the prior written consent of Railroad. Political Body may, however, by way of a cooperative agreement or other instrument, assign its rights to construct the Project and Structure under this Agreement to San Bernardino County Transportation Authority ("SBCTA"); provided that in the exercise of such rights, SBCTA shall agree to abide by all terms of this Agreement which are applicable to such construction. Such assignment to SBCTA shall not relieve the Political Body of any of its obligations under this Agreement. Railroad shall cooperate with SBCTA in SBCTA's performance of construction to the extent provided under this Agreement. Political Body shall not assign this Agreement to any other agency, entity, or person without the prior written consent of the Railroad.

B. Subject to the provisions of Paragraph A above, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Railroad and Political Body.

Section 15. SPECIAL PROVISIONS PERTAINING TO AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

If the Political Body will be receiving American Recovery and Reinvestment Act ("ARRA") funding for the Project, the Political Body agrees that it is responsible in performing and completing all ARRA reporting documents for the Project. The Political Body confirms and acknowledges that Section 1512 of the ARRA provisions applies only to a "recipient" receiving ARRA funding directing from the federal government and, therefore, (i) the ARRA reporting requirements are the responsibility of the Political Body and not of the Railroad, and (ii) the Political Body shall not delegate any ARRA reporting responsibilities to the Railroad. The Political Body also confirms and acknowledges that (i) the Railroad shall provide to the Political Body the Railroad's standard and customary billing for expenses incurred by the Railroad for the Project including the Railroad's standard and customary documentation to support such billing, and (ii) such standard and customary billing and documentation from the Railroad provides the information needed by the Political Body to perform and complete the ARRA reporting documents. The Railroad confirms that the Political Body and the Federal Highway Administration shall have the right to audit the Railroad's billing and documentation for the Project as provided in Section 9 of **Exhibit B** of this Agreement.

Section 16. TERMINATION OF ORIGINAL AGREEMENT

Upon the completion of the Structure, the Original Agreement shall terminate and the terms and conditions of this Agreement shall govern the use, maintenance and repair of the Structure.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the Effective Date first herein written.

UNION PACIFIC RAILROAD COMPANY
(Federal Tax ID #94-6001323)

By _____
Printed Name: _____
Title: _____

ATTEST:

COUNTY OF SAN BERNARDINO

[City Clerk] [County Clerk]

By _____
Printed Name: _____
Title: _____

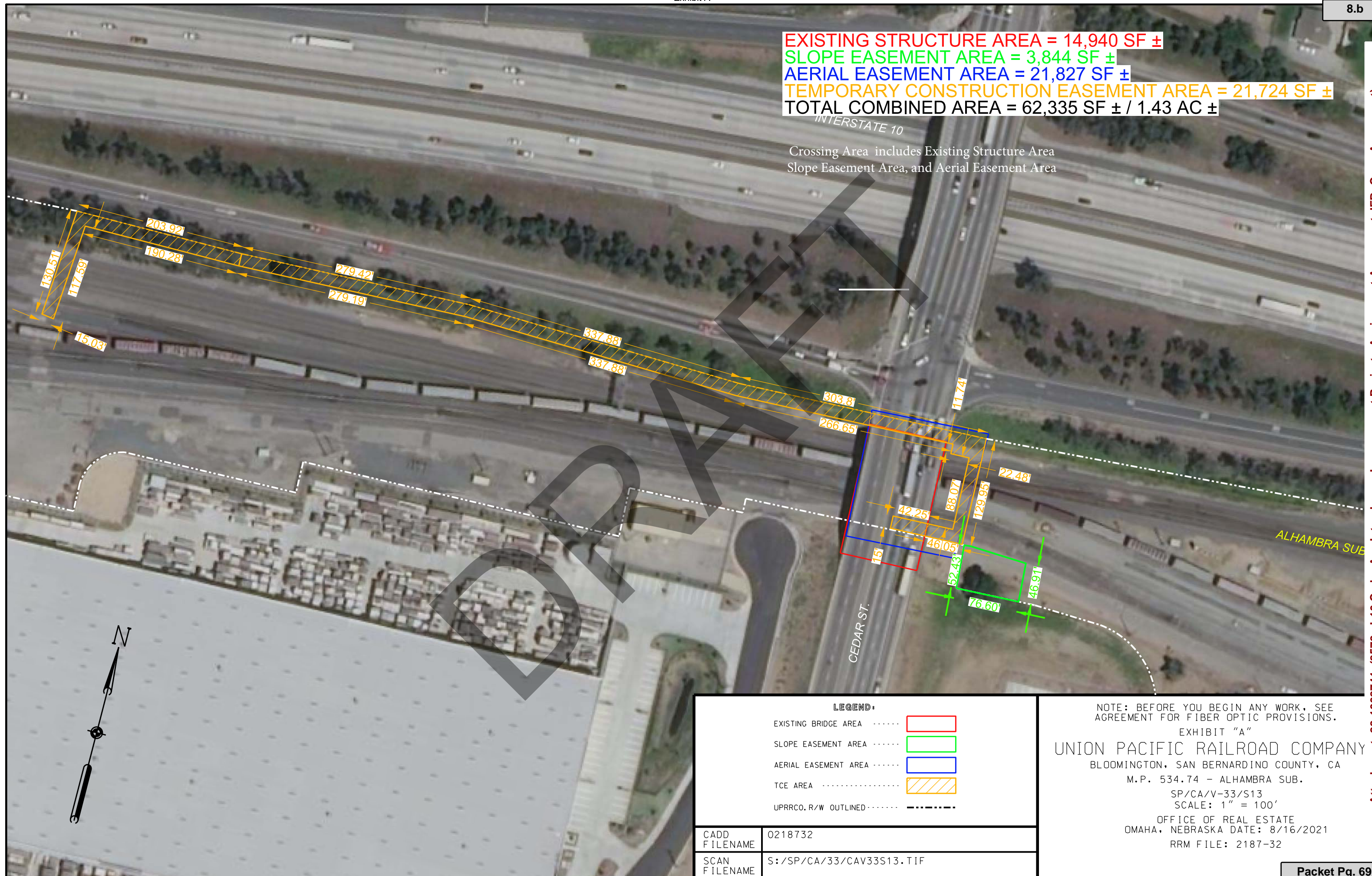
**EXHIBIT A TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

Exhibit A will be a survey print showing the Crossing Area (see Recitals)

DRAFT

EXISTING STRUCTURE AREA = 14,940 SF ±
 SLOPE EASEMENT AREA = 3,844 SF ±
 AERIAL EASEMENT AREA = 21,827 SF ±
 TEMPORARY CONSTRUCTION EASEMENT AREA = 21,724 SF ±
 TOTAL COMBINED AREA = 62,335 SF ± / 1.43 AC ±

Crossing Area includes Existing Structure Area
 Slope Easement Area, and Aerial Easement Area



**EXHIBIT A-1
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

Exhibit A-1 will be the type, size and location prints of the Structure (see Recitals).

REDACTED: SSI

Pages: 12, 13, 14, 15 and 16

Attachment: 22-1002741 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)

**EXHIBIT A-2
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

Exhibit A-2 will be the TCE Area description (see Recitals)

DRAFT

Attachment: 22-1002741 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)

EXHIBIT "B"

LINE DATA TABLE

NO.	BEARING	DISTANCE
L1	N87°59'38"E	303.80'
L2	S01°42'09"E	129.95'
L3	N88°03'25"E	73.30'
L4	N01°42'09"W	88.07'

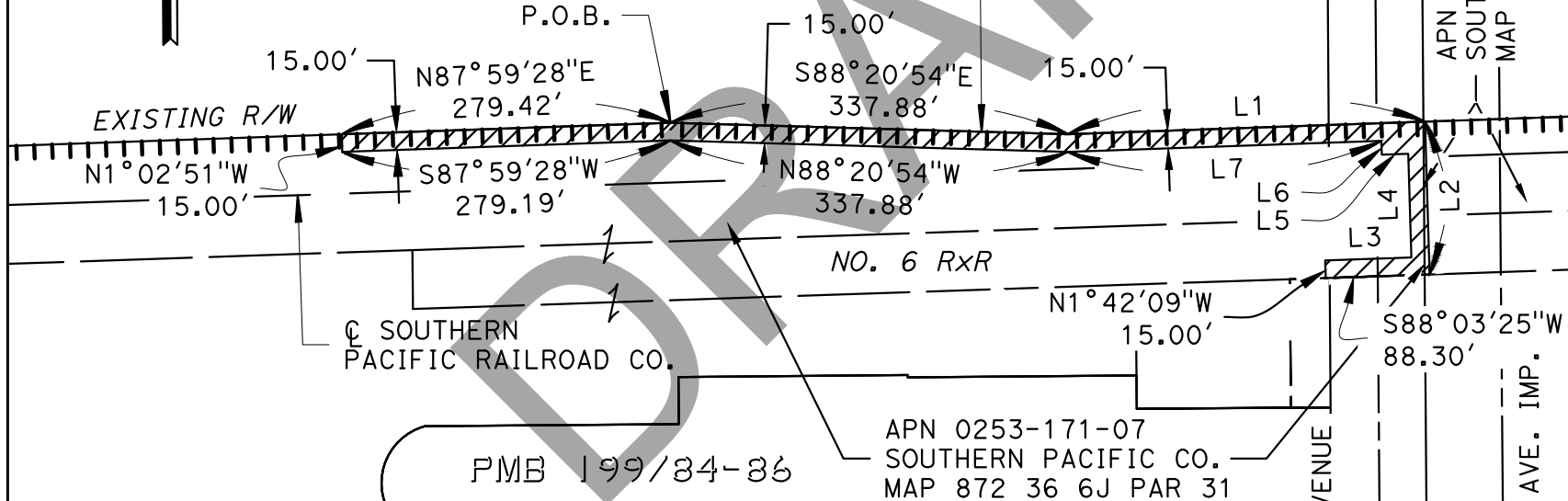
LINE DATA TABLE

NO.	BEARING	DISTANCE
L5	S88°17'59"W	22.48'
L6	N02°01'58"W	11.74'
L7	S87°59'38"W	266.65'

Q INTERSTATE 10 FREEWAY

R/W ~ Parcel No. 1
PER BOOK 7284 PG. 16
RECORDED 08/12/1969, O.R.

P.O.B.



TTTTT INDICATES ACCESS CONTROL

INDICATES AREA TO BE
ACQUIRED AS A TEMPORARY
CONSTRUCTION EASEMENT

AREA = 16,907 SQ. FT.

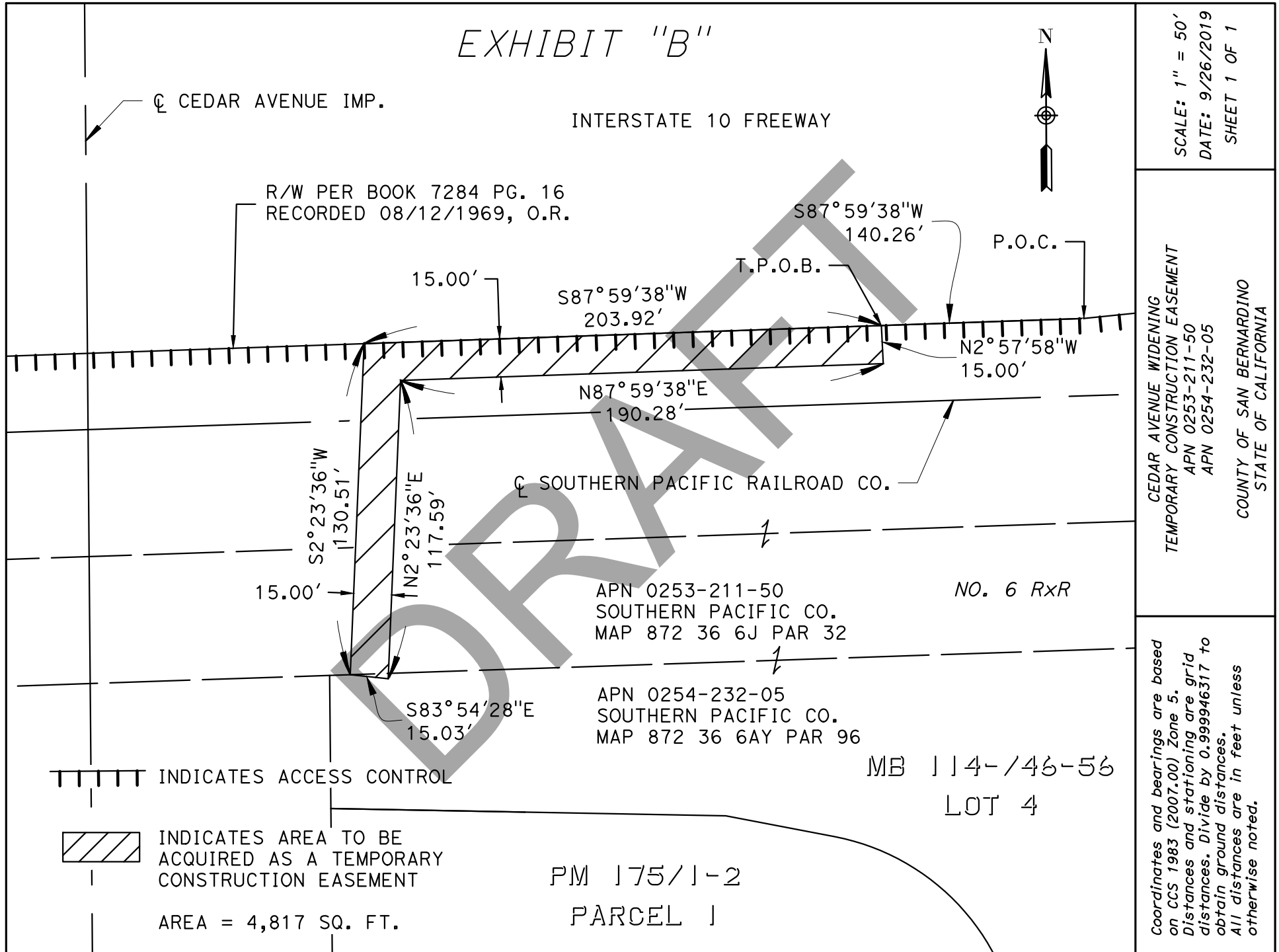
PARCEL 1

CEDAR AVENUE WIDENING
TEMPORARY CONSTRUCTION EASEMENT
APN 0253-171-07
APN 0253-211-50
COUNTY OF SAN BERNARDINO
STATE OF CALIFORNIA

Coordinates and bearings are based
on CCS 1983 (2007.00) Zone 5.
Distances and stationing are grid
distances. Divide by 0.999946317 to
obtain ground distances.
All distances are in feet unless
otherwise noted.

SCALE: 1" = 150'
DATE: 12/23/2019
SHEET 1 OF 1

EXHIBIT "B"



**EXHIBIT A-3
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

Slope Area and Aerial Rights

DRAFT

Attachment: 22-1002741 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)

EXHIBIT "A"
Legal Description
APN 0254-232-05
Cedar Avenue Widening
Slope Easement

That portion of the Southwest Quarter of Section 22, Township 1 South, Range 5 West, San Bernardino Meridian, according to the Government Survey, in the County of San Bernardino, State of California, described as follows:

BEGINNING at the northwesterly corner of Parcel 1 of Parcel Map No. 14352, per map filed in Book 175, Pages 1 through 2 of Parcel Maps, inclusive, in the Office of the County Recorder of said county; thence along the northerly line of said Parcel 1 South 88° 56' 32" East 76.60 feet; thence North 00° 29' 20" West 46.91 feet; thence North 84° 01' 21" West 53.91 feet; thence North 83° 54' 28" West 15.04 feet; thence South 88° 03' 25" West 8.20 feet to the northerly prolongation of that certain course being North 00° 31' 24" West 77.22 feet as shown on said parcel map; thence along said certain line South 00° 37' 46" East 52.43 feet to the **POINT OF BEGINNING**.

The bearings and distances used in the above description based are on the California Coordinate System of 1983 (Epoch 2007.00), Zone 5. Divide the above distances by 0.999946317 to obtain ground level distances.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature:

Kyle G. Esgate
Professional Land Surveyor

Date:

July 29, 2019



EXHIBIT "B"

R/W PER BOOK 7284 PG. 16
RECORDED 08/12/1969, O.R.

INTERSTATE 10 FREEWAY

CL CEDAR AVENUE IMP.

CL SOUTHERN PACIFIC TRANSPORTATION CO.

S88°03'25"W
8.20'

N83°54'28"W
15.04'

APN 0254-211-50
SOUTHERN PACIFIC TRANS. CO.

NO. 6 R x R

N84°01'21"W
53.91'

APN 0254-232-05
SOUTHERN PACIFIC TRANS. CO.
MAP 872 36 6AY PAR 96

S0°37'46"E
52.43'

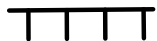
N0°29'20"W
46.91'

P.O.B.

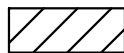
S88°56'32"E
76.60'

MB 114-46-56
LOT 4

PMB 175/ 1 & 2
PARCEL 1



INDICATES ACCESS CONTROL



INDICATES AREA TO BE
ACQUIRED AS A SLOPE
EASEMENT

AREA = 3,844 SQ. FT.

SCALE: 1" = 50'
DATE: 08/26/2019
SHEET 1 OF 1

CEDAR AVENUE WIDENING
SLOPE EASEMENT
APN 0254-232-05
COUNTY OF SAN BERNARDINO
STATE OF CALIFORNIA
SOUTHERN PACIFIC TRANSPORTATION CO.

Coordinates and bearings are based
on CCS 1983 (2007.00) Zone 5.
Distances and stationing are grid
distances. Divide by 0.999946317 to
obtain ground distances.
All distances are in feet unless
otherwise noted.

EXHIBIT "A"
Legal Description
APN 0253-211-50
Cedar Avenue Widening
Aerial Easement

That portion of the Southwest Quarter of Section 22, Township 1 South, Range 5 West, San Bernardino Meridian, according to the Government Survey, in the County of San Bernardino, State of California, described as follows:

COMMENCING at the easterly terminus of that certain course of Parcel 2 being South 88° 02' 50" West, 518.94 feet as described in the Grant Deed recorded August 12, 1969 in Book 7284, Page 16, of Official Records in the Office of the County Recorder of said county; thence along said certain course South 87° 59' 38" West, 344.18 feet to the **TRUE POINT OF BEGINNING**; thence continuing along said certain course South 87° 59' 38" West, 172.51 feet; thence South 01° 42' 09" East, 129.95 feet; thence North 88° 03' 25" East, 163.19 feet; thence North 02° 23' 36" East, 130.51 feet to the **TRUE POINT OF BEGINNING**.

The bearings and distances used in the above description based are on the California Coordinate System of 1983 (Epoch 2007.00), Zone 5. Divide the above distances by 0.999946317 to obtain ground level distances.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature: _____

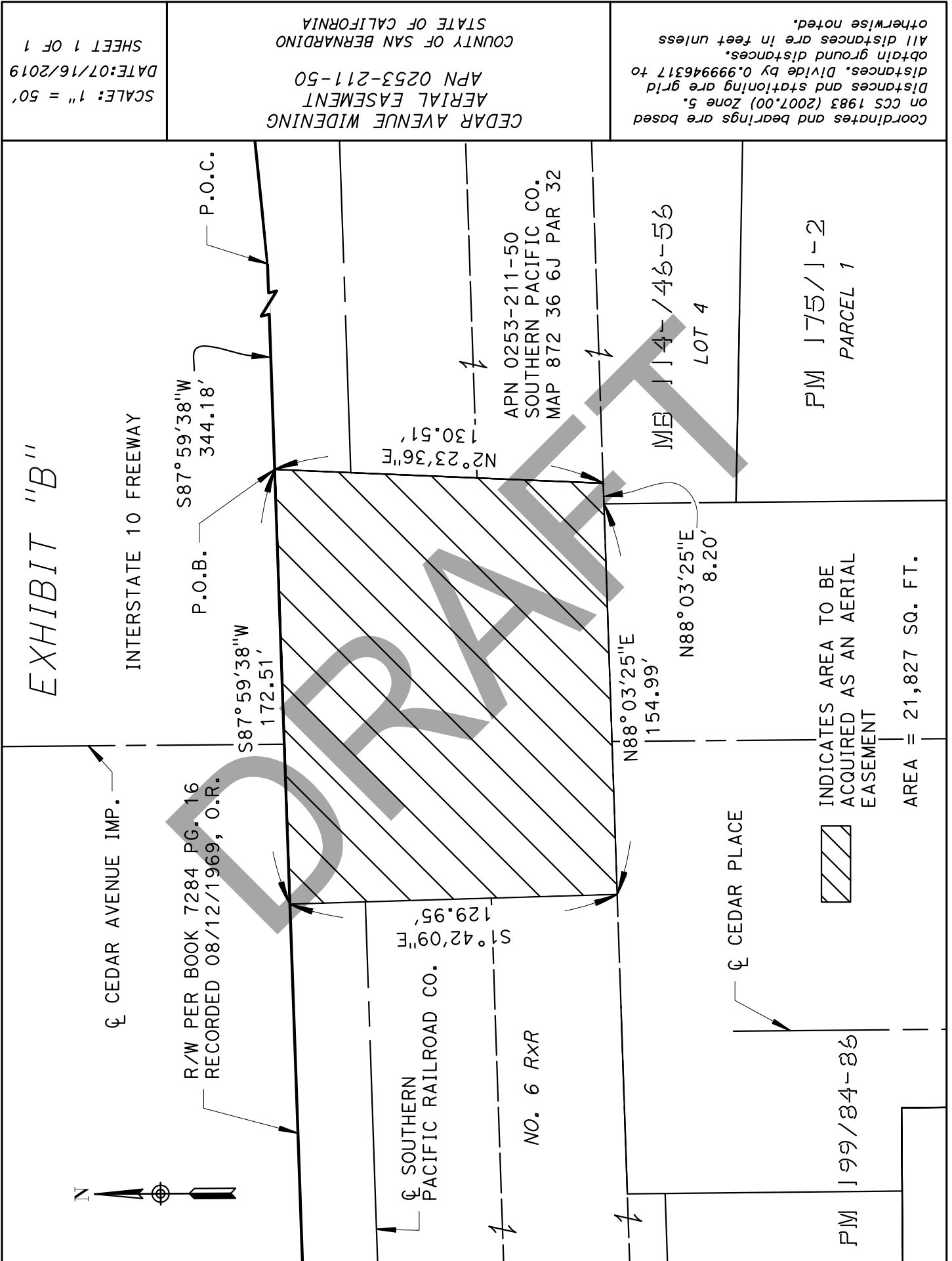
Kyle G. Esgate
Professional Land Surveyor

Date: _____

September 27, 2019



Attachment: 22-1002741 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)



**EXHIBIT B
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

SECTION 1 - CONDITIONS AND COVENANTS

A. The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Political Body shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Political Body shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipe lines. Any lines constructed on the Railroad's property by or under authority of the Political Body for the purpose of conveying electric power or communications incidental to the Political Body's use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. Except as provided in Section 14 of the Overpass agreement, no nonparty shall be admitted by the Political Body to use or occupy any part of the Railroad's property without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent.

B. The Railroad reserves the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes.

C. The rights hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or unrecorded, and also to any renewals thereof. The Political Body shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the Railroad's property, unless the Political Body at its own expense settles with and obtains releases from such nonparties.

D. The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the property and the right to cross the Crossing Area with all kinds of equipment. The Railroad further reserves the right to attach signal, communication or power lines to the Structure, provided that such attachments shall comply with Political Body's specifications and will not interfere with the Political Body's use of the Crossing Area.

E. So far as it lawfully may do so, the Political Body will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or special) levied or assessed upon or against the Crossing Area, excepting taxes levied upon and against the property as a component part of the Railroad's operating property.

F. If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the Structure and its appurtenances, or for the performance of any work in connection with the Project, the Political Body will acquire all such other property and rights at its own expense and without expense to the Railroad.

SECTION 2 - CONSTRUCTION OF STRUCTURE

A. The Political Body, at its expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the Project, and will furnish the Railroad upon request with satisfactory evidence that such authority has been obtained.

B. Except as may be otherwise specifically provided herein, the Political Body, at its expense, will furnish all necessary labor, material and equipment, and shall construct and complete the Structure and all appurtenances thereof. The appurtenances shall include, without limitation, all necessary and proper drainage facilities, guard rails or barriers, and right of way fences between the Structure and the railroad tracks. Upon completion of the Project, the Political Body shall remove from the Railroad's property all temporary structures and false work, and will leave the Crossing Area in a condition satisfactory to the Railroad.

C. All construction work of the Political Body upon the Railroad's property (including, but not limited to, construction of the Structure and all appurtenances and all related and incidental work) shall be performed and completed in a manner satisfactory to the Assistant Vice President Engineering-Design of the Railroad or his authorized representative and in compliance with the Plans, the Railroad's Coordination Requirements set forth in **Exhibit D** and other guidelines furnished by the Railroad.

D. All construction work of the Political Body shall be performed diligently and completed within a reasonable time. No part of the Project shall be suspended, discontinued or unduly delayed without the Railroad's written consent, and subject to such reasonable conditions as the Railroad may specify. It is understood that the Railroad's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of the Political Body. The Political Body hereby assumes the risk of any such delays and agrees that no claims for damages on account of any delay shall be made against the Railroad by the Political Body and/or the Contractor.

SECTION 3 - INJURY AND DAMAGE TO PROPERTY

If the Political Body, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Political Body is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Political Body at the Political Body's own expense, or by the Railroad at the expense of the Political Body, and to the satisfaction of the Railroad's Assistant Vice President Engineering-Design.

SECTION 4 -RAILROAD MAY USE CONTRACTORS TO PERFORM WORK

The Railroad may contract for the performance of any of its work by other than railroad forces. The Railroad shall notify the Political Body of the contract price within ninety (90) days after it is awarded. Unless the Railroad's work is to be performed on a fixed price basis, the Political Body shall reimburse the Railroad for the amount of the contract.

SECTION 5 -MAINTENANCE AND REPAIRS

A. The Political Body, at its expense, shall maintain, repair and renew, or cause to be maintained, repaired and renewed, the entire Structure, including, but not limited to, the superstructure, substructure, piers, abutments, walls, approaches and all backfill, grading and drainage required by reason of the Structure, as well as all graffiti removal or overpainting involving the Structure.

B. The Railroad, at its expense, will maintain, repair and renew, or cause to be maintained, repaired and renewed, the rails, ties, ballast and communication and signal facilities owned by the Railroad beneath the Structure.

SECTION 6 -SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Political Body that the work will be performed in a safe manner and in conformity with the following standards:

A. **Definitions.** All references in this Agreement to the Political Body shall also include the Contractor and their respective officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to work of the Political Body shall include work both within and outside of the Railroad's property.

B. **Entry on to Railroad's Property by Political Body.** If the Political Body's employees need to enter Railroad's property in order to perform an inspection of the Structure, minor maintenance or other activities, the Political Body shall first provide at least ten (10) working days advance notice to the Railroad Representative. With respect to such entry on to Railroad's property, the Political Body, to the extent permitted by law, agrees to release, defend and indemnify the Railroad from and against any loss, damage, injury, liability, claim, cost or expense incurred by any person including, without limitation, the Political Body's employees, or damage to any property or equipment (collectively the "Loss") that arises from the presence or activities of Political Body's employees on Railroad's property, except to the extent that any Loss is caused by the sole direct negligence of Railroad.

C. **Flagging.**

(i) If the Political Body's employees need to enter Railroad's property as provided in Paragraph B above, the Political Body agrees to notify the Railroad Representative at least thirty (30) working days in advance of proposed performance of any work by Political Body in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30) day notice, the Railroad Representative will determine and inform Political Body whether a flagman need be present and whether Political Body needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Political Body for such expenses incurred by Railroad. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Political Body agrees that Political Body is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

(ii) The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Political Body shall pay on the basis of the new rates and charges.

(iii) Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Political Body may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a

flagging position in compliance with union collective bargaining agreements, Political Body must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Political Body will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

D. **Compliance With Laws.** The Political Body shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Political Body shall use only such methods as are consistent with safety, both as concerns the Political Body, the Political Body's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Political Body (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Railroad's premises. If any failure by the Political Body to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Political Body shall reimburse and, to the extent it may lawfully do so, indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Political Body further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

E. **No Interference or Delays.** The Political Body shall not do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

F. **Supervision.** The Political Body, at its own expense, shall adequately police and supervise all work to be performed by the Political Body, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Political Body for safe conduct and adequate policing and supervision of the Project shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Political Body with any requests or recommendations made by such representatives. If a representative of the Railroad is assigned to the Project, the Political Body will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the Railroad's property and operations.

G. **Suspension of Work.** If at any time the Political Body's engineers or the Vice President-Engineering Services of the Railroad or their respective representatives shall be of the opinion that any work of the Political Body is being or is about to be done or

prosecuted without due regard and precaution for safety and security, the Political Body shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

H. **Removal of Debris.** The Political Body shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Political Body at the Political Body's own expense or by the Railroad at the expense of the Political Body. The Political Body shall not cause, suffer or permit any snow to be plowed or cast upon the Railroad's property during snow removal from the Crossing Area.

I. **Explosives.** The Political Body shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the "vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate.

J. **Excavation.** The Political Body shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Political Body shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Political Body, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Political Body in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Assistant Vice President Engineering-Design to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.

K. **Drainage.** The Political Body, at the Political Body's own expense, shall provide and maintain suitable facilities for draining the Structure and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The Political Body, at the Political Body's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Political Body, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the

Railroad or any part thereof, or property of others. The Political Body shall not obstruct or interfere with existing ditches or drainage facilities.

L. **Notice**. Before commencing any work, the Political Body shall provide the advance notice that is required under the Contractor's Right of Entry Agreement.

M. **Fiber Optic Cables**. Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Political Body shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiberoptic cable is buried anywhere on the Railroad's premises to be used by the Political Body. If it is, Political Body will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiberoptic cable prior to beginning any work on the Railroad's premises.

SECTION 7 - INTERIM WARNING DEVICES

If at anytime it is determined by a competent authority, by the Political Body, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Political Body shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the construction or reconstruction of the Structure has been completed.

SECTION 8 - OTHER RAILROADS

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

SECTION 9 - BOOKS AND RECORDS

The books, papers, records and accounts of Railroad, so far as they relate to the items of expense for the materials to be provided by Railroad under this Project, or are associated with the work to be performed by Railroad under this Project, shall be open to inspection and audit at Railroad's offices in Omaha, Nebraska, during normal business hours by the agents and authorized representatives of Political Body for a period of three (3) years following the date of Railroad's last billing sent to Political Body.

SECTION 10 - REMEDIES FOR BREACH OR NONUSE

A. If the Political Body shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the Structure and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Political Body will reimburse the Railroad for the expenses thereof.

B. Nonuse by the Political Body of the Crossing Area for public highway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Political Body hereunder.

C. The Political Body will surrender peaceable possession of the Crossing Area and Structure upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the parties, accrued or otherwise, which may have arisen prior to termination.

SECTION 11 - MODIFICATION - ENTIRE AGREEMENT

No waiver, modification or amendment of this Agreement shall be of any force or effect unless made in writing, signed by the Political Body and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Political Body shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding between the Political Body and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.

**EXHIBIT C and or C-1
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

Exhibit C-1 (if applicable) will be Railroad's Material and Force Agreement Estimate.

DRAFT

Attachment: 22-1002741 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)

EXHIBIT C-1

**ESTIMATE OF FORCE ACCOUNT WORK
BY THE
UNION PACIFIC RAILROAD COMPANY**

DESCRIPTION OF WORK: Engineering and other related services for work to be performed within railroad right of way. This includes railroad flagging services, project and construction management during construction activities in railroad right of way. All necessary railroad services will be billed at actual cost.

DATE:8/17/2021**LOCATION:**BloomingtonDOT: 746980Y**SUBDIVISION**Alhambra Sub.**STATE:**CA

DESCRIPTION	LABOR	MATERIAL	UP %0	Agency % 100	TOTAL
ENGINEERING					
Project Management	\$ 200,000	\$ -	\$ -	\$ 200,000.00	\$ 200,000
Construction Submittals	\$ 150,000	\$ -	\$ -	\$ 150,000.00	\$ 150,000
Construction Management	\$ 200,000	\$ -	\$ -	\$ 200,000.00	\$ 200,000
Final Inspection	\$ 5,000	\$ -	\$ -	\$ 5,000.00	\$ 5,000
TOTAL PROJECT:	\$ 555,000	\$ -	\$ -	\$ 555,000.00	\$555,000

TOTAL ESTIMATED COST:**\$555,000**

**THE ABOVE FIGURES ARE ESTIMATES ONLY AND SUBJECT TO FLUCTUATION.
IN THE EVENT OF AN INCREASE OR DECREASE IN THE COST OR QUANTITY OF
MATERIAL OR LABOR REQUIRED, THE RAILROAD WILL BILL FOR ACTUAL
COSTS AT THE CURRENT RATES EFFECTIVE THEREOF.**

Flagging may be performed by a third-party contractor. Any flagging performed by a third-party contractor will be billed at said third-party contractor rate not included in the above estimate. Alternatively, the Agency may enter into a separate agreement with third-party contractor and will be responsible for all actual costs incurred.

Attachment: 22-1002741 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)

EXHIBIT D
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT

RAILROAD COORDINATION REQUIREMENTS

1.01 DEFINITIONS

Agreement: Agreement that has been signed, or will be signed, between Railroad and Agency covering the construction and maintenance of the Project.

Agency: County of San Bernardino

AREMA: American Railway Engineering and Maintenance-of-way Association

Contractor: The contractor or contractors hired by the Agency to perform any project work on any portion of Railroad's property and shall also include the Contractor's subcontractors and the Contractor's and subcontractor's respective employees, officers and agents, and others acting under its or their authority.

MUTCD: Manual on Uniform Traffic Control Devices

Project: Agency's Project Number _____ covering the reconstruction of an overpass

Railroad: Union Pacific Railroad Company

Railroad Project Representative: Railroad's Manager of Industry and Public Projects for this Project (see Section 1.03)

Railroad MTM Representative: Railroad's Manager of Track Maintenance for this Project (see Section 1.03)

Requirements: The Railroad Coordination Requirements set forth in this Exhibit.

1.02 DESCRIPTION

This Project includes construction work within Railroad's right-of-way. These Requirements describe coordination with the Railroad when work by the Contractor will be performed upon, over or under the Railroad right-of-way or may impact current or future Railroad operations. The Contractor will coordinate with the Railroad while performing the work outlined in this Agreement and shall afford the same cooperation with the Railroad as it does with the Agency. All submittals and work shall be completed in compliance with these Requirements, Railroad guidelines and requirements, AREMA recommendations and/or as directed by the Railroad Local Representative and/or the Railroad MTM Representative.

1.03 UPRR CONTACTS

The Railroad Project Representative for this project is:

Nick Vineyard
 Contractor - Industry & Public Projects
 Union Pacific Railroad Company
 909-222-5659 (mobile)
 nvineya@upcontractor.up.com

For Railroad flagging services and track work, contact the following Railroad MTM Representative:

Juan C. Moreno
 SR MGR TRACK MNTCE
 2015 S WILLOW
 Bloomington, CA 92316
jcmoreno@up.com
 626 536-1233

1.04 PLANS / SPECIFICATIONS

The plans and specifications for this Project, affecting the Railroad, are subject to the written approval by the Railroad. Changes in the plans made after the execution of the Agreement and/or the awarding of the Project to the Contractor are subject to the prior review and written approval of the Agency and the Railroad. No construction work shall commence until final stamped plans and/or changes to final stamped plans have been reviewed and approved by the Railroad in writing. The Railroad's review and approval of the Agency's and/or Contractor's plans in no way relieves the Agency and Contractor from their responsibilities, obligations and/or liabilities under this Agreement, Agency's agreement with the Contractor for the Project and/or in the separate Contractor's Right of Entry Agreement referenced in Section 1.08. Railroad's approval will be given with the understanding that the Railroad makes no representations or warranty as to the validity, accuracy, legal compliance or completeness of Agency's and/or Contractor's plans and that any reliance by the Agency or the Contractor with respect to such plans is at the risk of the Agency and the Contractor.

1.05 UTILITIES AND FIBER OPTICS

A. All installations shall be constructed in accordance with current AREMA recommendations and Railroad specifications and requirements. Railroad general guidelines and the required application forms for utility installations can be found on the Railroad website at <http://www.uprr.com/reus/pipeline/install.shtml>.

B. It shall be the responsibility of the Contractor, at its expense, to make arrangements directly with utility companies involving the protection, encasement, reinforcement, relocation, replacement, removing or abandonment in place of non-railroad facilities affected by the Project. Railroad has no obligation to supply additional Railroad property for non-railroad facilities affected by this Project, nor does the Railroad have any obligation to permit non railroad facilities to be abandoned in place or relocated on Railroad's property. Any facility and/or utility that crosses Railroad right of way must be covered under an agreement with the Railroad including, without limitation, any relocations of an existing facility and/or utility.

C. Any longitudinal fiber optic lines on Railroad right of way shall be treated as Railroad facilities. Project design may need to be altered to accommodate such facilities.

D. Any fiber optic relocations or protections that are required due to this Project will be at the Agency's expense.

1.06 GENERAL

A. It is essential that the proposed construction shall be performed without interference to Railroad operations and in compliance with all applicable Railroad and Federal Railroad Administration rules and regulations. The Railroad shall be reimbursed by the Contractor or Agency for train delay costs and lost revenue claims due to any delays or interruption of train operations resulting from the Contractor's construction or other activities.

B. Track protection is required for all work equipment (including rubber tired equipment) operating within 25 feet from nearest rail. All work shall be designed and executed outside the temporary construction clearance envelope defined in Section 1.12.

C. The Contractor is also advised that new facilities within the Project may be scheduled to be built by the Railroad and that certain Contractor's activities cannot proceed until that work is complete. The Contractor shall be aware of the limits of responsibilities, allow sufficient time in the schedule for that work to be accomplished and shall coordinate its efforts with the Railroad.

1.07 RAILROAD OPERATIONS

A. The Contractor shall be advised that trains and/or equipment should be expected on any track, at any time, and in either direction. The Contractor shall communicate with the Railroad MTM Representative to improve the Contractor's understanding of Railroad traffic volume and operation at the Project site. The Contractor's bid shall be structured assuming intermittent track windows as defined in Section 1.07 C

- B. All Railroad tracks within and adjacent to the Project site are to be assumed as active and rail traffic over these facilities shall be maintained throughout the Project. Activities may include both through moves and switching moves to local customers. Railroad traffic and operations can occur continuously throughout the day and night on these tracks and shall be maintained at all times as defined herein. The Contractor shall coordinate and schedule the work so that construction activities do not interfere with Railroad's operations.
- C. Work windows for this Project shall be coordinated with the Agency or Contractor and the Railroad Project Representative and the Railroad MTM Representative. Types of work windows include Conditional Work Windows and Absolute Work Windows, as defined below:
1. Conditional Work Window: A period of time in which Railroad's operations have priority over construction activities. When construction activities may occur on and adjacent to the railroad tracks within 25 feet of the nearest track, a Railroad flag person will be required. At the direction of the flag person, upon approach of a train and when trains are present on the tracks, the tracks must be cleared (i.e., no construction equipment, materials or personnel within 25 feet from the nearest active track or as directed by the Railroad MTM Representative). Conditional Work Windows are available for the project subject to Railroad's local operating unit review and approval.
 2. Absolute Work Window: A period of time in which construction activities are given priority over Railroad's operations. During this time the designated Railroad track(s) will be inactive for train movements and may be fouled by the Contractor. Before the end of an Absolute Work Window, all Railroad tracks and signals must be completely operational for normal train operations. Also, all Railroad, Public Utilities Commission and Federal Railroad Administration requirements, codes and regulations for operational tracks must be complied with. Should the operating tracks and/or signals be affected, the Railroad will perform inspections of the work prior to placing the affected track back into service. Railroad flag persons will be required for construction activities requiring an Absolute Work Window. **Absolute Work Windows will generally not be granted. Any request will require a detailed written explanation for Railroad review and approval.**

1.08 RIGHT OF ENTRY, ADVANCE NOTICE AND WORK STOPPAGES

- A. Prior to beginning any work within the Railroad right-of-way, the Contractor shall enter into an agreement with the Railroad in the form of the Contractor's Right of Entry Agreement, attached as Ex E or latest version thereof provided by the Railroad. There is a fee for processing of the agreement which shall be borne by the Contractor. The right of entry agreement shall specify working time frames, flagging, inspection and insurance requirements and any other items specified by the Railroad.
- B. The Contractor shall give advance notice to the Railroad as required in the Contractor's Right of Entry Agreement before commencing work in connection with construction upon or over Railroad's right-of-way and shall observe the Railroad rules and regulations with respect thereto.
- C. All work upon the Railroad right-of-way shall be done at such times and in such a manner as not to interfere with or endanger the operations of the Railroad. Whenever work may affect the operations or safety of trains, the method of doing such work shall first be submitted to the Railroad MTM Representative for approval, but such approval shall not relieve the Contractor from liability. Any work to be performed by the Contractor, which requires flagging service or inspection service, shall be deferred until the flagging protection required by the Railroad is available at the job site. See Section 1.21 for railroad flagging requirements.
- D. The Contractor shall make requests in writing to both the Railroad Project Representative and the Railroad MTM Representative for both Absolute and Conditional Work Windows, at least two weeks in advance of any work. The written request must include:
1. Description of work to be done.
 2. The days and hours that work will be performed.
 3. The exact location of the work and proximity to the tracks.
 4. The type of window and amount of time requested.
 5. The designated contact person for the Contractor.

The Contractor shall provide a written confirmation notice to the Railroad MTM Representative at least fifteen (15) days prior to commencing work in connection with the approved work windows when work will be performed within **25 feet of any track center line**. All work shall be performed in accordance with previously approved work plans.

- E. Should a condition arise from, or in connection with, the work which requires immediate and unusual actions to be made to protect operations and property of the Railroad, the Contractor shall undertake such actions. If, in the judgment of the Railroad MTM Representative, such actions are insufficient, the Railroad MTM Representative may require or provide such actions as deemed necessary. In any event, such actions shall be at the Contractor's expense and without cost to the Railroad. The Railroad or Agency have the right to order the Contractor to temporarily cease operations in the event of an emergency or if, in the opinion of the Railroad MTM Representative, the Contractor's operations may inhibit the Railroads operations. In the event such an order is given, the Contractor shall immediately notify the Agency of the order.

1.09 INSURANCE

The Contractor shall not begin work within the Railroad's right-of-way until the Railroad has been furnished the insurance policies, binders, certificates and endorsements required by the Contractor's Right-of-Entry Agreement, and the Railroad Project Representative has advised the Agency that such insurance is in accordance with such Agreement. The required insurance shall be kept in full force and effect during the performance of work and thereafter until the Contractor removes all tools, equipment, and material from Railroad property and cleans the premises in a manner reasonably satisfactory to the Railroad.

1.10 RAILROAD SAFETY ORIENTATION

All personnel employed by the Agency, Contractor and all subcontractors must complete the Railroad's Property Access Training "Orientation for Contractor's Safety" and be registered prior to working on Railroad property. This training is available at <https://www.up.com/aboutup/community/safety/erailsafe/up-pat/index.htm>. This course is required to be completed annually. The preceding training does not apply for longitudinal fiber optic installations.

1.11 COOPERATION

The Railroad shall cooperate with the Contractor in the scheduling of Project work with the understanding that Railroad's train operations at the job site shall have priority over the Contractor's activities.

1.12 CONSTRUCTION CLEARANCES

The Contractor shall abide by the twenty-one foot six inch (21.6) foot temporary vertical construction clearance defined in section 4.4.1.1 and fifteen (15) foot temporary horizontal construction clearance defined in section 4.4.1.2 of BNSF and UPRR Guidelines for Railroad Grade Separation Projects. It shall be the Contractor's responsibility to obtain such guidelines from the Agency or Railroad.

Reduced temporary construction clearances, which are less than construction clearances defined above, will require special review and approval by the Railroad.

Any proposed variance on the specified minimum clearances due to the Contractor's operations shall be submitted to the Railroad Project Representative through the Agency at least thirty (30) days in advance of the work. No work shall be undertaken until the variance is approved in writing by the Railroad Project Representative.

1.13 SUBMITTALS

- A. Construction submittals and Requests for Information (RFI) shall be submitted per Section 3 of BNSF and UPRR Guidelines for Railroad Grade Separation Projects.
- B. The minimum review times, as indicated in tables 3-1 and 3-2 of Section 3.10 of the BNSF and UPRR Guidelines for Railroad Grade Separation Projects, should be anticipated for review of all submittals.

Guidelines for Railroad Grade Separation Projects, should be anticipated for review of all submittals. The details of the construction affecting the Railroad tracks and property, not already included in the contract plans, shall be submitted by the Agency to the Railroad Project Representative for the Railroad's review and written approval before such construction is undertaken. The Railroad shall not be liable to Agency, Contractor, and or any other person or entity if the Railroad's review exceeds a four-week review time.

- C. As Built Submittals shall be submitted per Section 3 of BNSF and UPRR Guidelines for Railroad Grade Separation Projects.

1.14 MAINTENANCE OF PROPER DRAINAGE AND DAMAGE TO RAILROAD FACILITIES

- A. The Contractor, at its expense, shall be required to maintain all ditches and drainage structures free of silt or other obstructions which may result from the Contractor's operations and to repair and restore any Railroad property, tracks and facilities of Railroad and/or its tenants.
- B. The Contractor must submit a proposed method of erosion control and have the method reviewed and approved by the Railroad prior to beginning any grading on the project site. Erosion control methods must comply with all applicable local, state and federal regulations.

1.15 SITE INSPECTIONS BY RAILROAD PROJECT REPRESENTATIVE, RAILROAD MTM REPRESENTATIVE OR RAILROAD'S CONTRACTOR

- A. In addition to the office reviews of construction submittals, site observations will be performed by the Railroad Project Representative, Railroad MTM Representative or Railroad's Contractor at significant points during construction per Section 4.11 of BNSF and UPRR Guidelines for Railroad Grade Separation Projects.
- B. Site inspections are not limited to the milestone events listed in the guidelines. Site visits to check the progress of work may be performed at any time throughout the construction process as deemed necessary by the Railroad.
- C. A detailed construction schedule, including the proposed temporary horizontal and vertical clearances and construction sequence for all work to be performed, shall be provided by the Contractor to the Agency for submittal to the Railroad's Project Representative for review and approval prior to commencement of work. This schedule shall also include the anticipated dates on which the above listed events will occur. This schedule shall be updated for all critical listed events as necessary but at least monthly so that site visits may be scheduled.

1.16 RAILROAD REPRESENTATIVES

- A. Railroad representatives, conductors, flag persons or watch persons will be provided by the Railroad at the expense of the Agency or Contractor (as stated elsewhere in these bid documents) to protect Railroad facilities, property and movements of its trains and engines. In general, the Railroad will furnish such personnel or other protective services as follows:
1. When any part of any equipment or object, such as erection or construction activities, is standing or being operated within 25 feet, measured horizontally from centerline, of any track on which trains may operate.
 2. For any excavation below the elevation of track subgrade when, in the opinion of the Railroad MTM Representative, the track or other Railroad facilities may be subject to settlement or movement.
 3. During any clearing, grubbing, excavation or grading in proximity to Railroad facilities which, in the opinion of the Railroad MTM Representative, may affect Railroad facilities or inhibit operations.
 4. During any Contractor's operations when, in the opinion of the Railroad MTM Representative, the Railroad facilities, including, but not limited to, tracks, buildings, signals, wire lines or pipe lines, may be endangered.

- B. The Contractor shall arrange with the Railroad Local Representative to provide the adequate number of flag persons to accomplish the work.

1.17 WALKWAYS REQUIRED

Parallel to the outer side of each exterior track of multiple operated track and on each side of single operated track, an unobstructed continuous space suitable for trainman's use in walking along trains, extending in width not less than twelve feet (12') perpendicular from centerline of track, shall be maintained. Any temporary impediments to walkways and track drainage encroachments or obstructions allowed during working hours must be covered, guarded and/or protected as soon as practical. Walkways with railings shall be constructed by the Contractor over open excavation areas when in close proximity of track, and railings shall not be closer than 9' perpendicular from the center line of tangent track or 9' – 6" horizontal from curved track.

1.18 COMMUNICATIONS AND SIGNAL LINES

If required, the Railroad, at Agency's expense, will rearrange its communications and signal lines, grade crossing warning devices, train signals, tracks and facilities that are in use and maintained by Railroad forces in connection with its operation. This work by the Railroad will be done by its own forces or by contractors under a continuing contract and may or may not be a part of the work under this contract.

1.19 TRAFFIC CONTROL

The Contractor's operations which control traffic across or around Railroad facilities shall be coordinated with and approved by the Railroad MTM Representative and shall be in compliance with the MUTCD.

1.20 CONSTRUCTION EXCAVATIONS:CALL BEFORE YOU DIG NUMBER

- A. The Contractor shall be required to take special precautions and care in connection with excavating and shoring. Excavations for construction of footings, piers, columns, walls or other facilities that require shoring shall comply with requirements of OSHA, AREMA and Railroad "Guidelines for Temporary Shoring".
- B. In addition to calling the "811" number and/or the local "one call center", the Contractor shall call the Railroad's "Call Before Your Dig" number at least 48 hours prior to commencing work at 1-800-336-9193 during normal business hours (6:30 a.m. to 8:00 p.m. Central Standard Time, Monday through Friday, except holidays - also a 24 hour, 7 day a week number for emergency calls) to determine location of fiber optics. If a telecommunications system is buried anywhere on or near Railroad property, the Contractor will co-ordinate with the Railroad and the Telecommunication Company(ies) to arrange for relocation or other protection of the system prior to beginning any work on or near Railroad property. The determination of whether fiber optics will be affected by the Project shall be made during the initial design phase of the Project.
- C. The Railroad does not allow temporary at grade crossings unless absolutely necessary and there is no alternative route available to contractor to access the project site. Alternative plans should be considered to avoid crossing Railroad tracks at grade.

1.21 RAILROAD FLAGGING

Performance of any work by the Contractor in which person(s) or equipment will be within twenty-five (25) feet of any track, or that any object or equipment extension (such as, but not limited to, a crane boom) will reach within twenty-five (25) feet of any track, require railroad flagging services or other protective measures. The Contractor shall give an advance notice to the Railroad as required in the Contractor's Right of Entry Agreement before commencing any such work, allowing the Railroad to determine the need for flagging or other protective measures which ensure the safety of Railroad's operations, employees and equipment. Contractor shall comply with all other requirements regarding flagging services covered by the Contractor's Right of Entry Agreement. Any costs associated with failure to abide by these requirements will be borne by the Contractor.

The estimated pay rate for each flag person is \$ _____ per day for a(n) _____-hour work day with time and one-half for overtime, Saturdays, Sundays; double time and one-half for holidays. Flagging rates are set by the Railroad and are subject to change due to, but not limited to, travel time, setup plus, per diem and rest time (if work is required at night).

1.22 CLEANING OF RIGHT-OF-WAY

The Contractor shall, upon completion of the work to be performed within the right-of-way and/or properties of the Railroad and adjacent to its tracks, wire lines and other facilities, promptly remove from the Railroad right-of-way all Contractor's tools, implements and other materials whether brought upon the right-of-way by the Contractor or any subcontractors employee or agent of Contractor or of any subcontractor, and leave the right-of-way in a clean and presentable condition to the satisfaction of the Railroad.

1.23 CONTRACTOR'S RESPONSIBILITY OF SUPERVISION

The Contractor, at its expense, shall adequately supervise all work to be performed by the Contractor. Such responsibility shall not be lessened or otherwise affected by Railroad's approval of plans and specifications, or by the presence at the work site of the Railroad Project Representative, Railroad MTM Representative or any other Railroad representative or Railroad contractor providing inspection services, or by the compliance by the Contractor with any requests or recommendations made by such representatives. The Contractor will give due consideration to suggestions and recommendations made by such representatives for the safety and protection of the Railroad's property and operations.

1.24 USE OF EXPLOSIVES AT PROJECT SITE PROHIBITED

The Contractor's use of explosives at the Project site is expressly prohibited unless authorized in advance in writing by the Railroad Project Representative.

**EXHIBIT E
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

Exhibit E will be Current Form of Contractor's Right of Entry Agreement

DRAFT

Attachment: 22-1002741 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)

CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT is made and entered into as of the _____ day of _____, 2021, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Railroad"); and _____, a _____ corporation ("Contractor").

RECITALS:

Contractor has been hired by the County of San Bernardino or its authorized agent to improve the reconstruct an existing grade separated overpass structure that carries vehicular traffic traversing on Cedar Ave., over Railroad's track(s) at Railroad's Milepost 534.736 at DOT Number 746980Y on Railroad's Alhambra Subdivision at or near Bloomington, San Bernardino County, California, as such locations are in the general location shown on the print attached and marked **Exhibit A**, attached hereto and hereby made a part hereof between Railroad and the County.

Railroad is willing to permit Contractor to perform the work described above at the location described above subject to the terms and conditions contained in this agreement

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between Railroad and Contractor, as follows:

ARTICLE 1 - DEFINITION OF CONTRACTOR.

For purposes of this agreement, all references in this agreement to Contractor shall include Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority. For purposes of clarity, Contractor agrees that any CIC (defined below) hired by Contractor is a subcontractor of Contractor and therefore included in the defined term Contractor pursuant to the foregoing sentence.

ARTICLE 2 - RIGHT GRANTED; PURPOSE.

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing the work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article 4.

ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B AND C.

The terms and conditions contained in **Exhibit B** and **Exhibit C**, attached hereto, are hereby made a part of this agreement.

ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.

A. Contractor shall bear any and all costs and expenses associated with any work performed by Contractor (including without limitation any CIC), or any costs or expenses incurred by Railroad relating to this agreement.

B. Contractor shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):

Juan C. Moreno
SR MGR TRACK MNTCE
2015 S WILLOW
Bloomington, CA 92316
jcmoreno@up.com
626 536-1233

C. Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the work, or by Railroad's collaboration in performance of any work, or by the presence at the work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

ARTICLE 5 - SCHEDULE OF WORK ON A MONTHLY BASIS.

The Contractor, at its expense, shall provide on a monthly basis a detailed schedule of work to the Railroad Representative named in Article 4B above. The reports shall start at the execution of this agreement and continue until this agreement is terminated as provided in this agreement or until the Contractor has completed all work on Railroad's property.

ARTICLE 6 - TERM; TERMINATION.

A. The grant of right herein made to Contractor shall commence on the date of this agreement, and continue until _____, unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad's property.

B. This agreement may be terminated by either party on ten (10) days written notice to the other party.

ARTICLE 7 - CERTIFICATE OF INSURANCE.

A. Before commencing any work and throughout the entire term of this Agreement, Contractor, at its expense, shall procure and maintain in full force and effect the types and minimum limits of insurance specified in **Exhibit C** of this agreement and require each of its subcontractors to include the insurance endorsements as required under Section 12 of **Exhibit B** of this agreement.

B. Not more frequently than once every two (2) years, Railroad may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

C. Upon request of Railroad, Contractor shall provide to Railroad a certificate issued by its insurance carrier evidencing the insurance coverage required under **Exhibit B**.

D. Contractor understands and accepts that the terms of this Article are wholly separate from and independent of the terms of any indemnity provisions contained in this Agreement.

D. Upon request of Railroad, insurance correspondence, binders, policies, certificates and endorsements shall be sent to:

Union Pacific Railroad Company
1400 Douglas St. STOP 1690
Omaha, NE 68179
Attn: Sr. Mgr. Real Estate
Folder No. 2187-32

Attachment: 22-1002741 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)

ARTICLE 8 - PRECONSTRUCTION MEETING.

If the work to be performed by the Contractor will involve the Railroad providing any flagging protection (or if a CIC is approved to provide flagging protection pursuant to the terms set forth herein) and/or there is separate work to be performed by the Railroad, the Contractor confirms that no work shall commence until the Railroad and Contractor participate in a preconstruction meeting involving flagging procedures and coordination of work activities of the Contractor and the Railroad (and any CIC, as applicable.)

ARTICLE 9. DISMISSAL OF CONTRACTOR'S EMPLOYEE.

At the request of Railroad, Contractor shall remove from Railroad's property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad's property.

ARTICLE 10. ADMINISTRATIVE FEE.

Upon the execution and delivery of this agreement, Contractor shall pay to Railroad **One Thousand Twenty Five Dollars** (\$1025.00) as reimbursement for clerical, administrative and handling expenses in connection with the processing of this agreement.

ARTICLE 11. CROSSINGS; COMPLIANCE WITH MUTCD AND FRA GUIDELINES.

A. No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

B. Any permanent or temporary changes, including temporary traffic control, to crossings must conform to the Manual of Uniform Traffic Control Devices (MUTCD) and any applicable Federal Railroad Administration rules, regulations and guidelines, and must be reviewed by the Railroad prior to any changes being implemented. In the event the Railroad is found to be out of compliance with federal safety regulations due to the Contractor's modifications, negligence, or any other reason arising from the Contractor's presence on the Railroad's property, the Contractor agrees to assume liability for any civil penalties imposed upon the Railroad for such noncompliance.

ARTICLE 12.- EXPLOSIVES.

Explosives or other highly flammable substances shall not be stored or used on Railroad's property without the prior written approval of Railroad.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

By: _____
Title: Sr. Mgr. Real Estate

(Name of Contractor)

By: _____
Title: _____

DRAFT

Attachment: 22-1002741 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)

CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Exhibit A will be a print showing the general location of the work site.

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CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Section 1. NOTICE OF COMMENCEMENT OF WORK - RAILROAD FLAGGING - PRIVATE FLAGGING.

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least thirty (30) working days in advance of proposed performance of any work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track.

B. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad approved flagman is provided to watch for trains. Upon receipt of such thirty (30)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures.

C. Contractor shall be permitted to hire a private contractor to perform flagging or other special protective or safety measures (such private contractor being commonly known in the railroad industry as a contractor-in-charge ("CIC")) in lieu of Railroad providing such services or in concert with Railroad providing such services, subject to prior written approval by Railroad, which approval shall be in Railroad's sole and absolute discretion. If Railroad agrees to permit Contractor to utilize a CIC pursuant to the preceding sentence, Contractor shall obtain Railroad's prior approval in writing for each of the following items, as determined in all respects in Railroad's sole and absolute discretion: (i) the identity of the third-party performing the role of CIC; (ii) the scope of the services to be performed for the project by the approved CIC; and (iii) any other terms and conditions governing such services to be provided by the CIC. If flagging or other special protective or safety measures are performed by an approved CIC, Contractor shall be solely responsible for (and shall timely pay such CIC for) its services. Railroad reserves the right to rescind any approval pursuant to this Section 1, Subsection C., in whole or in part, at any time, as determined in Railroad's sole and absolute discretion.

D. If any flagging or other special protective or safety measures are performed by employees of Railroad and/or any contractor of Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing.

E. If any flagging or other special protective or safety measures are performed by Railroad or a CIC, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this agreement.

F. The provisions set forth in this subsection are only applicable for Flagging Services performed by employees of Railroad: the rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with labor agreements and schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges. If flagging is performed by Railroad, reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any

day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (whether recorded or unrecorded and including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroad's tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the work to be performed by Contractor caused by such railroad operations and work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any work to be performed by Contractor.

Section 4. LIENS.

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such work performed. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other

protection of the fiber optic cable. Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. IN ADDITION TO OTHER INDEMNITY PROVISIONS IN THIS AGREEMENT, CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD RAILROAD HARMLESS FROM AND AGAINST ALL COSTS, LIABILITY AND EXPENSE WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS AND EXPENSES) ARISING OUT OF ANY ACT OR OMISSION OF CONTRACTOR, ITS AGENTS AND/OR EMPLOYEES, THAT CAUSES OR CONTRIBUTES TO (1) ANY DAMAGE TO OR DESTRUCTION OF ANY TELECOMMUNICATIONS SYSTEM ON RAILROAD'S PROPERTY, AND/OR (2) ANY INJURY TO OR DEATH OF ANY PERSON EMPLOYED BY OR ON BEHALF OF ANY TELECOMMUNICATIONS COMPANY, AND/OR ITS CONTRACTOR, AGENTS AND/OR EMPLOYEES, ON RAILROAD'S PROPERTY. CONTRACTOR SHALL NOT HAVE OR SEEK RECOURSE AGAINST RAILROAD FOR ANY CLAIM OR CAUSE OF ACTION FOR ALLEGED LOSS OF PROFITS OR REVENUE OR LOSS OF SERVICE OR OTHER CONSEQUENTIAL DAMAGE TO A TELECOMMUNICATION COMPANY USING RAILROAD'S PROPERTY OR A CUSTOMER OR USER OF SERVICES OF THE FIBER OPTIC CABLE ON RAILROAD'S PROPERTY.

Section 6. PERMITS - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 7. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad property performed by Contractor. Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Contractor shall, at a minimum, comply with Railroad's then current safety standards located at the below web address ("Railroad's Safety Standards") to ensure uniformity with the safety standards followed by Railroad's own forces. As a part of Contractor's safety responsibilities, Contractor shall notify Railroad if Contractor determines that any of Railroad's Safety Standards are contrary to good safety practices. Contractor shall furnish copies of Railroad's Safety Standards to each of its employees before they enter Railroad property.

http://www.up.com/cs/groups/public/@uprr/@suppliers/documents/up_pdf_nativedocs/pdf_up_supplier_safety_req.pdf

B. Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this agreement shall control if there are any inconsistencies between this agreement and the Safety Plan.

Section 8. INDEMNITY.

A. TO THE EXTENT NOT PROHIBITED BY APPLICABLE STATUTE, CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS RAILROAD, ITS AFFILIATES, AND ITS AND THEIR OFFICERS, AGENTS AND EMPLOYEES (INDIVIDUALLY AN "INDEMNIFIED PARTY" OR COLLECTIVELY "INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, INJURY, LIABILITY, CLAIM, DEMAND, COST OR EXPENSE

(INCLUDING, WITHOUT LIMITATION, ATTORNEY'S, CONSULTANT'S AND EXPERT'S FEES, AND COURT COSTS), FINE OR PENALTY (COLLECTIVELY, "LOSS") INCURRED BY ANY PERSON (INCLUDING, WITHOUT LIMITATION, ANY INDEMNIFIED PARTY, CONTRACTOR, OR ANY EMPLOYEE OF CONTRACTOR OR OF ANY INDEMNIFIED PARTY) ARISING OUT OF OR IN ANY MANNER CONNECTED WITH (I) ANY WORK PERFORMED BY CONTRACTOR, OR (II) ANY ACT OR OMISSION OF CONTRACTOR, ITS OFFICERS, AGENTS OR EMPLOYEES, OR (III) ANY BREACH OF THIS AGREEMENT BY CONTRACTOR.

B. THE RIGHT TO INDEMNITY UNDER THIS SECTION 8 SHALL ACCRUE UPON OCCURRENCE OF THE EVENT GIVING RISE TO THE LOSS, AND SHALL APPLY REGARDLESS OF ANY NEGLIGENCE OR STRICT LIABILITY OF ANY INDEMNIFIED PARTY, EXCEPT WHERE THE LOSS IS CAUSED BY THE SOLE ACTIVE NEGLIGENCE OF AN INDEMNIFIED PARTY AS ESTABLISHED BY THE FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION. THE SOLE ACTIVE NEGLIGENCE OF ANY INDEMNIFIED PARTY SHALL NOT BAR THE RECOVERY OF ANY OTHER INDEMNIFIED PARTY.

C. CONTRACTOR EXPRESSLY AND SPECIFICALLY ASSUMES POTENTIAL LIABILITY UNDER THIS SECTION 8 FOR CLAIMS OR ACTIONS BROUGHT BY CONTRACTOR'S OWN EMPLOYEES. CONTRACTOR WAIVES ANY IMMUNITY IT MAY HAVE UNDER WORKER'S COMPENSATION OR INDUSTRIAL INSURANCE ACTS TO INDEMNIFY THE INDEMNIFIED PARTIES UNDER THIS SECTION 8. CONTRACTOR ACKNOWLEDGES THAT THIS WAIVER WAS MUTUALLY NEGOTIATED BY THE PARTIES HERETO.

D. NO COURT OR JURY FINDINGS IN ANY EMPLOYEE'S SUIT PURSUANT TO ANY WORKER'S COMPENSATION ACT OR THE FEDERAL EMPLOYERS' LIABILITY ACT AGAINST A PARTY TO THIS AGREEMENT MAY BE RELIED UPON OR USED BY CONTRACTOR IN ANY ATTEMPT TO ASSERT LIABILITY AGAINST ANY INDEMNIFIED PARTY.

E. THE PROVISIONS OF THIS SECTION 8 SHALL SURVIVE THE COMPLETION OF ANY WORK PERFORMED BY CONTRACTOR OR THE TERMINATION OR EXPIRATION OF THIS AGREEMENT. IN NO EVENT SHALL THIS SECTION 8 OR ANY OTHER PROVISION OF THIS AGREEMENT BE DEEMED TO LIMIT ANY LIABILITY CONTRACTOR MAY HAVE TO ANY INDEMNIFIED PARTY BY STATUTE OR UNDER COMMON LAW.

Section 9. RESTORATION OF PROPERTY.

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this agreement shall be effective unless made in writing and signed by Contractor and Railroad. This agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

Contractor shall not assign or subcontract this agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors. Before Contractor commences any work, the Contractor shall, except to the extent prohibited by law; (1) require each of its subcontractors to include the Contractor as "Additional Insured" on the subcontractor's Commercial General Liability policy and Umbrella or Excess policies (if applicable) with respect to all liabilities arising out of the subcontractor's performance of work on behalf of the Contractor by endorsing these policies with ISO Additional Insured Endorsements CG 20 10, and CG 20 37 (or substitute forms providing equivalent coverage; (2) require each of its subcontractors to endorse their Commercial General Liability Policy with "Contractual Liability Railroads" ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage) for the job site; and (3) require each of its subcontractors to endorse their Business Automobile Policy with "Coverage For Certain Operations In Connection With Railroads" ISO Form CA 20 70 10 01 (or a substitute form providing equivalent coverage) for the job site.

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Attachment: 22-1002741 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)

EXHIBIT C
TO
CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT

Union Pacific Railroad Company
Insurance Requirements For
Contractor's Right of Entry Agreement

During the entire term of this Agreement and course of the Project, and until all Project work on Railroad's property has been completed and all equipment and materials have been removed from Railroad's property and Railroad's property has been clean and restored to Railroad's satisfaction, Contractor shall, at its sole cost and expense, procure and maintain the following insurance coverage:

- A. Commercial General Liability insurance.** Commercial general liability (CGL) with a limit of not less than \$5,000,000 each occurrence and an aggregate limit of not less than \$10,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.
- Designated Construction Project(s) General Aggregate Limit ISO Form CG 25 03 03 97 (or a substitute form providing equivalent coverage) showing the project on the form schedule.

- B. Business Automobile Coverage insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$5,000,000 for each accident and coverage must include liability arising out of any auto (including owned, hired and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

- C. Workers' Compensation and Employers' Liability insurance.** Coverage must include but not be limited to:
- Contractor's statutory liability under the workers' compensation laws of the state where the work is being performed.
 - Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Contractor is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

- D. Railroad Protective Liability insurance.** Contractor must maintain "Railroad Protective Liability" (RPL) insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this agreement and shall describe all WORK or OPERATIONS performed under this agreement. Contractor shall provide this agreement to Contractor's insurance agent(s) and/or broker(s) and Contractor shall instruct such agent(s) and/or broker(s) to procure the insurance coverage required by this agreement. A BINDER STATING THE POLICY IS IN PLACE MUST BE SUBMITTED TO RAILROAD BEFORE THE WORK MAY COMMENCE AND UNTIL THE ORIGINAL POLICY IS FORWARDED TO UNION PACIFIC RAILROAD.

- E. Umbrella or Excess insurance.** If Contractor utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.
- F. Pollution Liability insurance.** Pollution liability coverage must be included when the scope of the work as defined in the agreement includes installation, temporary storage, or disposal of any "hazardous" material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

If required, coverage may be provided in separate policy form or by endorsement to Contractors CGL or RPL. Any form coverage must be equivalent to that provided in ISO form CG 24 15 "Limited Pollution Liability Extension Endorsement" or CG 28 31 "Pollution Exclusion Amendment" with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

Other Requirements

- G.** All policy(ies) required above (except business automobile, worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsements CG 20 10, and CG 20 37 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall not be limited by Contractor's liability under the indemnity provisions of this agreement. BOTH CONTRACTOR AND RAILROAD EXPECT THAT UNION PACIFIC RAILROAD COMPANY WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORMS CG 20 10 AND CG 20 37.
- H.** Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this agreement, or (b) all punitive damages are prohibited by all states in which this agreement will be performed.
- I.** Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees for damages covered by the workers compensation and employers liability or commercial umbrella or excess liability obtained by Contractor required in this agreement where prohibited by law. This waiver must be stated on the certificate of insurance.
- J.** Prior to commencing the work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this agreement.
- K.** All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the work is being performed.
- L.** The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.

Contract Summary Sheet

8.c

General Contract Information

Contract No: 22-1002716 Amendment No.: _____

Contract Class: Payable Department: Project Delivery

Vendor No.: 00450 Vendor Name: California Department of Transportation (Caltrans)

Description: I-10 Cedar Avenue Interchange Improvement Project - Department Furnished Materials (DFM)

List Any Related Contract Nos.: _____

Dollar Amount							
Original Contract		\$	67,000.00	Original Contingency		\$	-
Prior Amendments		\$	-	Prior Amendments		\$	-
Current Amendment		\$	-	Current Amendment		\$	-
Total/Revised Contract Value		\$	67,000.00	Total Contingency Value		\$	-
	Total Dollar Authority (Contract Value and Contingency)					\$	67,000.0

Contract Authorization

Board of Directors Date: 05/04/2022 Board Item # 8572

Contract Management (Internal Purposes Only)

Other Contracts Local Sole Source? N/A No Budget Adjustment N/A

Funding Agreement N/A

Accounts Payable

Estimated Start Date: 05/04/2022 Expiration Date: 12/31/2039 Revised Expiration Date: _____

NHS: Yes QMP/QAP: Yes Prevailing Wage: N/A

							Total Contract Funding:		Total Contingency:	
Fund	Prog	Task	Sub-Task	Object	Revenue	PA Level	Revenue Code Name	\$		\$
GL	4120	40	0830	0897	53701	41100000	Measure I	67,000.00		-
GL	6010	40	0830	0897	53701	42340014	SB County	46,900.00		-
GL								20,100.00		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-

Heng Chow

Henry Stultz

Project Manager (Print Name)

Task Manager (Print Name)

Additional Notes: Only the \$67,000 DFM is paid thru SBCTA. The \$480,000 Construction Support cost does not go thru SBCTA.

Attachment: CSS_22-1002716 (8572 : I-10 Cedar Ave Interchange Improvement Project - Assignment Agreement, IFB, Coop Agreement)

Project No. 0800000579

EA 1A830

08-SBD-010-17.8/19.3

SBCTA Contract 22-1002716

COOPERATIVE AGREEMENT COVER SHEET

Work Description

WIDEN CEDAR AVE OC (BR#54-0035), REPLACE UPRR/CEDAR AVE OH (BR#54C-103),
MODIFY ON AND OFF RAMPS AND WIDEN CEDAR AVE.

Contact Information

CALTRANS

Raghuram Radhakrishnan, Project Manager
464 West 4th Street, 12th Floor
San Bernardino, CA 92401
Office Phone: (909) 665-3555
Email: Raghuram.Radhakrishnan@dot.ca.gov

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

Heng Chow, Project Manager
1170 W 3rd St. 2nd Floor
San Bernardino, CA 92410
Office Phone: (909) 884-8276
Email: hchow@gosbcta.com

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COOPERATIVE AGREEMENT DRAFT

This AGREEMENT, executed on and effective from _____, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

San Bernardino County Transportation Authority, a public corporation/entity, referred to hereinafter as SBCTA.

An individual signatory agency in this AGREEMENT is referred to as a PARTY. Collectively, the signatory agencies in this AGREEMENT are referred to as PARTIES.

RECITALS

1. PARTIES are authorized to enter into a cooperative agreement for improvements to the State Highway System per the California Streets and Highways Code, Sections 114 and 130.
2. For the purpose of this AGREEMENT, *Widen Cedar Ave OC (BR#54-0035), Replace UPRR/Cedar Ave OH (BR#54C-103), Modify on and off ramps and widen Cedar Ave.* will be referred to hereinafter as PROJECT. The PROJECT scope of work is defined in the project initiation and approval documents (e.g. Project Study Report, Design Engineering Evaluation Report, or Project Report).
3. All obligations and responsibilities assigned in this AGREEMENT to complete the following PROJECT COMPONENT will be referred to hereinafter as WORK:
 - CONSTRUCTION

Each PROJECT COMPONENT is defined in the CALTRANS Workplan Standards Guide as a distinct group of activities/products in the project planning and development process.

4. The term AGREEMENT, as used herein, includes this document and any attachments, exhibits, and amendments.

This AGREEMENT is separate from and does not modify or replace any other cooperative agreement or memorandum of understanding between the PARTIES regarding the PROJECT.

PARTIES intend this AGREEMENT to be their final expression that supersedes any oral understanding or writings pertaining to the WORK. The requirements of this AGREEMENT will preside over any conflicting requirements in any documents that are made an express part of this AGREEMENT.

If any provisions in this AGREEMENT are found by a court of competent jurisdiction to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other AGREEMENT provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this AGREEMENT.

Except as otherwise provided in the AGREEMENT, PARTIES will execute a written amendment if there are any changes to the terms of this AGREEMENT.

PARTIES agree to sign a CLOSURE STATEMENT to terminate this AGREEMENT. However, all indemnification, document retention, audit, claims, environmental commitment, legal challenge, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement or expire by the statute of limitations.

5. The following work associated with this PROJECT has been completed or is in progress:
 - The Mitigated Negative Declaration (MND) and Finding of No Significant Impact (FONSI) were signed by CALTRANS on June 28, 2013 (Cooperative Agreement No. 1316)
 - The County of San Bernardino completed the Project Report (Cooperative Agreement No. 1316)
 - SBCTA is currently in the process of completing the Right of Way certification (Cooperative Agreement No. 1681).
 - CALTRANS completed the Plans, Specification and Estimate on October 4, 2021. (Cooperative Agreement No. 1589).
6. In this AGREEMENT capitalized words represent defined terms, initialisms, or acronyms.
7. PARTIES hereby set forth the terms, covenants, and conditions of this AGREEMENT.

RESPONSIBILITIES

Sponsorship

8. A SPONSOR is responsible for establishing the scope of the PROJECT and securing the financial resources to fund the WORK. A SPONSOR is responsible for securing additional funds when necessary or implementing PROJECT changes to ensure the WORK can be completed with the funds obligated in this AGREEMENT.

PROJECT changes, as described in the CALTRANS Project Development Procedures Manual, will be approved by CALTRANS as the owner/operator of the State Highway System.

9. SBCTA is the SPONSOR for the WORK in this AGREEMENT.

Implementing Agency

10. The IMPLEMENTING AGENCY is the PARTY responsible for managing the scope, cost, schedule, and quality of the work activities and products of a PROJECT COMPONENT.

- SBCTA is the CONSTRUCTION IMPLEMENTING AGENCY.

CONSTRUCTION includes construction contract administration, surveying/staking, inspection, quality assurance, and assuring regulatory compliance. The CONSTRUCTION component budget identifies the capital costs of the construction contract/furnished materials (CONSTRUCTION CAPITAL) and the cost of the staff work in support of the construction contract administration (CONSTRUCTION SUPPORT).

11. SBCTA will provide a Quality Management Plan (QMP) for the WORK in every PROJECT COMPONENT that they are the IMPLEMENTING AGENCY of. The QMP describes the IMPLEMENTING AGENCY's quality policy and how it will be used. The QMP will include a process for resolving disputes between the PARTIES at the team level. The QMP is subject to CALTRANS review and approval.
12. Any PARTY responsible for completing WORK will make its personnel and consultants that prepare WORK available to help resolve WORK-related problems and changes for the entire duration of the PROJECT including PROJECT work that may occur under separate agreements.

Funding

13. Funding sources, PARTIES committing funds, funding amounts, and invoicing/payment details are documented in the Funding Summary section of this AGREEMENT.

PARTIES will amend this AGREEMENT by updating and replacing the Funding Summary, in its entirety, each time the funding details change. Funding Summary replacements will be executed by a legally authorized representative of the respective PARTIES. The most current fully executed Funding Summary supersedes any previous Funding Summary created for this AGREEMENT.

14. PARTIES will not be reimbursed for costs beyond the funds obligated in this AGREEMENT.

If an IMPLEMENTING AGENCY anticipates that funding for the WORK will be insufficient to complete the WORK, the IMPLEMENTING AGENCY will promptly notify the SPONSOR.

15. Unless otherwise documented in the Funding Summary, overall liability for project costs within a PROJECT COMPONENT will be in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
16. Unless otherwise documented in the Funding Summary, any savings recognized within a PROJECT COMPONENT will be credited or reimbursed, when allowed by policy or law, in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
17. WORK costs, except those that are specifically excluded in this AGREEMENT, are to be paid from the funds obligated in the Funding Summary. Costs that are specifically excluded from the funds obligated in this AGREEMENT are to be paid by the PARTY incurring the costs from funds that are independent of this AGREEMENT.

CALTRANS' Quality Management

18. CALTRANS, as the owner/operator of the State Highway System (SHS), will perform quality management work including Quality Management Assessment (QMA) and owner/operator approvals for the portions of WORK within the existing and proposed SHS right-of-way.
19. CALTRANS' Quality Management Assessment (QMA) efforts are to ensure that SBCTA's quality assurance results in WORK that is in accordance with the applicable standards and the PROJECT's quality management plan (QMP). QMA does not include any efforts necessary to develop or deliver WORK or any validation by verifying or rechecking WORK.

When CALTRANS performs QMA, it does so for its own benefit. No one can assign liability to CALTRANS due to its QMA.

20. CALTRANS, as the owner/operator of the State Highway System, will approve WORK products in accordance with CALTRANS policies and guidance and as indicated in this AGREEMENT.
21. SBCTA will provide WORK-related products and supporting documentation upon CALTRANS' request for the purpose of CALTRANS' quality management work.

CEQA/NEPA Lead Agency

22. CALTRANS is the CEQA Lead Agency for the PROJECT.
23. CALTRANS is the NEPA Lead Agency for the PROJECT.

Environmental Permits, Approvals and Agreements

24. PARTIES will comply with the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to each PARTY's responsibilities in this AGREEMENT.
25. Unless otherwise assigned in this AGREEMENT, the IMPLEMENTING AGENCY for a PROJECT COMPONENT is responsible for all PROJECT COMPONENT WORK associated with coordinating, obtaining, implementing, renewing, and amending the PROJECT permits, agreements, and approvals whether they are identified in the planned project scope of work or become necessary in the course of completing the PROJECT.
26. The PROJECT requires the following environmental permits/approvals:

ENVIRONMENTAL PERMITS/REQUIREMENTS

State Waste Discharge Requirements (Porter Cologne), Regional Water Quality Control Board

CONSTRUCTION

27. As the CONSTRUCTION IMPLEMENTING AGENCY, SBCTA is responsible for all CONSTRUCTION WORK except those activities and responsibilities that are assigned to another PARTY and those activities that are excluded under this AGREEMENT.

28. CALTRANS will be responsible for completing the following CONSTRUCTION SUPPORT activities:

CALTRANS Work Breakdown Structure Identifier (If Applicable)	AGREEMENT Funded Cost
100.20..xx Quality Management	No
270.xx Provide Design Support during construction including responding to contractors inquiries, processing change orders and completing as-built drawings	Yes

29. Physical and legal possession of the right-of-way must be completed prior to advertising the construction contract, unless PARTIES mutually agree to other arrangements in writing.
30. Right-of-way conveyances must be completed prior to WORK completion, unless PARTIES mutually agree to other arrangements in writing.
31. SBCTA will include a Disadvantaged Business Enterprise (DBE) utilization goal in the PROJECT construction contract(s) in accordance with the Local Assistance Procedures Manual. SBCTA will award the construction contract to the lowest responsive bidder who makes a Good Faith Effort to meet the DBE goal.
32. CALTRANS will not issue an encroachment permit to SBCTA for construction work until the following conditions are met:
- CALTRANS accepts the final plans, specifications, and estimate
 - CALTRANS accepts the Right-of-Way Certification
 - Any new or amended maintenance agreements required for the WORK are executed.
 - Any new or amended Freeway Agreement required for the WORK are executed.
33. SBCTA will require the construction contractor to furnish payment and performance bonds naming SBCTA as obligee, and CALTRANS as additional obligee, and to carry liability insurance in accordance with CALTRANS Standard Specifications.

34. SBCTA will advertise, open bids, award, and approve the construction contract in accordance with the California Public Contract Code and the California Labor Code. By accepting responsibility to advertise and award the construction contract, SBCTA also accepts responsibility to administer the construction contract.
35. CALTRANS will not issue an encroachment permit to SBCTA's construction contractor until CALTRANS accepts:
- The payment and performance bonds
 - The CONSTRUCTION Quality Management Plan
36. The CONSTRUCTION Quality Management Plan (QMP) will describe how construction material verification and workmanship inspections will be performed at manufacturing sources and the PROJECT job-site. The construction material and Source Inspection QMP (SIQMP) are subject to review and approval by the State Materials Engineer.
37. The CONSTRUCTION Quality Management Plan will address the radiation safety requirements of the California Code of Regulations 17 CCR § 30346 when the work requires Gamma-Gamma Logging acceptance testing for Cast in Drilled Hole (CIDH) pile or whenever else it is applicable. In accordance with these regulations SBCTA, as the "well operator", will have a written agreement with any consultant or external entity performing these tests.
38. SBCTA will provide a Resident Engineer and CONSTRUCTION SUPPORT staff that are independent of the construction contractor. The Resident Engineer will be a Civil Engineer, licensed in the State of California, who is responsible for construction contract administration activities.
39. SBCTA will provide a landscape architect who will be responsible for all landscaping activities within the State Highway System. SBCTA's maintenance responsibilities include a (1) year plant establishment period during the construction phase and another two (2) years of plant establishment and maintenance period after construction.
40. As part of SBCTA's maintenance responsibilities, during construction of PROJECT and for the one (1) year plant establishment period and for the first two (2) years of the plant maintenance period following construction, SBCTA shall make all necessary arrangements with the local utility company for payment and billing of water supplied for PROJECT, after which time CALTRANS will make arrangements with the utility company to transfer billing and be responsible for payment of water supplied for PROJECT.

41. CALTRANS will review and concur with:
- Change Orders affecting public safety, public convenience, protected environmental resources, the preservation of property, all design and specification changes, and all major changes as defined in the CALTRANS Construction Manual. These Change Orders must receive written concurrence by CALTRANS prior to implementation.
 - The Stormwater Pollution Prevention Plan (SWPPP) or the Water Pollution Control Plan (WPCP).
42. SBCTA will administer and process all construction contract claims pursuant to the requirements set forth under Public Contract Code, Section 9204. In addition, all public works claims of \$375,000 or less shall be resolved in accordance with Public Contract Code Section 20104, et seq. and other applicable laws.
43. SBCTA is designated as the Legally Responsible Person pursuant to the Construction General Permit, State Water Resources Control Board (SWRCB) Order Number 2009-0009-DWQ, as defined in Appendix 5, Glossary, and assumes all roles and responsibilities assigned to the Legally Responsible Person as mandated by the Construction General Permit. SBCTA is required to comply with the CALTRANS MS4 National Pollutant Discharge Elimination System (NPDES) permit for all work within the State Highway System.
44. SBCTA will submit a written request to CALTRANS for any Department Furnished Material (DFM) identified in the PROJECT plans, specifications, and estimate a minimum of forty-five (45) working days prior to the construction start of work. SBCTA will submit a written request to CALTRANS for any additional DFM deemed necessary during the PROJECT construction.

CALTRANS will make the DFM available at a CALTRANS-designated location.

45. As the CONSTRUCTION IMPLEMENTING AGENCY, SBCTA is responsible for maintenance of the State Highway System (SHS) within the PROJECT limits as part of the construction contract until the following conditions are met:

- Any required maintenance agreements are executed for the portions of SHS for which relief of maintenance is to be granted.
- CALTRANS approves a request from SBCTA for relief from maintenance of the PROJECT or a portion thereof.

46. Upon WORK completion, ownership or title to all materials and equipment constructed or installed for the operations and/or maintenance of the State Highway System (SHS) within SHS right-of-way as part of WORK become the property of CALTRANS.

CALTRANS will not accept ownership or title to any materials or equipment constructed or installed outside SHS right-of-way.

47. Within one hundred eighty (180) calendar days following the completion and acceptance of the PROJECT construction contract, SBCTA will furnish CALTRANS with a complete set of “As-Built” plans and Change Orders, including any changes authorized by CALTRANS, using an approved transfer mechanism, such as a CD ROM, flash drive, Filr. The submitted digital files must be completed in accordance with Caltrans specifications, policies, and manuals, including requirements in Sections 2 and 3, of Chapter 17 in the Project Development Procedures Manual, then current CADD User’s Manual (Section 4.3), Plans Preparation Manual, and CALTRANS practice. The plans will have the Resident Engineer’s name, contract number, and construction contract acceptance date printed on each plan sheet, and with the Resident Engineer’s signature only on the title sheet. The As-Built plans will be in Microstation DGN format, version 8.0. When applicable, the digital submittal must also include high accuracy locating and underground facilities data. In addition, SBCTA will provide one set of As-Built plans and addenda in TIFF format.

The submittal must also include all CALTRANS requested contract records, and land survey documents. The land survey documents include monument preservation documents and records of surveys prepared to satisfy the requirements of the California Land Surveyors Act (Business and Professions Code, Sections 8700 – 8805). Copies of survey documents and Records of Surveys filed in accordance with Business & Professions Code, Sections 8762 and 8771, will contain the filing information provided by the county in which filed.

Schedule

48. PARTIES will manage the WORK schedule to ensure the timely use of obligated funds and to ensure compliance with any environmental permits, right-of-way agreements, construction contracts, and any other commitments. PARTIES will communicate schedule risks or changes as soon as they are identified and will actively manage and mitigate schedule risks.
49. The IMPLEMENTING AGENCY for each PROJECT COMPONENT will furnish PARTIES with a final report of the WORK completed.

Additional Provisions**Standards**

50. PARTIES will perform all WORK in accordance with federal and California laws, regulations, and standards; Federal Highway Administration (FHWA) standards; and CALTRANS standards. CALTRANS standards include, but are not limited to, the guidance provided in the:
- CADD Users Manual
 - CALTRANS policies and directives
 - Plans Preparation Manual
 - Project Development Procedures Manual (PDPM)
 - Workplan Standards Guide
 - Construction Manual
 - Construction Manual Supplement for Local Agency Resident Engineers
 - Local Agency Structure Representative Guidelines

Noncompliant Work

51. CALTRANS retains the right to reject noncompliant WORK. SBCTA agrees to suspend WORK upon request by CALTRANS for the purpose of protecting public safety, preserving property rights, and ensuring that all WORK is in the best interest of the State Highway System.

Qualifications

52. Each PARTY will ensure that personnel participating in WORK are appropriately qualified or licensed to perform the tasks assigned to them.

Consultant Selection

53. SBCTA will invite CALTRANS to participate in the selection of any consultants that participate in the WORK.

Encroachment Permits

54. CALTRANS will issue, upon proper application, the encroachment permits required for WORK within State Highway System (SHS) right-of-way. SBCTA, their contractors, consultants, agents and utility owners will not work within the SHS right-of-way without an encroachment permit issued in their name. CALTRANS will provide encroachment permits to SBCTA, their contractors, consultants, and agents at no cost. CALTRANS will provide encroachment permits to utility owners at no cost. If the encroachment permit and this AGREEMENT conflict, the requirements of this AGREEMENT will prevail.
55. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will coordinate, prepare, obtain, implement, renew, and amend any encroachment permits needed to complete the WORK.

Protected Resources

56. If any PARTY discovers unanticipated cultural, archaeological, paleontological, or other protected resources during WORK, all WORK in that area will stop and that PARTY will notify all PARTIES within 24 hours of discovery. WORK may only resume after a qualified professional has evaluated the nature and significance of the discovery and CALTRANS approves a plan for its removal or protection.

Disclosures

57. PARTIES will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the WORK in confidence to the extent permitted by law and where applicable, the provisions of California Government Code, Section 6254.5(e) will protect the confidentiality of such documents in the event that said documents are shared between PARTIES.

PARTIES will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete the WORK without the written consent of the PARTY authorized to release them, unless required or authorized to do so by law.

58. If a PARTY receives a public records request pertaining to the WORK, that PARTY will notify PARTIES within five (5) working days of receipt and make PARTIES aware of any disclosed public records.

Hazardous Materials

59. HM-1 is hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law, irrespective of whether it is disturbed by the PROJECT or not.

HM-2 is hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law only if disturbed by the PROJECT.

The management activities related to HM-1 and HM-2, including and without limitation, any necessary manifest requirements and disposal facility designations are referred to herein as HM-1 MANAGEMENT and HM-2 MANAGEMENT respectively.

60. If HM-1 or HM-2 is found the discovering PARTY will immediately notify all other PARTIES.

61. CALTRANS, independent of the PROJECT, is responsible for any HM-1 found within the existing State Highway System right-of-way. CALTRANS will undertake, or cause to be undertaken, HM-1 MANAGEMENT with minimum impact to the PROJECT schedule.

CALTRANS will pay, or cause to be paid, the cost of HM-1 MANAGEMENT for HM-1 found within the existing State Highway System right-of-way with funds that are independent of the funds obligated in this AGREEMENT.

62. If HM-1 is found within the PROJECT limits and outside the existing State Highway System right-of-way, responsibility for such HM-1 rests with the owner(s) of the parcel(s) on which the HM-1 is found. SBCTA, in concert with the local agency having land use jurisdiction, will ensure that HM-1 MANAGEMENT is undertaken with minimum impact to PROJECT schedule.

The cost of HM-1 MANAGEMENT for HM-1 found within the PROJECT limits and outside the existing State Highway System right-of-way will be paid from funds that are independent of the funds obligated in this AGREEMENT and will be the responsibility of the owner(s) of the parcel(s) where the HM-1 is located.

63. The CONSTRUCTION IMPLEMENTING AGENCY is responsible for HM-2 MANAGEMENT within the PROJECT limits.

SBCTA and CALTRANS will comply with the Soil Management Agreement for Aerially Deposited Lead Contaminated Soils (Soil Management Agreement) executed between CALTRANS and the California Department of Toxic Substances Control (DTSC). Under Section 3.2 of the Soil Management Agreement, CALTRANS and SBCTA each retain joint and severable liability for noncompliance with the provisions of the Soil Management Agreement. SBCTA will assume all responsibilities assigned to CALTRANS in the Soil Management Agreement during PROJECT COMPONENTS for which they are the IMPLEMENTING AGENCY except for final placement and burial of soil within the State right-of-way, per Section 4.5 of the Soil Management Agreement, which is subject to CALTRANS concurrence and reporting to DTSC which will be performed by CALTRANS.

64. CALTRANS' acquisition or acceptance of title to any property on which any HM-1 or HM-2 is found will proceed in accordance with CALTRANS' policy on such acquisition.

Claims

65. Any PARTY that is responsible for completing WORK may accept, reject, compromise, settle, or litigate claims arising from the WORK without concurrence from the other PARTY.
66. PARTIES will confer on any claim that may affect the WORK or PARTIES' liability or responsibility under this AGREEMENT in order to retain resolution possibilities for potential future claims. No PARTY will prejudice the rights of another PARTY until after PARTIES confer on the claim.
67. If the WORK expends state or federal funds, each PARTY will comply with the Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards of 2 CFR, Part 200. PARTIES will ensure that any for-profit consultant hired to participate in the WORK will comply with the requirements in 48 CFR, Chapter 1, Part 31. When state or federal funds are expended on the WORK these principles and requirements apply to all funding types included in this AGREEMENT.

Accounting and Audits

68. PARTIES will maintain, and will ensure that any consultant hired by PARTIES to participate in WORK will maintain, a financial management system that conforms to Generally Accepted Accounting Principles (GAAP), and that can properly accumulate and segregate incurred PROJECT costs and billings.
69. PARTIES will maintain and make available to each other all WORK-related documents, including financial data, during the term of this AGREEMENT.

PARTIES will retain all WORK-related records for three (3) years after the final voucher.

PARTIES will require that any consultants hired to participate in the WORK will comply with this Article.

70. PARTIES have the right to audit each other in accordance with generally accepted governmental audit standards.

CALTRANS, the State Auditor, FHWA (if the PROJECT utilizes federal funds), and SBCTA will have access to all WORK -related records of each PARTY, and any consultant hired by a PARTY to participate in WORK, for audit, examination, excerpt, or transcription.

The examination of any records will take place in the offices and locations where said records are generated and/or stored and will be accomplished during reasonable hours of operation. The auditing PARTY will be permitted to make copies of any WORK-related records needed for the audit.

The audited PARTY will review the draft audit, findings, and recommendations, and provide written comments within thirty (30) calendar days of receipt.

Upon completion of the final audit, PARTIES have forty-five (45) calendar days to refund or invoice as necessary in order to satisfy the obligation of the audit.

Any audit dispute not resolved by PARTIES is subject to mediation. Mediation will follow the process described in the General Conditions section of this AGREEMENT.

71. If the WORK expends state or federal funds, each PARTY will undergo an annual audit in accordance with the Single Audit Act in the Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as defined in 2 CFR, Part 200.
72. When a PARTY reimburses a consultant for WORK with state or federal funds, the procurement of the consultant and the consultant overhead costs will be in accordance with the Local Assistance Procedures Manual, Chapter 10.

Interruption of Work

73. If WORK stops for any reason, each PARTY will continue with environmental commitments included in the environmental documentation, permits, agreements, or approvals that are in effect at the time that WORK stops, and will keep the PROJECT in environmental compliance until WORK resumes.

Penalties, Judgements and Settlements

74. The cost of awards, judgements, fines, interest, penalties, attorney's fees, and/or settlements generated by the WORK are considered WORK costs.
75. The cost of legal challenges to the environmental process or documentation are considered WORK costs.
76. Any PARTY whose action or lack of action causes the levy of fines, interest, or penalties will indemnify and hold all other PARTIES harmless per the terms of this AGREEMENT.

Environmental Compliance

77. If during performance of WORK additional activities or environmental documentation is necessary to keep the PROJECT in environmental compliance, PARTIES will amend this AGREEMENT to include completion of those additional tasks.

GENERAL CONDITIONS

78. All portions of this AGREEMENT, including the Recitals Section, are enforceable.

Venue

79. PARTIES understand that this AGREEMENT is in accordance with and governed by the Constitution and laws of the State of California. This AGREEMENT will be enforceable in the State of California. Any PARTY initiating legal action arising from this AGREEMENT will file and maintain that legal action in the Superior Court of the county in which the CALTRANS district office that is signatory to this AGREEMENT resides, or in the Superior Court of the county in which the PROJECT is physically located.

Exemptions

80. All CALTRANS' obligations under this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, programming and allocation of funds by the California Transportation Commission (CTC).

Indemnification

81. Neither CALTRANS nor any of its officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SBCTA, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SBCTA under this AGREEMENT. It is understood and agreed that SBCTA, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of their officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by SBCTA, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
82. Neither SBCTA nor any of its officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless SBCTA and all of their officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.

Non-parties

83. PARTIES do not intend this AGREEMENT to create a third party beneficiary or define duties, obligations, or rights for entities not signatory to this AGREEMENT. PARTIES do not intend this AGREEMENT to affect their legal liability by imposing any standard of care for fulfilling the WORK different from the standards imposed by law.
84. PARTIES will not assign or attempt to assign obligations to entities not signatory to this AGREEMENT without an amendment to this AGREEMENT.

Ambiguity and Performance

85. Neither PARTY will interpret any ambiguity contained in this AGREEMENT against the other PARTY. PARTIES waive the provisions of California Civil Code, Section 1654.

A waiver of a PARTY's performance under this AGREEMENT will not constitute a continuous waiver of any other provision.

86. A delay or omission to exercise a right or power due to a default does not negate the use of that right or power in the future when deemed necessary.

Defaults

87. If any PARTY defaults in its performance of the WORK, a non-defaulting PARTY will request in writing that the default be remedied within thirty (30) calendar days. If the defaulting PARTY fails to do so, the non-defaulting PARTY may initiate dispute resolution.

Dispute Resolution

88. PARTIES will first attempt to resolve AGREEMENT disputes at the PROJECT team level as described in the Quality Management Plan. If they cannot resolve the dispute themselves, the CALTRANS District Director and the Executive Officer of SBCTA will attempt to negotiate a resolution. If PARTIES do not reach a resolution, PARTIES' legal counsel will initiate mediation. PARTIES agree to participate in mediation in good faith and will share equally in its costs.

Neither the dispute nor the mediation process relieves PARTIES from full and timely performance of the WORK in accordance with the terms of this AGREEMENT. However, if any PARTY stops fulfilling its obligations, any other PARTY may seek equitable relief to ensure that the WORK continues.

Except for equitable relief, no PARTY may file a civil complaint until after mediation, or forty-five (45) calendar days after filing the written mediation request, whichever occurs first.

PARTIES will file any civil complaints in the Superior Court of the county in which the CALTRANS District Office signatory to this AGREEMENT resides or in the Superior Court of the county in which the PROJECT is physically located.

89. PARTIES maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.

Prevailing Wage

90. When WORK falls within the Labor Code § 1720(a)(1) definition of "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code § 1771, PARTIES will conform to the provisions of Labor Code §§ 1720-1815, and all applicable provisions of California Code of Regulations, Title 8, Division 1, Chapter 8, Subchapter 3, Articles 1-7. PARTIES will include prevailing wage requirements in contracts for public work and require contractors to include the same prevailing wage requirements in all subcontracts.

Work performed by a PARTY's own employees is exempt from the Labor Code's Prevailing Wage requirements.

If WORK is paid for, in whole or part, with federal funds and is of the type of work subject to federal prevailing wage requirements, PARTIES will conform to the provisions of the Davis-Bacon and Related Acts, 40 U.S.C. §§ 3141-3148.

When applicable, PARTIES will include federal prevailing wage requirements in contracts for public works. WORK performed by a PARTY's employees is exempt from federal prevailing wage requirements.

SIGNATURES

PARTIES are authorized to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and hereby covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT. By signing below, the PARTIES each expressly agree to execute this AGREEMENT electronically.

The PARTIES acknowledge that executed copies of this AGREEMENT may be exchanged by facsimile or email, and that such copies shall be deemed to be effective as originals.

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

Michael D. Beauchamp
District Director

Verification of funds and authority:

Corina Harriman
District Budget Manager

Certified as to financial terms and policies:

Darwin Salmos
HQ Accounting Supervisor

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

Curt Hagman
President, Board of Directors
(not for signature at this time)

Approved as to form:

Juanda L. Daniel
Assistant General Counsel

FUNDING SUMMARY NO. 01

<u>FUNDING TABLE</u>					
<u>IMPLEMENTING AGENCY</u> →			<u>SBCTA</u>		Totals
Source	Party	Fund Type	CONST. SUPPORT	CONST. CAPITAL	
LOCAL-FEDERAL	SBCTA	RSTP ^T	480,000	0	480,000
LOCAL	SBCTA	Local	11,375,000	79,000,000	90,375,000
Totals			11,855,000	79,000,000	90,855,000

^TToll Credits applied

SPENDING SUMMARY					
Fund Type	CONST. SUPPORT		CONST. CAPITAL		Totals
	CALTRANS	SBCTA	SBCTA	DFM CALTRANS	
RSTP	480,000	0	0	0	480,000
Local	0	11,375,000	78,933,000	67,000	90,375,000
Totals	480,000	11,375,000	78,933,000	67,000	90,855,000

Funding

1. If there are insufficient funds available in this AGREEMENT to place the PROJECT right-of-way in a safe and operable condition, the appropriate IMPLEMENTING AGENCY will fund these activities until such time as PARTIES amend this AGREEMENT.

That IMPLEMENTING AGENCY may request reimbursement for these costs during the amendment process.

2. If there are insufficient funds in this AGREEMENT to implement the obligations and responsibilities of this AGREEMENT, including the applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, and/or approvals that are in effect at a time that WORK stops, each PARTY accepts responsibility to fund their respective WORK until such time as PARTIES amend this AGREEMENT.

Each PARTY may request reimbursement for these costs during the amendment process.

ICRP Rate

3. The cost of any engineering support performed by CALTRANS includes all direct and applicable indirect costs. CALTRANS calculates indirect costs based solely on the type of funds used to pay support costs. State and federal funds administered by CALTRANS are subject to the current Program Functional Rate. All other funds are subject to the current Program Functional Rate and the current Administration Rate. The Program Functional Rate and Administration Rate are adjusted periodically.

In accordance with California Senate Bill 848, the Administration Rate is capped at 10 percent until January 1, 2023, for Self-Help Counties with a countywide sales tax measure dedicated to transportation improvements.

4. In accordance with the CALTRANS Federal-Aid Project Funding Guidelines, PARTIES must obtain approval from the Federal Highway Administration prior to any PROJECT funding changes that that will change the federal share of funds.

5. Notwithstanding the terms of this AGREEMENT, PARTIES agree to abide by the STIP guidelines that require the PARTIES to apportion the project cost increases and savings in the same proportion as the current programmed ratio of funds that are not strictly a one-time only grant. In the alternate, PARTIES may be able to apportion cost increases and savings according to a cost sharing arrangement between the PARTIES that is approved by the CTC.

Invoicing and Payment

6. PARTIES will invoice for funds where the SPENDING SUMMARY shows that one PARTY provides funds for use by another PARTY. PARTIES will pay invoices within forty-five (45) calendar days of receipt of invoice when not paying with Electronic Funds Transfer (EFT). When paying with EFT, SBCTA will pay invoices within five (5) calendar days of receipt of invoice.
7. If SBCTA has received EFT certification from CALTRANS then SBCTA will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
8. When a PARTY is reimbursed for actual cost, invoices will be submitted each month for the prior month's expenditures. After all PROJECT COMPONENT WORK is complete, PARTIES will submit a final accounting of all PROJECT COMPONENT costs. Based on the final accounting, PARTIES will invoice or refund as necessary to satisfy the financial commitments of this AGREEMENT.
9. CALTRANS will draw from federal funds that are provided by SBCTA without invoicing SBCTA when CALTRANS administers those funds and CALTRANS has been allocated those funds by the Federal Resources office processed through the Local Assistance Division.

CONSTRUCTION Support

10. No invoicing or reimbursement will occur for the CONSTRUCTION SUPPORT PROJECT COMPONENT.

CONSTRUCTION Capital

11. No invoicing or reimbursement will occur for the CONSTRUCTION CAPITAL PROJECT COMPONENT.

Department Furnished Materials (DFM)

11. CALTRANS will invoice SBCTA for a \$25,000 initial deposit for DFM after execution of this AGREEMENT and forty-five (45) working days prior to commencement of WORK.
12. CALTRANS will invoice and SBCTA will reimburse for actual costs incurred and paid.

DRAFT

Minute Action

AGENDA ITEM: 9

Date: May 4, 2022

Subject:

Construction and Maintenance Agreement No. 22-1002699 for Mount Vernon Avenue Bridge Project

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

Approve Agreement No. 22-1002699 with Southern California Regional Rail Authority (SCRRA) and the City of San Bernardino (City), for defining roles, responsibilities, and funding for the construction and maintenance of the new Mount Vernon Avenue bridge in the City. These responsibilities include provisions whereby SBCTA constructs the portion of the new bridge over SCRRA rail lines, SBCTA conveys an aerial easement and footing easements to the City upon completion of construction, the City maintains that portion of the bridge after completion of construction, and SBCTA pays for actual costs for SCRRA construction support, utility relocations, and other SCRRA expenses defined in the agreement at an estimated cost of \$2,936,681.

Background:

Deconstruction of the existing Mt. Vernon Avenue bridge (Project) over the Southern California Regional Rail Authority (SCRRA) and BNSF Railway Company rail lines and facilities was completed in Spring 2021. San Bernardino County Transportation Authority (SBCTA) and SCRRA entered into Agreement No. 19-1002210, approved at the January 2020 Board of Directors meeting, which specified roles, responsibilities, funding, and parameters for work execution for the deconstruction of the existing structurally deficient bridge. This agreement also covered the oversight for the design of a new bridge and development of construction and maintenance terms that would be reflected in either an amendment to Agreement No. 19-1002210 or a new agreement.

The design of the new bridge over the SCRRA and BNSF rail lines has now been completed and due to the number of details covering the next phases of the Project, it has been agreed that execution of a new agreement between SCRRA, SBCTA and the City of San Bernardino (City) is appropriate. This agreement will allow pre-construction activities, such as the design and relocation of conflicting utilities and oversight for the construction of the new bridge to commence. SCRRA has estimated a cost of \$2,936,681 for their support of the Project. Their costs include the design and relocation of existing utilities that interfere with the new bridge construction and for providing flagging and inspection services to provide safe work windows for the construction of the new bridge. SBCTA will pay the actual costs for these services per the agreement.

Construction of the new bridge is anticipated to start in the first quarter of 2023 and completed at the end of 2024 or early 2025. Before construction can start, the utility relocations need to be complete as there is a current conflict with one of the foundation locations. Upon completion of the new bridge construction, SBCTA will turn the bridge over to the City for their ongoing maintenance of the structure. This agreement provides the parameters and requirements for SBCTA construction and City maintenance of the new bridge.

Entity: San Bernardino County Transportation Authority

Board of Directors Agenda Item

May 4, 2022

Page 2

This agreement also specifies that SBCTA will convey an aerial easement and footing easements for the portion of the new bridge over the SCRRA and BNSF rail lines to the City upon completion of construction. The existing SCRRA and BNSF rail lines and the portion of the new bridge over these lines are on property owned by SBCTA. As such, SBCTA will not need to acquire any property rights to construct the new bridge in this area. SBCTA will convey the bridge to the City upon completion of construction for the City to own and maintain. This agreement commits SBCTA to convey easements to the City for the new bridge location coincident with completion of construction and conveyance of the bridge to the City.

The Project is funded by a combination of Federal Highway Bridge Program (HBP) funds, Federal Highway Infrastructure Program (HIP) funds, State Proposition 1B funds, a contribution from BNSF Railway Company, and City funds, including City Measure I Arterial funds and City Developer Impact Fees.

Financial Impact:

This item is consistent with the Fiscal Year 2021/2022 Budget under Task No. 860, Valley Major Streets, Sub-Task No. 0827.

Reviewed By:

This item was reviewed and recommended for approval (16-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on April 14, 2022. SBCTA General Counsel and Risk Manager have reviewed this item and the draft agreement.

Responsible Staff:

Dennis Saylor, Project Manager

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

General Contract Information

Contract No: 22-1002699 Amendment No.: _____

Contract Class: Payable Department: Project Delivery

Vendor No.: 02003 Vendor Name: Southern California Regional Rail Authority

Description: Construction and Maintenance Agreement for Mt. Vernon Viaduct Bridge Project with SCRRA and City of San Bernardino

List Any Related Contract Nos.: _____

Dollar Amount							
Original Contract		\$	2,936,681.00	Original Contingency		\$	-
Prior Amendments		\$	-	Prior Amendments		\$	-
Current Amendment		\$	-	Current Amendment		\$	-
Total/Revised Contract Value		\$	2,936,681.00	Total Contingency Value		\$	-
	Total Dollar Authority (Contract Value and Contingency)					\$	2,936,681.00

Contract Authorization

Board of Directors _____ Date: 05/04/2022 Board _____ Item # 8573

Contract Management (Internal Purposes Only)

Capital Project Contracts _____ Sole Source? N/A _____ N/A

Federal/State/Local _____ Construction and Maintenance Agreement _____ N/A

Accounts Payable

Estimated Start Date:		05/04/2022		Expiration Date:		12/31/2039		Revised Expiration Date:			
NHS:		No		QMP/QAP:		N/A		Prevailing Wage:		N/A	
								Total Contract Funding:		Total Contingency:	
Fund		Prog		Task		Sub-Task		Object		Revenue	
PA Level		Revenue Code Name		\$		2,936,681.00		\$		-	
GL: 2080:		40:		0860:		0827:		53701:		42106802	
650		HBP		2,330,256.37		-		-		-	
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Dennis Saylor

Henry Stultz

Project Manager (Print Name)

Task Manager (Print Name)

Additional Notes:

Attachment: MVV SCRRA CMA CSS (8573 : Construction and Maintenance Agreement No. 22-1002699 for Mount Vernon Avenue Bridge

CONSTRUCTION AND MAINTENANCE AGREEMENT 22-1002699

for

MOUNT VERNON AVENUE VIADUCT REPLACEMENT

CROSSING OVER METROLINK TRACKS

between

SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

and

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

Covering the

CONSTRUCTION

and between

SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (SCRRA)

and

CITY OF SAN BERNARDINO

Covering the future

MAINTENANCE

at

CPUC No. 101SG-56.26-A DOT NO.: 026731F

SAN GABRIEL SUBDIVISION MP 56.32

BRIDGE NO.: 54C-0797

In the

CITY OF SAN BERNARDINO,

COUNTY OF SAN BERNARDINO, CALIFORNIA

CONSTRUCTION AND MAINTENANCE AGREEMENT

For

MOUNT VERNON AVENUE VIADUCT REPLACEMENT

This Construction and Maintenance Agreement ("AGREEMENT") is made and entered into as of the ____ day of _____, 20____, by and between the **SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY**, a joint powers authority existing under the laws of the State of California (hereinafter referred to as "SCRRA"), to be addressed at 900 Wilshire Blvd., Suite 1500, Los Angeles, California 90017, and the **SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY**, the duly constituted transportation authority for San Bernardino County (hereinafter referred to as "SBCTA"), to be addressed at 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410, and the **CITY OF SAN BERNARDINO**, a California charter city and a municipal corporation duly organized and existing under the laws of the State of California (hereinafter referred to as the "CITY"), to be addressed at 290 North D Street, San Bernardino, California 92401. Herein, SCRRA, SBCTA, and CITY may be individually referred to as A "PARTY" and collectively referred to as the "**PARTIES.**"

RECITALS:

WHEREAS, SCRRA is a five-county joint powers authority, created pursuant to California Public Utilities Code Section 130255 and California Government Code Section 6500 et seq., to build, maintain, administer, and operate the "METROLINK" commuter train system on railroad rights-of-way owned by the member agencies and through other shared use and joint operation agreements. The five-county member agencies are comprised of the following: Los Angeles County Metropolitan Transportation Authority ("LACMTA"), Ventura County Transportation ("VCTC"),

Orange County Transportation Authority (“OCTA”), San Bernardino County Transportation Authority (“SBCTA”), and Riverside County Transportation Commission (“RCTC”).

WHEREAS, SCRRA controls, administers, operates, and maintains the railroad track, structures, signals, communication, positive train control (“PTC”) systems, and appurtenances on the rail line known as the San Gabriel Subdivision in the area of the proposed Mount Vernon Avenue Viaduct located at the westerly portal to the Metrolink San Bernardino Depot Station.

WHEREAS, SCRRA and the “Operating Railroads” [as used herein “Operating Railroads” means any passenger or freight-related railroad company(s) operating on SCRRA track(s), including the National Railroad Passenger Corporation (“AMTRAK”) and the Burlington Northern Santa Fe (“BNSF”)] operate trains and rail equipment under the Mount Vernon Avenue Viaduct on right-of-way owned by BNSF. In accordance with various agreements including but not limited to: the March 1993 “Pasadena – Redlands Easement” document, which covers SBCTA’s easement rights between the easterly end of the former Pasadena Subdivision (now the San Gabriel Subdivision) and the westerly end of the Redlands Subdivision, subject to the December 1992 “Pasadena- Redlands Trackage Rights” document, which provides SBCTA’s rights to use two (2) tracks located within this easement; the Shared Use Agreement between the Atchison, Topeka, and Santa Fe Railway Company and San Bernardino Associated Governments, dated October 30, 1992 and subsequent amendments to said agreement; and the Agreement between SCRRA, its Member Agencies, and AMTRAK dated March 1, 1994, and otherwise known as the “Intercity Agreement”.

WHEREAS, in 2016, CITY and SBCTA entered into a Cooperative Agreement, No. 16-1001477 (“Original Agreement”) to delineate roles, responsibilities, and funding commitments relative to the environmental clearance, design and right-of-way

("ROW") phases of the PROJECT (as defined herein) for a design-build ("DB") project delivery method.

WHEREAS, CITY and SBCTA have twice amended the Original Agreement: Amendment No. 1 provides that SBCTA will provide project management services and be the implementing agency for the environmental clearance, preliminary design, ROW, and DB phases of the PROJECT as authorized by AB 1523 for a DB project delivery method; and Amendment No. 2 clarifies estimated PROJECT costs and funding.

WHEREAS, SBCTA is undertaking to remove the CITY'S former Mount Vernon Avenue viaduct and replace it along its current alignment with a new four (4) lane viaduct with sidewalks that will cross over the BNSF Railway Intermodal Yard and the Metrolink tracks on the San Gabriel Subdivision ("STRUCTURE"). The STRUCTURE and associated roadway improvements, drainage, streetlights, traffic signal(s), utilities, and appurtenances comprise the project ("PROJECT"). Reference Exhibit B-3- Project Plans

WHEREAS, CITY'S former Mount Vernon Avenue Viaduct has been removed and is not a part of this AGREEMENT.

WHEREAS, SBCTA desires a formal agreement with SCRRA for SCRRA's support services required for construction of the STRUCTURE, including flagging, safety training, inspection, project management and agency support, and design and relocation of SCRRA underground communication and signal fiber optic system in conflict with new construction of STRUCTURE at abutment No. 1 foundation, as described in Article 6.

WHEREAS, CITY is the public agency with jurisdiction of the operation and maintenance of the Mount Vernon Avenue public street and bridge crossing located over the Burlington Northern Santa Fe right-of-way and SBCTA's San Gabriel and Short Way Subdivisions and San Bernardino Depot station right-of-way and SCRRA

rail facilities, and desires a formal agreement with SCRRA for the maintenance of the STRUCTURE upon completion of construction. CITY maintenance responsibilities for the STRUCTURE are described in Article 14.

WHEREAS, SBCTA and SCRRA entered into a CONSTRUCTION AGREEMENT 19-1002210, dated June 4, 2020, by which SCRRA provided support services for the demolition of the then-existing viaduct, design review of the new STRUCTURE plans and specifications; said CONSTRUCTION AGREEMENT will terminate when all provisions of Article 16- Conditions Precedent to the Start of Work, have been completed.

WHEREAS, SCRRA, SBCTA and CITY are entering into this AGREEMENT to cover the PROJECT as described in Article-2 of the AGREEMENT and as contained in the Exhibits attached hereto and made a part of this AGREEMENT.

WHEREAS, SBCTA holds the primary responsibility for state and federal funding programming and implementation of regional highway and transit projects throughout San Bernardino County, owns the right-of-way for the SCRRA rail line known as the San Gabriel Subdivision, and is the lead agency for the PROJECT described in Article 2.

Now, **THEREFORE**, in consideration of the foregoing recitals and mutual understandings herein, the PARTIES agree as follows:

AGREEMENT

ARTICLE 1 - LIST OF EXHIBITS

The exhibits below are attached to and made a part of this AGREEMENT as if set forth in their entirety:

Exhibit A	Standard Terms and Conditions
Exhibit B-1	Description of Project
Exhibit B-2	Railroad Location Print
Exhibit B-3	Project Plans (Project Title Sheet and Bridge General Plan)
Exhibit B-4	Project Specifications (Cover Page)
Exhibit B-5	SCRRA Approval of Plans and Related Documents
Exhibit C-1	Not Used
Exhibit C-2	Not Used
Exhibit D-1	Not Used
Exhibit D-2	SCRRA Scope of Work and Estimate (RAILROAD WORK)
Exhibit E-1	SCRRA Form 37, Rules and Requirements for Construction on SCRRA Property and List of Required Submittals
Exhibit E-2	SCRRA Form 6, Temporary Right of Entry Agreement and SCRRA Insurance Requirements
	Access Control Management Plan Requirements
Exhibit F	Funding Schedule
Exhibit G	CPUC Decision Granting Authority to Reconstruct a Grade-Separated Highway-Rail Crossing

ARTICLE 2 – DESCRIPTION OF PROJECT

2.1 The PROJECT includes replacing Mount Vernon Avenue Viaduct along its current alignment with a new four (4) lane viaduct with sidewalks that will cross over the BNSF Railway Intermodal Yard and the Metrolink tracks on the San Gabriel Subdivision at Mile Post 56.32. The STRUCTURE and associated roadway improvements, drainage, streetlights, traffic signal(s), utilities, and appurtenances describe the PROJECT. Reference **Exhibit B-3**, Project Plans. The removal of the then-existing, structurally

deficient Mount Vernon Avenue Viaduct was completed in an earlier phase of the PROJECT and is not a part of this AGREEMENT.

The general arrangement, plan, section and location of the STRUCTURE proposed by the SBCTA are shown on the location print marked as **Exhibit B-2**. The detailed plan(s) of the STRUCTURE and PROJECT, upon review and acceptance by CITY and SCRRA, are to be included in this AGREEMENT and are collectively marked as **Exhibit B-3**. The detailed specifications of the STRUCTURE and PROJECT, upon review and acceptance by CITY and SCRRA, are to be included in this AGREEMENT and are collectively marked as **Exhibit B-4**. The PROJECT also includes SCRRA design and relocation of SCRRA's underground communication and signal fiber optic system, which is in conflict with new construction of STRUCTURE at abutment No. 1 foundation, as described in Article 6. WORK AND ESTIMATE BY SCRRA.

2.2 The PROJECT also includes any and all changes to railroad PTC, communications, signals and electrical service and appurtenances, fencing, grading, alterations to or new construction of drainage facilities, and final design review, construction engineering, inspection, and contract preparation.

ARTICLE 3 – PLANS AND SPECIFICATIONS

3.1 SBCTA, at its sole cost and expense, has prepared final detailed Plans, Specifications, and Estimates (the "PS&E") for the PROJECT, which are referenced in EXHIBITS B-3 and B-4, and have been approved by SCRRA under the terms and conditions of SBCTA and SCRRA CONSTRUCTION AGREEMENT 19-1002210, dated June 4, 2020,

3.2 SBCTA shall comply with all CITY and SCRRA terms and conditions, including those that are described in **Exhibits E-1** and **E-2**, and including all CITY and SCRRA

standards, design and construction criteria and guidelines, for this PROJECT for any work performed by SBCTA or contractor(s) for the SBCTA.

3.3 The final PS&E is part of this AGREEMENT (see Exhibit B-3 and B-4). No changes in the final and approved PS&E may be made unless CITY and SCRRA has consented to the proposed changes in writing.

3.4 Upon completion of the PROJECT, SBCTA, at its sole cost and expense, shall furnish to CITY and SCRRA a USB thumb drive of electronic portable document format (PDF) files of the record drawings, developed in accordance with Caltrans procedures and depicting the as-constructed condition of the PROJECT and appurtenances. In addition, SBCTA shall furnish a PDF copy of the specifications, structural calculations, and approved prestressing shop plans of the structures to CITY and SCRRA. SBCTA shall also electronically furnish to CITY and SCRRA the drawings in an editable Microstation or AutoCAD file format.

ARTICLE 4 –SCRRA, SBCTA REQUIREMENTS

4.1 SBCTA, at its sole cost and expense, shall comply, and shall ensure that its employee(s), consultant(s) and contractor(s) comply, at all times when on the rail right-of-way, with the rules and regulations, as contained in the current editions of the following documents, which are otherwise known as “REFERENCES”, which are incorporated in this document as if they were set full in this paragraph, and can be accessed on the Metrolink Web site.

<https://www.metrolinktrains.com/about/agency/engineering--construction/>

- a) SCRRA Right of Way Encroachment Application
- b) SCRRA Right of Way Encroachment Process
- c) SCRRA Form 6 Temporary Right of Entry Agreement

- d) SCRRA Form 37 Rules and Requirements for Construction on SCRRA Right of Way
- e) General Safety Regulations for Third Party Construction and Maintenance Activity on SCRRA Member Agency Property
- f) Standard Terms and Conditions- As set forth in this AGREEMENT- Exhibit A

4.2 SBCTA and all employee(s), consultant(s), and contractor(s) employed by SBCTA shall ensure compliance with the terms and conditions of this AGREEMENT for work specified in this Article. SCRRA requires all SBCTA and CITY employee(s), consultant(s) and contractor(s) working on the PROJECT to attend the SCRRA Third Party Safety Training as a mandatory prerequisite to enter the railroad right-of-way and further requires that all such parties comply with the SCRRA Safety Rules while on railroad property.

4.3 SBCTA shall notify SCRRA's Railroad Protective Services Contractor a minimum of three (3) weeks in advance of the daily flagging requirements for each week. Each Roadway Worker In Charge (RWIC) shift shall consist of 8 hours of support with a period of up to one hour at either end of the shift solely for the purpose of establishing or taking down protection as required. RWIC support shall be required at all times for any work within the railroad right-of-way or with the potential to foul the railroad.

4.4 SCRRA representatives may make inspections and conduct tests to judge the effectiveness of the safety training and compliance with SCRRA requirements, in accordance with SCRRA's Efficiency Testing Program, in compliance with 49 CFR 214 – Railroad Workplace Safety Regulations and SCRRA Third Party Work Rules. The SBCTA's employee(s), consultant(s), and contractor(s) shall cooperate with SCRRA, Federal, State and CITY representatives at all times. Disregard for, or failure to comply with, the requirements of 49 CFR 214 – Railroad Workplace Safety regulations, or

SCRRA third-party safety requirements, may result in the removal of an offending individual(s) from the SCRRA Right-of-Way. Egregious or repeated disregard for any safety rule or requirement may result in the termination of the Right-of-Entry Agreement. (Exhibit E-2/SCRRA Form 6)

4.5 SBCTA will ensure that its Contractor fully protects the track and associated infrastructure from any potential concrete spillage, from cast in drilled hole (CIDH) piling arisings or other excavation arisings and will ensure that any work above the railroad is fully protected so as to ensure that there is no potential for materials or equipment to fall onto the right-of-way beneath. SBCTA shall ensure that its contractor does not store materials or equipment upon the right-of-way which could foul the track; that before any material/equipment is stored upon the right-of-way, SCRRA's written agreement is first secured; that a clear access path for maintenance or emergency vehicles is at all times maintained adjacent to tracks; and that activities do not generate excessive dust.

4.6 SBCTA shall provide a full-time California Registered Resident Engineer to monitor, inspect and verify compliance with contract plans, specifications and special provisions on all aspects of structural construction of the PROJECT, such as bridges, foundations, walls, falsework, shoring, pre-stressed concrete and drainage structures.

4.7 SBCTA will incorporate all requirements of this AGREEMENT into the construction contract with the Contractor.

4.8 SBCTA shall grant to the CITY an aerial easement for the new bridge and footing easements for the new bridge footings for that portion of the bridge on SBCTA owned right of way. These easements shall be conveyed to the CITY in conjunction with CITY acceptance of the PROJECT at the end of construction.

ARTICLE 5 – WORK AND ESTIMATE BY SBCTA

5.1 SBCTA shall make, at its sole cost and expense, any and all arrangements for the installation or relocation of wire lines, pipe lines and other facilities owned by private persons, companies, corporations, political subdivisions, or public utilities other than CITY and SCRRA which may be necessary for the construction of the PROJECT.

5.2 SCRRA does not own the right of way and shall not be responsible for the removal of any contaminated or hazardous material within the limits of the PROJECT in accordance with applicable law or regulation.

5.3 SBCTA shall be responsible for all permits, licenses and agreements required by utility companies, third parties and statutory authorities for the construction and operation of the PROJECT.

ARTICLE 6 – WORK AND ESTIMATE BY SCRRA

6.1 The railroad work to be performed by SCRRA is described in Exhibit D-2 – RAILROAD WORK, dated March 7, 2022 ("RAILROAD WORK"). SCRRA's estimated cost for RAILROAD WORK is Two Million, Nine Hundred and Thirty Six Thousand, Six Hundred Eighty One Dollars and Zero Cents (\$2,936,681.00).

6.2 SCRRA shall design and relocate at the SBCTA's sole cost and expense, as described in Exhibit D-2 -- RAILROAD WORK, SCRRA's underground communication, signal and fiber optic system which are in conflict with new construction of STRUCTURE at abutment No. 1 foundation.

6.3 SCRRA shall provide a Project Manager to support the PROJECT, attend progress meetings, review work plans and schedules where the scope has the potential

to affect SCRRA operations or at the SBCTA's request, provide an overview of construction progress, ensure railroad operational safety and compliance with SCRRA standards and procedures, support inspections and final walk-through and to generally provide coordination between SCRRA, SBCTA and SBCTA's contractor.

6.4 SCRRA shall provide a Construction Inspector to support the PROJECT, observe construction activities in, over and adjacent to SCRRA right of way for compliance with approved Site Specific Work Plans ("SSWP"), attend construction meetings, observe construction activities for railroad operational safety and compliance with SCRRA standards and procedures.

6.5 SCRRA shall provide support services and coordination, including design, relocation and in-service testing of SCRRA Communication and Signal Fiber Optic underground system in conflict with STRUCTURE abutment 1 foundation. This work shall be completed not later than SBCTA's scheduled start of construction for the STRUCTURE.

6.6 SCRRA shall also provide support of its track, signal and communication maintenance contractors for support throughout construction.

ARTICLE 7 – CONSTRUCTION BY SBCTA

7.1 SBCTA shall furnish, or cause to be furnished, all labor, materials, tools equipment, and superintendence for the performance of the SBCTA WORK. SBCTA shall also provide a full-time Resident Engineer with experience in highway-railroad grade separation projects on the site of the work during construction. The Resident Engineer must be an engineer licensed in the State of California and must have the authority to provide direction to the Contractor or Contractors employed by SBCTA.

SCRRA, at SBCTA's cost and expense, may retain an inspector or engineer to make periodic reviews of the work insofar as the interests of SCRRA are affected. The CITY, at CITY's cost, may make periodic reviews of the work insofar as the interests of CITY are affected. Resident Engineer shall coordinate the Contractor's work schedule and progress with the SCRRA Project Manager, provide advance notifications of work window requirements and upcoming activities, and ensure that the work does not impact SCRRA or freight railroad operations.

7.2 SBCTA must supervise and inspect the operations of all SBCTA Contractors to assure compliance with the plans and specifications approved by CITY and SCRRA, the terms of this AGREEMENT, and all safety requirements of CITY and SCRRA. If CITY or SCRRA reasonably determine that SBCTA personnel are not providing proper supervision and inspection at any time during construction of the PROJECT, SCRRA or CITY has the right to stop construction within or adjacent to its own right-of-way. Construction of the PROJECT, within or adjacent to the CITY street right of way or SCRRA Operating Right of Way, will not proceed until SBCTA corrects the objectionable condition or activity to the reasonable satisfaction of SCRRA or CITY, whichever is applicable. If SCRRA or CITY believes that the condition or activity is not being corrected in an expeditious manner, SCRRA or CITY will immediately notify SBCTA, and SBCTA agrees to institute appropriate corrective action.

7.3 SBCTA shall incorporate the requirements of **Exhibits A, E-1 and E-2** into each prime contract for construction of the PROJECT. SBCTA shall ensure that its Contractor conforms with the requirements described in **Exhibits A, E-1 and E-2**, in order to avoid delay or damage to CITY and SCRRA operations, right-of-way, property, or other facilities, or the operations, property or facilities of others occupying or using SCRRA Operating Right of Way. All work done by the SBCTA, or its Contractor(s), on the right-of-way of SCRRA, shall be done in a manner satisfactory to SCRRA.

7.4 SCRRA and SBCTA have established mutually agreeable work windows for the PROJECT as set forth herein. To facilitate scheduling for the PROJECT, SBCTA shall require its Contractor or Contractors to give SCRRA's representative seventy-five (75) working days advance notice of the proposed time and date for the Exclusive Track Window to which SCRRA has agreed. Should, it become impracticable to provide the work window on the date(s) established due to train operations or service obligations, SCRRA will provide the work window at the next reasonable available opportunity. SCRRA shall not be responsible for any additional costs and expenses resulting from a change in work windows.

Work Windows on the San Gabriel Subdivision and Short Way Subdivision between the following Control Points;

- a) San Gabriel Subdivision; CP Vernon/JCT BNSF/JCT Short Way Subdivision MP 56.3; between CP Vernon East limit and CP Vernon West Limit;
- And
- b) Short Way Subdivision; CP Short Way Subdivision MP 0.6; between CP Vernon West limit and CP Short Way West Limit;

Work Windows are described in Article 4.3, Work Windows and Track Access, SCRRA Form 37, Rules and Requirements for Construction on SCRRA Right of Way.

1 Form B Protection

- a) Contractor will be permitted to cross the SCRRA Operating Right of Way only with work crews, equipment and materials under Form B Protection during the day or night; however, the Contractor will not be permitted to perform work in the Railroad right of way or adjacent to the right of way with work crews and equipment that could foul SCRRA tracks during the daytime Form B Protection window, unless otherwise provided for herein.

- b) Contractor will be permitted to cross over and work above the SCRRA Operating Right of Way on the new STRUCTURE with work crews, equipment and materials under Form B Protection during the day or night; however, the Contractor will not be permitted to perform work above the Railroad right of way that could foul Metrolink tracks during the day time Form B Protection window, unless otherwise provided for herein.

2 Track and Time with Form B Protection on adjacent track

a) Week Night; Monday through Thursday:

- 2145 hours after Metrolink Train 340 passes (return WB to EMF) to 0315 hours the following morning.

b) Weekend Night:

- Friday 2145 hours after Metrolink Train 340 passes (return WB to EMF) to Saturday 0600 hours.
- Saturday 2345 hours after Metrolink Train 376 passes (return WB to EMF) to Sunday 0600 hours.
- Sunday 2345 hours after Metrolink Train 376 passes (return WB to EMF) to Monday 0315 hours

7.5 One Exclusive Track Window will be permitted beginning Friday 2145 hours after Metrolink Train 340 passes (return WB to EMF) to Monday morning at 0315 hours to accommodate the SCRRA's cutover and testing of SCRRA underground signal, communication and fiber optic cabling system relocation to clear interference with STRUCTURE abutment No. 1 foundation. Should SCRRA elect to perform this work on a 3-day holiday weekend, the Exclusive Track Window will end Tuesday morning at 0315 hours after Metrolink Train 340 passes (return WB to EMF). This work will be performed by an SCRRA Contractor.

7.6 SBCTA must advise the SCRRA Chief of Program Delivery, in writing, of the completion date of the PROJECT within thirty (30) days after such completion date. Additionally, SBCTA must notify SCRRA's Chief of Program Delivery, in writing, of the date on which SBCTA and its Contractor(s) will meet with SCRRA for the purpose of making final acceptance of the PROJECT. SBCTA shall ensure that any outstanding defects, omissions, site clean-up and removal of materials/equipment with the potential to affect Railroad operations are immediately addressed to SCRRA's satisfaction.

7.7 SBCTA must advise the CITY's Public Works Director, in writing, of the completion date of the PROJECT within thirty (30) days after such completion date. Additionally, SBCTA must notify CITY's Public Works Director, in writing, of the date on which SBCTA and its Contractor(s) will meet with CITY for the purpose of reviewing and making final acceptance of the PROJECT. SBCTA shall ensure that any outstanding defects, omissions, site clean-up and removal of materials/equipment with the potential to affect CITY operations are immediately addressed to CITY's satisfaction.

ARTICLE 8 – SHOOFLY CONSTRUCTION (NOT USED)

ARTICLE 9 – TRACK STABILIZATION PERIOD (NOT USED)

ARTICLE 10 – DISTRIBUTION OF COSTS

10.1 The sources of funding for the PROJECT include Federal, state and local funds, as shown on **Exhibit E**, attached hereto. SBCTA and SCRRA shall conform to all requirements regarding expenses and invoicing provided in the funding contracts and agreements attached to this AGREEMENT as **Exhibit F**. SCRRA acknowledges that certain funding is contingent upon execution of this AGREEMENT.

10.2 The current rules, regulations and provisions of the Federal Aid Policy Guide as contained in 23 CFR 140, Subpart I, and 23 CFR 646, Subparts A and B, are incorporated into this AGREEMENT by reference, and construction work by the SBCTA and Contractor(s) shall be performed, and any reimbursement to SCRRA for work it performs, shall be made in accordance with the Federal Aid Policy Guide. If there is no corresponding closure of an existing grade crossing as part of the PROJECT as provided in 23 CFR 646.210(b)(2), the PROJECT is of no ascertainable benefit to SCRRA and SCRRA shall not be obligated to pay or contribute to any PROJECT costs.

ARTICLE 11 – PAYMENT FOR SCRRA WORK

11.1 Upon execution of this AGREEMENT, SBCTA shall deposit Eight Hundred Thousand Dollars and zero cents (\$800,000.00) of the estimated cost for SCRRA to relocate the existing SCRRA underground communication, signal and fiber optic cabling in conflict with STRUCTURE Abutment No. 1. When the PROJECT commences construction, SBCTA will make a second deposit of One Million Sixty-Eight Thousand Three Hundred Forty Dollars and Fifty Cents (\$1,068,340.50), which is one half (1/2) of the remaining SCRRA Scope of Work and Cost Estimate (Exhibit D-2). When the actual cost and expenses incurred, including the estimated Railroad Flagging and Safety Training, reach fifty percent (50%) of the second deposit of \$1,068,340.50, SCRRA shall notify SBCTA in writing and shall provide back-up for expenses to-date against the deposit. SBCTA and SCRRA will then analyze costs to date and projected costs to close out the PROJECT to confirm the appropriate amount of the last deposit, SBCTA shall then deposit the remaining balance of the estimated amount Railroad Flagging and Safety Training, \$1,068,340.50 or other mutually agreeable amount.

If at any time, the actual cost, including the estimated allocated overhead, exceeds eighty percent (80%) of the amount deposited by SBCTA, SCRRA may, in its sole

discretion, revise its estimates of the amount of RAILROAD WORK remaining, and SBCTA shall deposit any additional amounts in excess of the original deposit with SCRRA.

11.2 SCRRA will submit quarterly statements of costs incurred by SCRRA for review by SBCTA. SBCTA shall review the statement for conformance with the applicable provisions of 48 CFR 31 or the requirements of the funding agreements contained in **Exhibit F** within Twenty (20) business days and provide SCRRA with written approval, comments and/or objections in writing.

11.3 Until SCRRA receives formal approval of its final overhead rates, the Federal Transit Administration provisional overhead rate will be provided for cost estimation and budgeting purposes. SCRRA will invoice utilizing the Federal Transit Administration provisional overhead rate until the Federal Transit Administration, SCRRA's cognizant audit Agency, has approved the final rate at the completion of its audit, at which time SCRRA will reconcile all previous invoices and make adjustments where appropriate. Upon completion of the PROJECT, and after the SCRRA overhead rate for each period covering the construction of the PROJECT is approved by the cognizant audit Agency, SCRRA will send SBCTA a detailed statement of final costs, segregated as to labor and materials for each item in the recapitulation shown on **Exhibit D-2**.

11.4 SCRRA, if it so elects, may recalculate and update the Estimate as contained in Exhibit D-2 submitted to SBCTA in the event SBCTA does not commence construction on the portion of the PROJECT located on the SCRRA right-of-way within six (6) months from the date of the execution of the AGREEMENT.

11.5 SBCTA acknowledges that the Estimate as contained in Exhibit D-2 includes an estimate of the flagging or other protective service costs provided by SCRRA that are to be paid by SBCTA in connection with the PROJECT.

11.6 SBCTA acknowledges that by entering into this AGREEMENT, SCRRA will provide services and accommodations to promote the public interest in the PROJECT without profit or other economic benefit. Notwithstanding the amount of any estimate provided by SCRRA, SBCTA agrees to reimburse SCRRA for one hundred percent (100%) of all actual costs incurred by SCRRA in connection with the PROJECT including, but not limited to, actual costs of engineering review, coordination, construction inspection, flagging or other protective service, procurement of materials, equipment rental, manpower and deliveries to the job site and all of the normal and customary additives applicable to SCRRA (which shall include direct and indirect overhead costs) associated therewith.

ARTICLE 12 -- PERMIT TO CONSTRUCT STRUCTURE

Not Used.

ARTICLE 13 - CONTRACTOR'S RIGHT OF ENTRY PERMIT AND INSURANCE

13.1 Entry onto the SCRRA Operated Right of Way by SBCTA or its Contractor(s) shall at all times be subject to the then-current requirements for entering the SCRRA Operated Right of Way and the SCRRA procedures and requirements for securing railway flagging or other protective services.

13.2 Entry onto the CITY road right-of-way by SBCTA or its Contractor(s) for the PROJECT shall at all times be subject to the then-current requirements for entering the

CITY right-of-way. Cost for an encroachment permit from the CITY shall be at no cost to SBCTA, its Consultant(s) and Contractor(s).

13.3 SBCTA shall incorporate the provisions set forth in Exhibits A, Exhibit E-1 and Exhibit E-2, into each contract for construction of the PROJECT. SBCTA shall further require that each of its Contractors comply with the requirements set forth in Exhibits A, Exhibit E-1 and Exhibits E-2, to this AGREEMENT.

13.4 If SBCTA retains a Contractor(s) to perform construction on the PROJECT or CITY retains a Contractor(s) to perform any work involving the PROJECT (including any subsequent relocation or maintenance and repair work), SBCTA and CITY shall require the Contractor(s) to:

- a) Execute SCRRA "Form 6 – Right -of -Entry Agreement" or similar form of agreement as adopted by SCRRA at the time that any future work is performed without modification. A copy of Form 6 as currently adopted by SCRRA is included with AGREEMENT as Exhibit E-2
- b) Furnish and provide the bonds, insurance policies, certificates, binders, endorsements or combinations thereof in accordance with the insurance requirements accompanying SCRRA "Form 6 – Right –of-Entry Agreement" and as described in Exhibit E-2
- c) Furnish all SCRRA administrative and railroad protection service costs associated with provision of the right-of-entry agreement and the contractor's safe execution of the work
- d) Furnish and provide the CITY, when retained by SBCTA, bonds, insurance policies, certificates, binders, endorsements or combinations thereof at least equal to the insurance provisions required of the Contractor by SBCTA, including naming CITY as additionally insured.

13.5 SBCTA shall not allow any Contractor or Contractors to commence any work in the CROSSING AREA or on any other portion of the SCRRA Operated Right of Way until the contractor or contractors have provided the required insurance and the right-of-entry is approved and signed by SCRRA.

13.6 SBCTA shall not allow any Contractor(s) or consultants(s) to commence any work in any portion of CITY right-of-way until contractor(s) or consultant(s) have provided required insurance and CITY has provided written approval to enter.

13.7 All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

SCRRA
 Andy Althorp
 Assistant Director of Construction
 2558 Supply Street Building A, Pomona, California 91767
 Email: althorpa @scrta.net Phone: (213) 494-8080
 SCRRA File No. G0000938
 SCRRA Project No. 860967

CITY of San Bernardino
 Alex Qishta, P.E.
 Interim Director of Public Works/City Engineer
 290 North D Street, San Bernardino, CA 92401
 Email: Qishta_al@sbcity.org
 Phone: (909) 384-5019

13.8 SBCTA may not self-insure any portion of the insurance coverage for work performed by the employees of SBCTA without the prior approval of CITY and SCRRA.

13.9 Under no circumstances will personnel, equipment, or material of a Contractor or SBCTA be allowed on the CITY right-of-way or SCRRA Operated Right of Way without

providing the insurance required by this article and arranging for flagging or other protective services, as applicable.

ARTICLE 14 - MAINTENANCE OF COMPLETED STRUCTURE

14.1 SCRRA will accept, operate, and maintain, at its sole cost and expense, the following portions of the PROJECT:

- a) The railroad roadbed, ballast, track and appurtenances.
- b) The railroad signal and communication facilities and appurtenances.
- c) The railroad maintenance roads located on the railroad right-of-way and on the railroad side of access gates;
- d) The railroad drainage structures;
- e) Other facilities which SCRRA shall operate and/or maintain, whether constructed by SBCTA or SCRRA.

14.2 Upon completion of the PROJECT and acceptance by the CITY, CITY will own and maintain, at its sole cost and expense, the following portions of the PROJECT related to Mount Vernon Avenue roadway and bridge:

- a) The bridge superstructure, bridge seats, bearings, and bearing areas;
- b) The bridge abutments, piers, backwalls, wingwalls, and connecting retaining walls;
- c) The roadway including the roadway approaches and curbs, gutters, sidewalks and appurtenances thereto;
- d) The overpass and roadway approach lighting;
- e) The roadway drainage structures, storm drain laterals, and collecting storm drains;
- f) The roadway signage and striping;

- g) The railings and appurtenances of roadway and bridge crossing for protection or benefit of vehicles and pedestrians;
- h) All other work constructed by the PROJECT as it specifically relates to vehicular and pedestrian use of the roadway and bridge crossing.

14.3 At CITY's sole cost and expense, CITY shall keep the STRUCTURE well-maintained and clean, and shall promptly remove any graffiti. Subject to the provisions in this AGREEMENT, CITY shall notify SCRRA and obtain its approval before performing i) inspection that requires access to the STRUCTURE, ii) alterations or modifications to the STRUCTURE, or iii) any maintenance or graffiti removal.

14.4 SBCTA shall be responsible for clearance of vegetation, debris or trash under the STRUCTURE. SBCTA shall trim, mow, prune, remove, or otherwise control all vegetation upon SBCTA property, excepting anything within twenty (20) feet of the centerline of the San Gabriel subdivision tracks (the SCRRA operating right of way) for which SCRRA shall be responsible for said clearance of vegetation, debris or trash under the STRUCTURE.

ARTICLE 15 – EFFECTIVE DATE; TERM AND TERMINATION.

15.1 This AGREEMENT shall become effective as of the date signed by SCRRA and shall continue in full force and effect for as long as the STRUCTURE remains within the Crossing Area.

15.2 In the event SBCTA does not commence construction on the portion of the PROJECT located on the SCRRA CROSSING AREA within eighteen (18) months of the

EFFECTIVE DATE of the AGREEMENT, SCRRA may, if it so elects, terminate this AGREEMENT effective thirty (30) days after delivery of written notice to SBCTA.

15.3 SCRRA may suspend its performance under this AGREEMENT if it becomes impracticable to proceed because of a lack of PROJECT funding or restrictions on the distribution of funds.

15.4 If the AGREEMENT is terminated or suspended for any reason, SBCTA shall pay to SCRRA and CITY all actual costs incurred by SCRRA or its Contractor(s) in connection with the PROJECT up to the date of termination or suspension, including, without limitation, all actual costs incurred by SCRRA and CITY, including allocated overhead in connection with reviewing any preliminary or final PROJECT PS&E.

ARTICLE 16 - CONDITIONS PRECEDENT TO START OF WORK

16.1 Neither SBCTA nor any Contractor(s) retained by SBCTA may commence any work within the Crossing Area or on any other SCRRA managed property until:

- a) SCRRA, SBCTA, and CITY have executed this AGREEMENT.
- b) SBCTA has deposited required advance funds with SCRRA as provided for in Article 11.1
- c) SCRRA has provided written approval of the Plans and Related Documents to SBCTA.
- d) CITY has provided its written approval of the PS&E to SBCTA.
- e) Each Contractor(s) has executed SCRRA "Form No. 6 - Temporary Right-of-Entry Agreement" and has obtained and provided to SCRRA the insurance policies, certificates, binders, endorsements, or a combination thereof set forth in the "Form 6 – Temporary Right-of-Entry Agreement

and this AGREEMENT. Should the prime contractor elect to provide insurance and indemnification for all of its subcontractors then only the prime contractor shall obtain the Form No. 6 Temporary Right-of-Entry Agreement. Application for Temporary Right-of-Entry Agreement shall include the Contractors Access Control Management Plan, Exhibit E-2.

f) Each Contractor(s) has obtained a CITY encroachment permit, if needed, for work in the PROJECT area.

g) All required sums for payment of SCRRA engineering support and protective services have been deposited with SCRRA in accordance with the terms of this AGREEMENT.

h) Each Contractor(s) has provided CITY a copy of insurance policies, binders, and endorsements showing compliance with insurance requirements outlined in this AGREEMENT.

ARTICLE 17 - INDEMNIFICATION

17.1 No PARTY shall be responsible for any damage or liability arising out of any act or omission by any other PARTY in connection with any aspect of the PROJECT, or any obligation under this AGREEMENT.

17.2 SBCTA shall indemnify, defend and hold harmless SCRRA, the Operating Railroads, the City, and their respective member agencies, directors, officers, agents, volunteers, contractors, and employees ("SCRRA/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 incurred by or asserted against the SCRRA/City Indemnitees arising out of or connected with any negligent acts or omissions on the part of SBCTA under or in connection with any

aspect of the RAILROAD WORK, work, authority or obligation agreed to by SBCTA under this AGREEMENT. This indemnity shall survive completion of the PROJECT, SBCTA WORK, RAILROAD WORK and termination of this AGREEMENT.

17.3 SCRRA shall indemnify, defend and hold harmless SBCTA, the Operating Railroads, the City, and their respective member agencies, directors, officers, agents, volunteers, contractors, and employees ("SBCTA/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 incurred by or asserted against the SBCTA/City Indemnitees arising out of or connected with any negligent acts or omissions on the part of SCRRA under or in connection with any aspect of the RAILROAD WORK, work, authority or obligation agreed to by SCRRA under this AGREEMENT. This indemnity shall survive completion of the PROJECT, SBCTA WORK, RAILROAD WORK and termination of this AGREEMENT.

17.4 City shall indemnify, defend and hold harmless SCRRA, SBCTA, the Operating Railroads, and their respective member agencies, directors, officers, agents, volunteers, contractors, and employees ("SCRRA/SBCTA 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 incurred by or asserted against the SCRRA/SBCTA Indemnitees arising out of or connected with any negligent acts or omissions on the part of City under or in connection with any aspect of the RAILROAD WORK, work, authority or obligation agreed to by City under this AGREEMENT. This indemnity shall survive completion of the PROJECT, SBCTA WORK, RAILROAD WORK and termination of this AGREEMENT.

17.5 In contemplation of the provisions of Government Code §895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being PARTIES to an agreement, as defined in Government Code §895, each of the PARTIES hereto, pursuant to the authorization contained in Government Code §895.4 and §895.6, will assume the full liability imposed upon it or any of its officers, agents or employees by law for injury caused by any negligent or wrongful act or omission occurring in the performance of this AGREEMENT to the same extent that such liability would be imposed in the absence of §895.2.. To achieve this purpose, each PARTY agrees to indemnify and hold harmless each other for any cost or expense that may be imposed upon each other solely by virtue of said §895.2. The provisions of Civil Code §2778 are made a part hereof as if incorporated herein.

ARTICLE 18 -GENERAL PROVISIONS

18.1 This AGREEMENT shall continue in force and effect unless otherwise provided herein, until mutual termination by the PARTIES. The covenants and provisions of this AGREEMENT shall be binding upon and inure to the benefit of the successors and assigns of CITY and SCRRA. SBCTA's obligations under this AGREEMENT shall terminate upon PROJECT acceptance by the CITY, except as otherwise provided in Article 17.

18.2 This AGREEMENT may be modified or amended only in writing. All modifications, amendments, changes and revisions of this AGREEMENT, in whole or part and from time to time, shall be binding upon the PARTIES, so long as the same shall be in writing and executed by the CITY, SBCTA and SCRRA.

18.3 The PARTIES to the AGREEMENT shall maintain all records associated with the PROJECT for the period of three (3) years from the date of the final invoice in accordance with 23 CFR 645. If funding is provided by State and FHWA, under 23 U.S. Code, Chapter 1, Section 130, the books pertaining to the work shall be open to inspection and audit by representatives of the State and FHWA for three years after FHWA payment of final invoice. Furthermore, each PARTY shall make all records available for audit by SCRRA, or SBCTA, or State, or Federal auditors, or all or any combination. All audits are to be performed in accordance with audit principles and standards as set forth in 48 CFR, Chapter 1, Part 31.

18.4 In addition to the specific provisions of this AGREEMENT, the delay in performance by any PARTY hereunder shall not be a default where delays or defaults are due to circumstances outside the control of any PARTY, such as war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; accidents; emergencies; acts of God; acts of the public enemy; pandemics; epidemics; quarantine restrictions; freight embargoes; unusually severe weather; Federally-mandated inspections and maintenance; and/or any other causes beyond the control or without the fault of the PARTY claiming an extension of time for any such cause. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of commencement of the cause. If, however, notice by the PARTY claiming such extension is sent to the other PARTY more than thirty (30) days after the commencement of the cause, the period shall commence to run only 30 days prior to the giving of such notice.

18.5 The execution and delivery of this AGREEMENT by each PARTY and the consummation of the transactions contemplated hereby are within the power of each PARTY and have been duly authorized by all necessary actions of each respective PARTY.

18.6 In the event any part of this AGREEMENT is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such part shall be deemed severed from the remainder of the AGREEMENT and the balance of the AGREEMENT shall remain in effect.

18.7 This AGREEMENT shall be construed and interpreted under the laws of the State of California.

18.8 The article and section headings in this AGREEMENT are for convenience only and shall not be used in its interpretation or considered part of this AGREEMENT.

18.9 The RECITALS set forth above are incorporated into this AGREEMENT.

18.10 This AGREEMENT may be executed in counterparts and by the PARTIES hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same AGREEMENT.

18.11 Any notice sent by first class mail, postage paid, to the address and addressee, shall be deemed to have been given when in the ordinary course it would be delivered. The representatives of the PARTIES who are primarily responsible for the administration of this AGREEMENT, and to whom notices, demands and communications shall be given, are as follows:

To SBCTA

Mr. Henry Stultz
Director of Project Delivery
SBCTA
1170 W. Third St., 2nd Floor
San Bernardino, CA 92410
hstultz@gosbcta.com
909-884-8276

To SCRRA

Mr. Justin Fornelli, P.E.
Chief of Program Delivery
Southern California Regional Rail Authority
2558 Supply Street, Bldg. A
Pomona, CA 91767
fornellj@scrta.net
909-593-4291

To **CITY**
 Alex Qishta, P.E.
 Interim Director of Public Works/City Engineer
 290 North D Street, San Bernardino, CA 92401
 Email: Qishta_al@sbcity.org
 Phone: (909) 384-5019

IN WITNESS WHEREOF, the PARTIES have caused this AGREEMENT to be duly executed in by their duly qualified and authorized officials.

-----*SIGNATURES ARE ON THE FOLLOWING PAGE*-----

DRAFT

**SOUTHERN CALIFORNIA
REGIONAL RAIL AUTHORITY**

By: _____

Darren M. Kettle
Chief Executive Officer

APPROVED AS TO FORM:

By: _____

Don O. Del Rio
General Counsel

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____

Curt Hagman
President, SBCTA Board of Directors

APPROVED AS TO FORM:

By: _____

Julianna K. Tillquist
SBCTA General Counsel

CITY OF SAN BERNARDINO

By: _____

Robert D. Field
CITY MANAGER

ATTEST:

By: _____

Genoveva Rocha, CMC City Clerk
Clerk (SEAL)

APPROVED AS TO FORM:

By: _____

Sonia Carvalho
City Attorney

Exhibit A

To Construction and Maintenance Agreement for MOUNT VERNON AVENUE VIADUCT REPLACEMENT

SCRRA Standard Terms and Conditions

EXHIBIT A**To Construction Agreement****STANDARD TERMS AND CONDITIONS****SECTION 1 - CONDITIONS AND COVENANTS**

- a) SCRRA makes no covenant or warranty of title for quiet possession or against encumbrances. Any lines constructed on the railroad right-of-way by or under authority of SBCTA for the purpose of conveying electric power or communications incidental to SBCTA's use of the right-of-way for highway purposes shall be constructed in accordance with specifications and requirements of SCRRA, and in such manner as not adversely to affect communication or signal lines of SCRRA or its licensees now or hereafter located upon said right-of-way. No non-party shall be admitted by SBCTA to use or occupy any part of the railroad right-of-way without SCRRA's written consent. Nothing herein shall obligate SCRRA to give such consent.
- b) The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or not, and also to any renewals thereof. SBCTA shall not damage, destroy or interfere with the right-of-way or rights of nonparties in, upon or relating to the railroad right-of-way, unless SBCTA at its own expense settles with and obtains releases from such nonparties.
- c) SCRRA and its member agencies reserve the right to use and to grant to others the right to use the Crossing for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the right-of-way; also the right to cross the Crossing with all kinds of equipment. SCRRA further reserves the right to attach signal, communication or power lines to any highway facilities located upon the right-of-way, provided that such attachments shall comply with CITY's specifications and are approved by the CITY, such approval not unreasonably withheld, and will not interfere with the use of the Crossing.
- d) So far as it lawfully may do so, SBCTA will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or special) levied or assessed upon or against the Crossing, excepting taxes levied upon and against the right-of-way as a component part of SCRRA's operating right-of-way.

SECTION 2 - CONSTRUCTION OF PROJECT

- a) All work contemplated in this AGREEMENT must be performed in a good and workmanlike manner and each portion must be promptly commenced by the PARTY obligated by this AGREEMENT to perform the work. All work must be diligently prosecuted to conclusion in its logical order and sequence. All changes or modifications proposed during construction which affect SCRRA or the interests of SCRRA will be subject to SCRRA's approval prior to the commencement of work on all such changes or modifications.
- b) SBCTA, at its expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the PROJECT, and will furnish to SCRRA upon request with satisfactory evidence that such authority has been obtained. SBCTA shall act as the lead agency on all planning, environmental approval and permitting activities required by State or Federal law and shall obtain and pay for all other permits and licenses required by law or regulation for the PROJECT through the construction phase of the project.
- c) All construction work of SBCTA upon the railroad right-of-way shall be performed and completed in a manner satisfactory to the Director of Engineering and Construction of SCRRA or his authorized representative and in accordance with the Plans, Specifications and Estimates, SCRRA's Minimum Requirements set forth in **Exhibit B-5, E-1, and E-2**, and other guidelines or standards furnished by SCRRA.
- d) SBCTA shall require its Contractor(s) to reasonably adhere to the construction schedule adopted for all PROJECT work. Reasonable time must be allowed in the schedule for SCRRA to perform the RAILROAD WORK for which it is responsible. However, regardless of the requirements of the construction schedule, SCRRA reserves the right to reallocate the labor forces assigned to complete the RAILROAD WORK in the event of an emergency to provide for the immediate restoration of railroad operations or to protect persons or property on or near the railroad right-of-way. SCRRA will not be liable for any additional costs or expenses resulting from any such reallocation of its labor forces. SBCTA and SCRRA mutually agree that any reallocation of labor forces by SCRRA pursuant to this provision and any direct or indirect consequences or costs resulting from any such reallocation will not constitute a breach of this AGREEMENT by SCRRA.
- e) All construction work performed by or the responsibility of SBCTA shall be performed diligently and completed within a reasonable time, and in any event within four (4) years from the effective date

of this AGREEMENT, or within such further period of time as may be specified in writing by SCRRA's Director of Engineering and Construction. No part of the PROJECT shall be suspended, discontinued or unduly delayed without SCRRA's written consent and subject to such reasonable conditions as SCRRA may specify. It is understood that SCRRA's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of SBCTA. SBCTA hereby assumes the risk of any such delays and agrees that no claims for damage on account of any delay shall be made against SCRRA.

f) SCRRA will have the right to stop construction work on the PROJECT if any of the following events take place:

- i) SBCTA (or any of its Contractor(s)) performs the PROJECT work in a manner contrary to the plans and specifications approved by SCRRA;
- ii) SBCTA (or any of its Contractor(s)), in SCRRA's opinion, prosecutes the PROJECT work in a manner which is hazardous to the railroad right-of-way, facilities or the safe and expeditious movement of railroad traffic;
- iii) the insurance required by the AGREEMENT is canceled during the course of the PROJECT or does not meet the minimum requirements specified herein; or
- iv) SBCTA fails to pay any non-disputed costs incurred by SCRRA as provided in the AGREEMENT.

g) The work stoppage may continue until all necessary actions are taken by SBCTA or its Contractor(s) to rectify the conditions to the satisfaction of SCRRA's Director of Engineering and Construction or until additional insurance has been delivered to and accepted by SCRRA, or the obligations are brought current.

SECTION 3 - INJURY AND DAMAGE TO PROPERTY

If SBCTA, in the performance of any work contemplated by this AGREEMENT or by the failure to do or perform anything for which SBCTA is responsible under the provisions of this AGREEMENT, shall injure, damage or destroy any property of the railroad or of any other person lawfully occupying or using the right-of-way of the railroad, such property shall be replaced or repaired by SBCTA at SBCTA's own

expense, or by SCRRA at the expense of SBCTA, and to the satisfaction of SCRRA's Director of Engineering and Construction.

SECTION 4 - PAYMENT FOR WORK BY SCRRA

Payment for work by SCRRA shall be in accordance with Article 11-Payment for SCRRA Work as set forth in the Construction and Maintenance Agreement.

SECTION 5 - MAINTENANCE AND REPAIRS (NOT USED)

SECTION 6 - SAFETY MEASURES; PROTECTION OF SCRRA OPERATIONS

It is understood and recognized that safety and continuity of SCRRA's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents and/or incidents may be prevented and avoided, it is agreed with respect to all of said work of SBCTA that the work will be performed in a safe manner and in conformity with the following standards:

- a) **SBCTA and Contractor.** All references in this AGREEMENT shall also include the Contractor(s), its subcontractors of any tier, and their respective officers, agents and employees, and others acting under its or their authority; and all references in this AGREEMENT to work of SBCTA shall include work both within and outside of the railroad right-of-way.
- b) **Compliance with Laws.** SBCTA shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. SBCTA shall use only such methods as are consistent with safety, both as concerns SBCTA, SBCTA's agents and employees, the officers, agents, employees and property of SCRRA and the public in general. SBCTA (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts, labor laws, laws governing trade, travel and use of material, and similar laws or regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the railroad operating right-of-way. If any failure by SBCTA to comply with any such laws, regulations, and enactments shall result in any fine, penalty, cost or charge being assessed, imposed or charged against SCRRA, SBCTA shall reimburse and indemnify SCRRA for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. SBCTA further agrees in the event of any such action, upon

notice thereof being provided by SCRRA, to defend such action free of cost, charge, or expense to SCRRA.

c) **No Interference or Delays.** SBCTA shall not do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of SCRRA's tracks or facilities, or any communication or signal lines, PTC system and critical features, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the railroad right-of-way or facilities.

d) **Supervision.** SBCTA, at its own expense, shall adequately supervise and inspect all work to be performed by SBCTA's Contractor(s), and shall not inflict injury to persons or damage to property for the safety of whom or of which SCRRA may be responsible, or to property of SCRRA. The responsibility of SBCTA for safe conduct and adequate policing and supervision of the PROJECT shall not be lessened or otherwise affected by SCRRA's approval of plans and specifications, or by SCRRA's collaboration in performance of any work, or by the presence at the work site of SCRRA's representatives, or by compliance by SBCTA with any requests or recommendations made by such representatives. If a representative of SCRRA is assigned to the PROJECT, SBCTA will give due consideration to suggestions and recommendations made by such representative for the safety and protection of SCRRA's property, right-of-way, and operations.

e) **Suspension of Work.** If at any time SBCTA Resident Engineer or the Director of Engineering and Construction of SCRRA or their respective representatives shall be of the opinion that any work of SBCTA is being or is about to be done or prosecuted without due regard and precaution for safety and security, SBCTA shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

f) **Removal of Debris.** SBCTA shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any railroad operating right-of-way or facilities of SCRRA; and any such material and debris shall be promptly removed from the railroad operating right-of-way by SBCTA at SBCTA's own expense or by SCRRA at the expense of SBCTA. SBCTA shall not cause, suffer or permit any water to be drained or pumped onto the railroad operating right-of-way during any dewatering from the Crossing without the prior permission of SCRRA Director of Engineering and Construction.

g) **Explosives.** SBCTA shall not discharge any explosives on or in the vicinity of the railroad right-of-way without the prior consent of the SCRRA Director of Engineering and Construction, which will not

be given if, in the sole discretion of SCRRA's Director of Engineering and Construction, such discharge would be dangerous or would interfere with the railroad right-of-way, property or facilities. For the purposes hereof, the "vicinity of the railroad operating right-of-way" shall be deemed to be any place on the railroad operating right-of-way or in such close proximity to the railroad operating right-of-way that the discharge of explosives could cause injury to SCRRA's employees or other persons, or cause damage to or interference with the facilities or operations on the railroad operating right-of-way. SCRRA reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as SCRRA, in SCRRA's sole discretion, may deem to be necessary, desirable or appropriate.

h) **Excavation**. SBCTA shall not excavate from existing slopes nor construct new slopes which are excessive as defined in SCRRA Excavation Support Guidelines and may create hazards of slides or falling rock or impair or endanger the clearance between existing or new slopes and the tracks of SCRRA. SBCTA shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect SCRRA's tracks or facilities. SBCTA, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by SBCTA in connection with construction, maintenance or other work. Systems for the support of any excavation must conform to the requirements of SCRRA Excavation Support Guidelines. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by SCRRA's Director of Engineering and Construction to withstand all stresses likely to be encountered, including any stresses resulting from railroad surcharges or vibrations caused by SCRRA's operations in the vicinity.

i) **Falsework**. No falsework may be erected over the track or on the railroad right-of-way except as approved by SCRRA. All falsework must conform to the requirements of the Caltrans Falsework Manual for traffic openings and any additional provisions provided by SCRRA.

j) **Fiber Optic Cables**. Fiber optic and other cable systems may be buried on the railroad right-of-way. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users, resulting in business interruption and loss of revenue and profits. SBCTA and its consultants and contractors shall telephone the Underground Service Alert of Southern California toll-free at (800) 227-2600 a minimum of two (2) working days before performing any excavation.

k) **SCRRA Signal and Communication Facilities**. SCRRA is not a member of Underground Service Alert of Southern California. SBCTA, and its consultants and contractors, shall call SCRRA Signal Department at (909) 592-1346 to request marking of signal and communication cables or conduits

or both a minimum of 72-hours prior to performing any excavation on the railroad operating right-of-way. No work may proceed until SBCTA has been provided with an SCRRA dig number, in addition to that provided by Underground Service Alert. In case of signal emergencies or grade crossing problems, the contractor shall call SCRRA's 24-hour signal emergency number at (888) 446-9721.

SECTION 7 - INTERIM WARNING DEVICES

If at any time it is determined by the CPUC or FRA, by SBCTA, or by agreement between the PARTIES, that new or improved train activated warning devices should be installed at the Crossing, SBCTA shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the construction or reconstruction of the PROJECT has been completed.

SECTION 8 - OTHER RAILROADS AND AGENCIES

All protective and indemnifying provisions of this AGREEMENT shall inure to the benefit of SCRRA and any other Operating Railroad company lawfully using the railroad right-of-way or facilities. On any certificate of insurance furnished pursuant to this AGREEMENT, SCRRA must be named as the Certificate holder or the insured. The following must be named as an additional insured:

Los Angeles County Metropolitan Transportation Authority (METRO)
 Orange County Transportation Authority (OCTA)
 Riverside County Transportation Commission (RCTC)
 San Bernardino County Transportation Authority (SBCTA)
 Ventura County Transportation Commission (VCTC)
 Burlington Northern Santa Fe Corporation (BNSF)
 National Railroad Passenger Corporation (Amtrak)
 Union Pacific Railroad Company (UPRR)

SECTION 9 - REMEDIES FOR BREACH OR NONUSE

Omitted.

END EXHIBIT A

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Exhibit B-1

To Construction and Maintenance Agreement for MOUNT VERNON AVENUE VIADUCT REPLACEMENT

Description of Project

DESCRIPTION OF PROJECT

The San Bernardino County Transportation Agency (“SBCTA”) desires to replace the Mount. Vernon Avenue Viaduct, DOT No. 026731F, CPUC No. 101SG-56.26-A which crossed (which has already been deconstructed) above the railroad right of ways, track and facilities of the BNSF Railway Intermodal Yard and Southern California Regional Rail Authority (“SCRRA”) San Gabriel and Shortway Subdivisions in the City of San Bernardino along its current alignment with a new four (4) lane viaduct with sidewalks, associated roadway improvements, drainage, street lights, traffic signal(s) and appurtenances that will cross over the BNSF Railway Intermodal Yard and the Metrolink tracks on the San Gabriel and Shortway Subdivisions.

END EXHIBIT B-1

Exhibit B-2

To Construction and Maintenance Agreement
for
MOUNT VERNON AVENUE VIADUCT
REPLACEMENT

Railroad Location Print

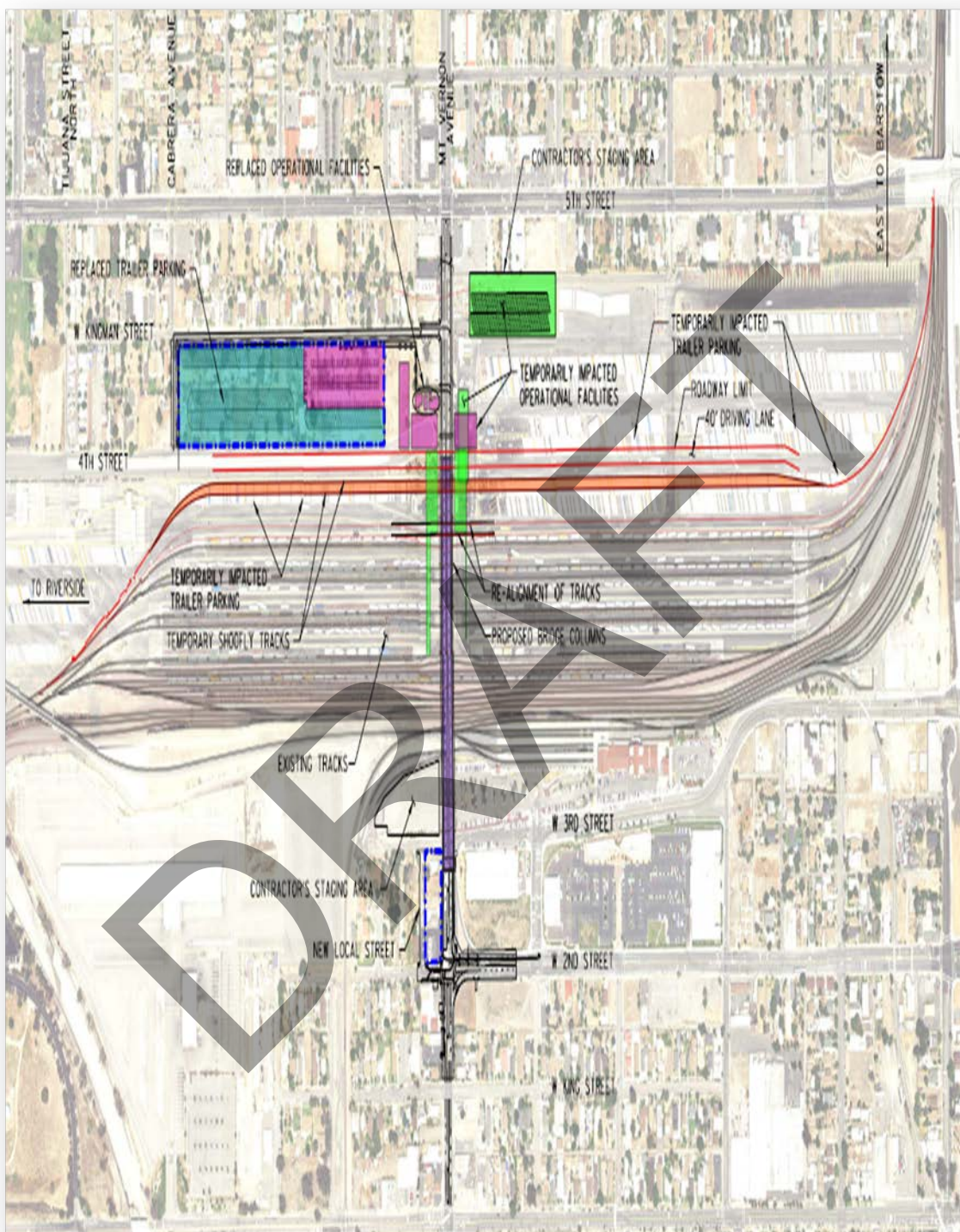


Exhibit B-3

To Construction and Maintenance Agreement
for
MOUNT VERNON AVENUE VIADUCT
REPLACEMENT

Project Plans
(Project Title Sheet and Bridge General Plan)

Redacted: SSI

Exhibit B-4

To Construction and Maintenance Agreement for MOUNT VERNON AVENUE VIADUCT REPLACEMENT

Project Specifications (Cover Page)

Redacted: SSI

Exhibit B-5

To Construction and Maintenance Agreement
for
MOUNT VERNON AVENUE VIADUCT
REPLACEMENT
SCRRA Approval
of Plans and Related Documents

January 25, 2022

File No. G0000338

Project No. 860996

San Gabriel Sub. MP 56.32

Tom Densford

PCM Design Manager

Biggs Cardosa Associates, Inc.

500 S. Main Street, Suite 400

Orange, CA 92868-4507

Subject: Amendment to Traylor-Granite Joint Venture ("TGJV") Temporary Right of Entry Agreement, dated December 16, 2020, to include Submittal No. DES 21.1, 100% Viaduct and Walls Plans for the Mount Vernon Avenue Viaduct Replacement Project.

Dear Mr. Densford:

This letter serves as an Amendment to Traylor-Granite Joint Venture ("TGJV") Temporary Right

SBCTA Contract #22-1002699

CPUC No. 101SG -56.26-A

DOT No. 026731F

of Entry Agreement, to include the SCRRA Acceptance of Submittal No. DES 21.1, 100% Viaduct and Wall Plans for the Mount Vernon Avenue Viaduct Replacement Project and made a part of Temporary Right of Entry Agreement.

SCRRA has not reviewed the design details or calculations for structural integrity or engineering accuracy. SCRRA does not accept responsibility for errors or omissions in the design. This review is limited to potential impacts on railroad operations and that it meets the standards of SCRRA. Acceptance by SCRRA shall not be deemed to mean that the design and construction is structurally sound and appropriate or that the design meet applicable regulations, laws, statutes, local ordinances, building codes, or any combination thereof.

If you have any questions or need additional information, please contact me at 909-754-4334 (cell).

Sincerely,



Douglas H. Mays, P. E.
SCRRA Project Manager
3rd Party Grade Separations

Attachments.

100% Bridge and Wall Plans (DES-021.1):

SBCTA Contract #22-1002699

CPUC No. 101SG -56.26-A

DOT No. 026731F

Redacted: SSI

Supplemental Submittals:

- Geometric Approval Documents (DES-013) – No Exceptions Taken
- Street Improvement Plans (DES-023) – Clean copy and marked up copy provided
- Bridge and Wall Foundation Reports (DES-018) – Clean copies and CRF provided
- Drainage Report (DES-022) – Clean copy, supplemental document, and CRF provided

Cc:

Andrew Althorp SCRRA

Daniel Villagomez, SCRRA

Christos Sourmelis, SCRRA

Justin Duke, Jacobs Engineering Group, Inc.

Kristi Harris, Project Manager

END EXHIBIT B-5

Exhibit D-2

To Construction and Maintenance Agreement
for
MOUNT VERNON AVENUE VIADUCT
REPLACEMENT

SCRRA Scope of Work and Estimate
(RAILROAD WORK)

EXHIBIT D-2				
RAILROAD WORK				
SCRR SCOPE OF WORK AND COST ESTIMATE				
Mount Vernon Avenue Viaduct Replacement San Gabriel Subdivision MP 56.32				
3/7/2022				
TASK		QUANTITY	UNIT COST	TOTAL
1	DESIGN CIVIL	0 LS		
2	DESIGN SIGNAL	1 LS	\$ 25,000.00	\$25,000.00
3	DESIGN SUPPORT - CIVIL	0 LS		
4	DESIGN SUPPORT - SIGNAL	1 LS	\$ 45,000.00	\$45,000.00
5	MAT'L PROCUREMENT - TRACK	0 LS		
6	MAT'L PROCUREMENT - STRUCTURES	0 LS		
7	MAT'L PROCUREMENT - SIGNAL	1 LS	\$ 25,000.00	\$25,000.00
8	MAINTENANCE SUPPORT - TRK/STR	1 LS	\$10,000.00	\$10,000.00
9	MAINTENANCE SUPPORT - SIGNAL	1 LS	\$15,000.00	\$15,000.00
10	CONSTRUCTION - CIVIL	0 LS		
11	CONSTRUCTION - SIGNAL	1 LS	\$378,800.00	\$378,800.00
12	CONSTRUCTION MGMT	992 Hrs	\$ 130.00	\$128,960.00
13	FLAGGING	930 Shifts	\$1,750.00	\$1,627,500.00
14	PROJECT MANAGEMENT	1007.6 Hrs	\$225.30	\$227,012.28
15	OTHER PROFESSIONAL SERVICES	30 EA	\$1,850.00	\$55,500.00
16	BUS BRIDGES & TRAIN EQUIP. & CREWS	1 LS	\$ 25,000.00	\$25,000.00
17	OTHER (PERMITS, FEES, ETC.)	0 LS		
18	AGENCY	392 Hrs	\$272.80	\$106,937.60
19	SUBTOTAL			\$2,669,709.88
20	PROJECT RESERVE		10%	\$266,970.99
				\$2,936,680.87
				\$2,936,681 use

EXHIBIT D-2 CONTINUED

- Notes** Estimate 82 weeks from NTP to completion construction.
- Task 2 Estimate of Labor for Design FO Relocation, Abutment No 1
- Task 4 Estimate of Labor & Equipment for Design Support Signals; FO Relocation and place in service
- Task 7 Estimate of Material cost for FO Relocation Abutment No 1
- Task 8 Estimate of labor and equipment for SCRRA Track Contractor to be on call for emergency track repair.
- Task 9 Estimate of labor and equipment for SCRRA Signal Contractor to Remove and reinstall wayside signal & locate SCRRA underground signal & communication facilities
- Task 11 Estimate of Labor and Equipment to relocate FO & signal & place in service, Abutment No 1
- Task 12 Estimate Construction Mngt; 42 wks @ 16 hrs/wk and 40 weeks @ 8 hrs /week
- Task 13 Flagging estimate; Estimate 3 shifts per day, 5 day/ week for 52 weeks plus 1 shifts per day, 5 day/ week for 30 weeks
- Task 14 Project Management; Estimate 82 wks @ 10 hr/wk plus 8 wks @ 8 hrs/wk
- Task 15 Provide Roadway Worker Protection Training for access onto Railroad right of way; Estimate 30 sessions
- Task 16 Bus bridge for weekend cutover of signal and FO relocation cutover
- Task 18 SCRRA Agency; Project Agency Support
1. No track relocation work is anticipated
 2. The estimate may be revised as additional information is developed through cable location and similar activities

Exhibit E-1

To Construction and Maintenance Agreement for MOUNT VERNON AVENUE VIADUCT REPLACEMENT

SCRRA Form 37 Rules and Requirements for Construction on SCRRA Property and List of Submittals

Refer to link below:

https://www.metrolinktrains.com/globalassets/about/engineering/scrra_form_no_37.pdf

Exhibit E-2

To Construction and Maintenance Agreement
for
MOUNT VERNON AVENUE VIADUCT
REPLACEMENT
SCRRA Form 6 Temporary Right of Entry
Agreement
and SCRRA Insurance Requirements

Refer to link below:

https://www.metrolinktrains.com/globalassets/about/engineering/scrra_form_no_6.pdf

ACCESS CONTROL MANAGEMENT PLAN

In addition to the application requirements for SCRRA Form 6, Temporary Right of Entry Agreement, Contractor shall provide for Metrolink approval a separate management plans to include specific procedures, details, contacts and hierarchy of responsibility and protocol for each of the following topics before a Right-of-Entry will be approved;

- Control and manage materials and equipment deliveries to the jobsite by Contractor, subcontractors and 3rd party vendors to include location and access to material and equipment storage areas. Also control and manage deliveries of construction materials to be delivered to the site by 3rd party vendors to be incorporated into the work.
- Control and manage access to the jobsite by contractor personnel, subcontractor personnel, vendors, owner representatives and their consultants and other 3rd party visitors to the jobsite.
- Control and manage the use of the of the Temporary Construction Crossing with points of access identified. Access to the Metrolink right of way will be secured with 6' chain-link fencing and gate. Metrolink lock will be placed on the gate and only the Roadway Worker In Charge (RWIC) will be authorized to open the point of access gates. A RWIC is required to supervise the crossing at all times that it is will be in use and will close the crossing when it is not in use.

- Control and manage job briefings; Prior to the required job briefing by Roadway Worker In Charge (RWIC), the Contractor's Superintendent/Foreman and the Roadway Worker In Charge (RWIC) will hold a briefing at the start of the shift and again as the conditions, job tasks and/or locations change. The Superintendent/Foreman will outline the work scope to be performed, the location and any associated safety requirements and the RWIC will outline the scope and method of protection to be employed. All contractor and subcontractor workers will sign to acknowledge understanding and agreement of both the work scope and method of on track protection. The Superintendent/Foreman shall have an approved copy of the Site Specific Work Plan, SSWP, available on site.

DRAFT

Exhibit F

To Construction and Maintenance Agreement for MOUNT VERNON AVENUE VIADUCT REPLACEMENT Funding Schedule

DRAFT

Mt. Vernon Viaduct Project Funding Sources

1. Federal Highway Bridge Program (HBP) funds. Funding 88.53% of federally participating costs.
2. State Proposition 1B Local Bridge Seismic Retrofit Account will be used as 11.47% match for Federal HBP funds available to the State for seismic work on local bridges, ramps, and overpasses as identified by Caltrans.
3. BNSF project contribution \$29,500,000. Will be used for local match for federally participating costs in the right of way and construction phases.
4. City of San Bernardino Funding will include City share of Measure I Arterial funds and Developer Impact Fees. Will be used for local match for federally participating costs and nonparticipating costs.

Exhibit G

To Construction and Maintenance Agreement
for

MOUNT VERNON AVENUE VIADUCT
REPLACEMENT

CPUC Decision Granting Authority to Reconstruct a
Grade-Separated Highway-Rail Crossing

STATE OF CALIFORNIA

Gavin Newsom, Governor

PUBLIC UTILITIES COMMISSION

320 W. 4TH STREET, SUITE 500
LOS ANGELES, CA 90013

November 13, 2019

File Number: XREQ 2019100006
Mount Vernon Avenue (Overhead)
City of San Bernardino, San Bernardino CountyPaula Beauchamp
Director of Project Delivery
San Bernardino County Transportation Authority
1170 West 3rd Street, 2nd Floor
San Bernardino, CA 92410

SENT VIA E-MAIL

Re: General Order 88-B Request for Authority to Modify the Mount Vernon Avenue Grade-Separated Highway-Rail Crossing Identified as CPUC Crossing Numbers 101SG-56.26-A and 101SG-56.33) and DOT Number 026731F, in San Bernardino, San Bernardino County.

Dear Ms. Beauchamp:

This refers to your letter dated October 2, 2019, received by us on October 18, 2019, requesting authorization pursuant to California Public Utilities Commission (CPUC/Commission) General Order (GO) 88-B, to modify the grade-separated Mount Vernon Avenue crossing (crossing) over the Southern California Regional Rail Authority (SCRRA) tracks in San Bernardino (City), San Bernardino County. The crossing is identified as CPUC Crossing Numbers 101SG-56.26-A and 101SG-56.33-A and DOT Number 026731F.

The crossing consists of a vehicle overpass with two traffic lanes in each direction over a railyard with 23 sets of railroad tracks owned by the San Bernardino County Transportation Authority (SBCTA) and maintained by SCRRA. BNSF also operates freight trains over this line. The proposed alterations include the construction of a new wider bridge to accommodate four lanes of vehicular traffic, along with a bike lane and sidewalk in each direction. Approximately 56 passenger and 13 freight trains operate daily on the railroad tracks at a maximum speed of 25 and 10 miles per hour respectively.

The new bridge provides a minimum permanent vertical clearance of 24 feet 6 inches. and a minimum horizontal clearance of 9 feet 4 inches. During construction, the minimum vertical clearance will be reduced to 24 feet. All proposed permanent and temporary clearances will comply with Commission GO 26-D minimum clearance requirements.

The Commission's Rail Crossings and Engineering Branch (RCEB) investigated the request filed by the SBCTA and finds that it adequately addresses compliance and safety. As SBCTA, SCRRA, and the City agree as to the design and apportionments of the cost under the provisions of GO 88-B, the improvements as described in your request received by us on October 18, 2019, and summarized above, are authorized.

SBCTA Contract #22-1002699

CPUC No. 101SG -56.26-A

DOT No. 026731F

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Construction and Maintenance Agreement
Mount Vernon Avenue Viaduct Replacement

Packet Pg. 202

Paula Beauchamp
XREQ 2019100006
November 13, 2019
Page 2 of 2

This project is statutorily exempt from the requirements of the California Environment Quality Act of 1970, as amended [California Public Resources Code 21080.13].

This authorization shall expire if the above conditions are not complied with or if the work is not completed within three years of the date of this letter. Upon written request to RCEB, the time to complete the project may be extended. Any written request for a time extension must include concurrence letters by involved parties in support of the time extension. If an extension is requested, RCEB may reevaluate the crossing prior to granting an extension.

Within 30 days after completion of this project, the SBCTA shall notify RCEB that the authorized work is completed, by submitting a completed Commission Standard Form G titled *Report of Changes at Highway Grade Crossings and Separations*. Form G requirements and forms can be obtained at the Commission web site at <http://www.cpuc.ca.gov/Crossings>. This report may be submitted electronically to rceb@cpuc.ca.gov.

At the conclusion of the project, SCRRA should electronically submit an updated Federal Railroad Administration (FRA) inventory form (Form F6180.71) to the FRA, reflecting the changes. Commission requests a concurrent copy of the updated inventory form be submitted to rceb@cpuc.ca.gov.

If you have any questions, please contact Sergio Licon at (213) 576-7085 or sal@cpuc.ca.gov.

Sincerely,



Anton Garabetian, P.E.
Program and Project Supervisor
Rail Crossings and Engineering Branch
Safety and Enforcement Division

cc: **(SENT VIA E-MAIL)**
Justin Fornelli, SCRRA
Tiera Adams, BNSF
Alex Qishta, City of San Bernardino

Minute Action

AGENDA ITEM: 10

Date: May 4, 2022

Subject:

North First Avenue Bridge over Burlington Northern Santa Fe in the City of Barstow - Cooperative Agreement Amendments, California Department of Transportation High Cost Agreement, and Release of Invitation for Bids

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve Amendment No. 1 to Cooperative Agreement No. 19-1002226 for the Construction phase of the North First Avenue Bridge over Burlington Northern Santa Fe Intermodal Yard (Project) with the City of Barstow (City), to update the Project construction costs and funding based on the current funding sources available for the Project, which includes a decrease in North Desert Measure I funds of \$488,615, a decrease in Federal funds of \$2,132,487, additional State funds of \$305,102, and an increase in City funds of \$892,000.

B. Authorize the Executive Director, or his designee, to finalize negotiations, approve and execute Contract No. 22-1002785 with the California Department of Transportation (Caltrans), which will be based on the draft letter and funding table agreement attached, upon General Counsel's final approval as to form. This agreement addresses funding reimbursement for the Construction phase of the Project, where San Bernardino County Transportation Authority will be responsible for the initial funding of the Construction phase, with repayment of 88.53% of the federally participating costs from the Federal Highway Bridge Program anticipated up to \$54 million to start in Federal Fiscal Year 2023/2024, at a planned not-to-exceed amount of \$20 million per year.

C. Approve Amendment No. 4 to Funding Agreement No. 15-1001119 for the Project pre-construction phases with the City, to update the Project milestones, costs and funding based on the current funding sources available for the Project, which includes a decrease in North Desert Measure I funds of \$1,619,089, a decrease in Federal funds of \$3,501,911, and additional City funds of \$2,270,000, which include City's Section 190/California Public Utilities Commission funds. The amendment also includes extending the termination date to July 31, 2025, to cover Design Support Services during construction and as-built preparation during Project closeout phase.

D. Authorize the release of Invitation for Bids No. 22-1002780 for construction of the Project, upon notification from Caltrans that the Federal Authorization Request (FAR) package has been approved.

Background:

North First Avenue in the City of Barstow (City) consists of three independent bridges spanning over the Burlington Northern Santa Fe (BNSF) Intermodal Yard, the Mojave River, and the Mojave River Overflow (Overflow). The bridges were built in the 1930s, and on the Bridge Inspection Report prepared by the California Department of Transportation (Caltrans) in April 2012, the bridges were considered Structurally Deficient in their superstructure, sub-structure and the overall structural evaluation. The existing bridge over the BNSF Intermodal Yard is also considered Functionally Obsolete due to its overall geometry and sub-standard

Entity: San Bernardino County Transportation Authority

vertical clearance. The Construction phase of the North First Avenue Bridge over the BNSF Intermodal Yard (Project) will provide a new structure that will meet current geometric standards with full shoulders, sidewalks and accommodate all legal trucks and permit vehicles.

Recommendation A:

The City has served as the sponsor agency on the replacement of the aging North First Avenue bridges. Due to the complicated nature and cost of the Project, the City has requested that San Bernardino County Transportation Authority (SBCTA) take the lead on the Construction phase of this Project. On September 2, 2020, the SBCTA Board of Directors (Board) approved Cooperative Agreement No. 19-1002226 for the Project with the City. Based on the latest engineer's estimate, the total construction cost of this Project, including Project Management costs, is now estimated to be \$62,449,000. The Construction phase is planned to be funded with \$53,642,681 of Highway Bridge Program (HBP) funds, \$4,949,217 from the City's share of Measure I North Desert Major Local Highway Project Program, \$305,102 of Proposition 1B Local Bridge Seismic Retrofit Account funds, and \$3,552,000 of City funds, which include City's Section 190/California Public Utilities Commission (CPUC) funds, betterments and Project Management costs. The City obtained a grant of \$5 million in Section 190 funds from the CPUC, which will be used on both the Right-of-Way (ROW) and Construction phases of the Project and these additional funds are reflected in the updated funding tables for both the construction and the pre-construction Funding Agreements.

Staff is recommending approval of Amendment No. 1 to Agreement No. 19-1002226 to update the construction costs and funding based on the engineer's estimate and the current funding sources available for the Project.

Recommendation B:

The HBP has a \$20 million reimbursement cap for any project phase in any year. Any project with a phase above \$20 million is considered a high cost project and requires a special agreement with Caltrans to define the terms for when the Federal funds will be reimbursed to the local agency. The agreement has a commitment for Caltrans to reimburse the agency with HBP funds; however, the local agency will need to spend the money first and will only be reimbursed up to \$20 million, per year, when funding from the program is available for reimbursement. For this Project, the Construction phase is over \$20 million and will require a High Cost Agreement (HCA) to define the reimbursement terms. Caltrans' staff has indicated that reimbursement funds would not be available until Federal Fiscal Year 2023/2024. In order for SBCTA to cover the costs of the Construction phase, it is anticipated that short-term borrowing will be required. Staff has looked at the cash flow based on this deferred reimbursement and determined that short-term financing costs will be incurred. Caltrans will reimburse these financing costs at 88.53% of the total cost with HBP funds as part of their overall project funding.

The HCA template attached, for Board review, is a form letter template used by Caltrans to document its funding commitment to the applicable local agency. For this HCA, staff has received from Caltrans a draft agreement based on anticipated funding needs and the final details are currently being discussed between Caltrans and SBCTA. Once final agreement on the funding and cash flow is achieved between SBCTA and Caltrans, a final HCA will be issued and sent to SBCTA for final review and approval. It is anticipated that this process could take up to two (2) months. As a result, staff is requesting that the Board authorize the Executive Director,

or his designee, to finalize the details of this agreement, and execute the final HCA after approval as to form, by SBCTA's General Counsel, provided the final HCA is in substantially the form attached and consistent with the cash flow. It is anticipated that there will be provisions for reimbursement of up to \$54 million in HBP funds, which are anticipated to start in Federal Fiscal Year 2023/2024 at a maximum of \$20 million in HBP funds per year. Allowing the Executive Director to finalize the details of this standard agreement will allow earlier execution of the HCA. As the available HBP funds are based on a first come, first served basis, this will allow SBCTA to be in line for available funding sooner.

Recommendation C:

On February 4, 2015, the Board approved Funding Agreement No. 15-1001119 for the Project with the City to define funding commitments for the Project for the pre-construction phases that the City was leading. Due to the updated Project phase costs and new funding sources available, staff is recommending approval of Amendment No. 4 to Agreement No. 15-1001119 to update the funding table and extend the termination date to July 31, 2025, to cover Design Support Services during construction and closeout.

Recommendation D:

The Plans, Specifications, and Estimates (PS&E) and the ROW Certification are approved. An Invitation for Bids (IFB) has been prepared based on the PS&E package. Staff is recommending that the Board authorize the release of IFB No. 22-1002780, subject to approval of the Federal Authorization Request (FAR) package. The Project can then be advertised for construction with an anticipated award of a construction contract to be brought directly to the Board for approval in summer 2022.

Financial Impact:

This item is consistent with the Fiscal Year 2021/2022 Adopted Budget and Fiscal Year 2022/2023 Proposed Budget under Task No. 0860 Arterial Projects, Sub-Task No. 0811 N. 1st Ave Bridge Over-BNSF.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the Mountain/Desert Policy Committee on April 15, 2022. SBCTA's Acting Procurement Manager and Risk Manager have reviewed this item, the draft amendments and draft Scope of Work. SBCTA General Counsel has reviewed the IFB and draft amendments, but not the Scope of Work.

Responsible Staff:

Dennis Saylor, Project Manager

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

Contract Summary Sheet

10.a

General Contract Information

Contract No: 19-1002226 Amendment No.: 1

Contract Class: Receivable Department: Project Delivery

Customer ID: BARS CI Customer Name: City of Barstow

Description: North First Avenue Bridge over BNSF Railroad Company Construction Cooperative Agreement

List Any Accounts Payable Related Contract Nos.: 22-1002780

Dollar Amount					
Original Contract	\$	2,660,000.00	Original Contingency	\$	-
Prior Amendments			Prior Amendments	\$	-
Current Amendment	\$	892,000.00	Current Amendment	\$	-
Total/Revised Contract Value	\$	3,552,000.00	Total Contingency Value	\$	-
	Total Dollar Authority (Contract Value and Contingency)			\$	3,552,000.00

Contract Authorization

Board of Directors Date: 05/04/2022 Board Item # 8579

Contract Management (Internal Purposes Only)

Local Funding Agreement N/A

Accounts Receivable						
Total Contract Funding:	\$	3,552,000.00	Funding Agreement No:	19-1002226		
Beginning POP Date:	09/02/2020	Ending POP Date:	04/01/2026	Final Billing Date:	06/30/2026	
Expiration Date:	12/31/2039					
Fund	Prog	Task	Sub-Task	Revenue	Total Contract Funding:	
GL: 6010	40	0860	0811	42403003	3,552,000.00	
GL: -	-	-	-	-	-	
GL: -	-	-	-	-	-	
GL: -	-	-	-	-	-	
GL: -	-	-	-	-	-	
GL: -	-	-	-	-	-	

Heng Chow

Henry Stultz

Project Manager (Print Name)

Task Manager (Print Name)

Additional Notes: Ending POP date and Final Billing date are estimates only. Agreement does not expire.

Attachment: CSS_19-1002226-1 (8579 : North First Avenue Bridge over BNSF - City of Barstow Coop Amendments, HCA and Release of IFB)

AMENDMENT NO. 1 TO AGREEMENT NO. 19-1002226

BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

CITY OF BARSTOW

FOR

**THE CONSTRUCTION PHASE OF THE NORTH FIRST AVENUE BRIDGE
OVER BURLINGTON NORTHERN SANTA FE (BNSF) IN THE CITY OF BARSTOW**

This Amendment No. 1 (“Amendment”) is made and entered into by and between the San Bernardino County Transportation Authority (“SBCTA”) and the City of Barstow (“CITY”). SBCTA and CITY are each a “Party” and are collectively the “Parties.”

RECITALS

A. The Parties entered into Cooperative Agreement No. 19-1002226 (“Agreement”) on September 8, 2020, to delineate roles, responsibilities, and funding commitments for the Construction phase of the NORTH FIRST AVENUE BRIDGE OVER BURLINGTON NORTHERN SANTA FE (BNSF) IN THE CITY OF BARSTOW (“PROJECT”); and

B. The Parties now desire to amend the Agreement to revise the project funding for the Construction phase of the PROJECT based on the updated engineer’s estimate and available funding sources.

NOW, THEREFORE, SBCTA and CITY agree to amend the Agreement as follows:

SECTION 1

1. Section I, Paragraph L, is hereby amended in its entirety to read as follows:

- A. “L. To contribute towards the Construction Cost of the Project in an amount not to exceed \$4,949,217 in North Desert Subarea MLHP Funds, as shown in Attachment A. The actual cost of a specific phase may ultimately vary from the estimates provided in Attachment A; however, under no circumstance are the total combined SBCTA funds to exceed \$4,949,217 without a written amendment to this Agreement signed by both Parties.”

2. Section II, Paragraph H, is hereby amended in its entirety to read as follows:

“To reimburse SBCTA for the Construction capital cost of \$2,894,000 from the CPUC/Section 190 funds, and actual costs incurred for Project Management as required per Measure I Strategic Plan Policy 40017 MDMLH-22 in an estimated amount of \$500,000 (CITY FUNDS) as shown in Attachment A. In addition, to be responsible for 100% of any Ineligible Expenditures under Measure I Strategic Plan Policy 40017 MDMLH-20 that are requested by the CITY in an estimated amount of \$158,000 (CITY FUNDS) as shown in Attachment A. This would include betterments such as architectural aesthetic treatments that are deemed non-participating by the Caltrans District Local Assistance Engineer or the Highway Bridge Program. However, under no circumstance are the total combined CITY FUNDS to exceed \$3,552,000 without a written amendment to this Agreement signed by both Parties. It is understood that the ineligible expenditures requested by CITY will be bid as an additive alternate in the contract documents. It is also understood that these ineligible expenditures are based on the availability of grant funds that have not be allocated. Therefore, if the funds are not allocated by the time of the award of construction, these requested ineligible expenditures will be omitted from the contract documents as an additive alternate. The City will bear the cost to modified contract documents for the additive alternates as part of their contract with the bridge consultant.”

3. Attachment A to the Agreement is amended in its entirety as reflected by Attachment A to this Amendment.
4. The Recitals set forth above are incorporated herein by this reference.
5. Except as amended by this Amendment, all other provisions of the Agreement shall remain in full force and effect.
6. This Amendment is deemed to be included and made part of the Agreement.
7. This Amendment is effective upon execution by SBCTA.

--- SIGNATURES ON NEXT PAGE ---

IN WITNESS WHEREOF, the Parties have executed this Amendment below:

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

CITY OF BARSTOW

By: _____
Curt Hagman, President
Board of Directors

By: _____
City Manager

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM

By: _____
Juanda L. Daniel
SBCTA Assistant General Counsel

By: _____
CITY Attorney

Date: _____

Date: _____

Attachment: 19-1002226-1 (8579 : North First Avenue Bridge over BNSF - City of Barstow Coop Amendments, HCA and Release of IFB)

ATTACHMENT A

PROJECT DESCRIPTION

The CITY and SBCTA propose to remove and replace the existing North First Avenue Bridge over the BNSF Railway. It is intended that the CITY serves as the implementing agency for the Environmental Clearance, Design and ROW phases and SBCTA serves as the implementing agency for Construction Phase.

PROJECT FUNDING TABLE

<u>Phase</u>	<u>Total Cost</u>	<u>Federal Highway Bridge Program Funds</u>	<u>SBCTA Funds¹ Measure I Major Local Highway Projects Funds</u>	<u>LBSRA²</u>	<u>City Funds³</u>
<u>CONSTRUCTION</u>	<u>\$61,949,000</u>	<u>\$53,642,681</u>	<u>\$4,949,217</u>	<u>\$305,102</u>	<u>\$3,052,000</u>
<u>PROJECT MANAGEMENT</u>	<u>\$500,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$500,000</u>
<u>Total</u>	<u>\$62,449,000</u>	<u>\$53,642,681</u>	<u>\$4,949,217</u>	<u>\$305,102</u>	<u>\$3,552,000</u>

¹ SBCTA Funds can be from sources under control of SBCTA including but not limited to Measure I Major/Local Highway program, or other funds without necessitating an amendment of this Agreement

² LBSRA – Proposition 1B Local Bridge Seismic Retrofit Account funds administered through California Transportation Commission

³ City Funds include \$2,894,000 CPUC/Section 190 Funds, \$500,000 estimated Project Management costs and \$158,000 Betterments. Per Measure I Strategic Plan Policy 40017 MDMLH-20 & 22, City is responsible for 100% of actual Project Management costs and any Ineligible Expenditures that are requested by the CITY.

DEPARTMENT OF TRANSPORTATION

DIVISION OF LOCAL ASSISTANCE – M.S. 1

1120 N STREET

P. O. BOX 942874

SACRAMENTO, CA 94274-0001

PHONE (916)

FAX (916)

TTY 711



*Flex your power!
Be energy efficient!*

Date:

FTIP/FSTIP ID:

Federal Aid Project Number

Project Description

Dear Public Works Director,

The purpose of this letter is to commit the California Department of Transportation (Department) to fund the {fill in} bridge project (Project) consistent with the attached draft project funding sheets. The Department requests the {fill in} (Agency) to concur with this proposal and commit local resources to allow the Department to produce a new financially constrained Program list for the {MPO name} region. The {MPO} will then incorporate the revised Program list into the Federal Transportation Improvement Program (FTIP).

The Department, in cooperation with the Local Assistance Highway Bridge Program (HBP) Advisory Committee (California Streets & Highway Code Section 2413), has implemented a policy (Office Bulletin 11-02) to fund high cost projects. Members of Local Assistance HBP Advisory Committee include the Department (Chair), representatives from the League of California Cities, the California State Association of Counties, the California Association of Councils of Governments, California Transportation Commission staff, and the Federal Highway Administration.

It has been demonstrated that high cost projects commit large sums of federal funds but cannot spend the funds in one year due to local agency contract processes, time to mobilize the contractors and the time it takes to actually construct large projects. These idled federal funds could be used to advance other projects. Cash management is critical to effective stewardship of the local assistance HBP.

This letter implements the cash management policy for the Project. The Project is subject to the high cost policy because the {Right of Way (R/W) or Construction, specify} phase exceeds \$20 million.

The Department's funding commitments, as shown in the attached draft project funding sheet, are conditional. The conditions are as follows:

1. Agency is responsible for committing (budgetary) non-federal fund sources to fund the Advance Construction (AC) to cash flow the high cost phase of the Project.

Date:

FTIP/FSTIP ID:

Federal Aid Project Number:

Project Description:

2. AC conversion may not be automatic if there are delays in constructing the Project. At least 50% of the federal funds obligated on the Project must be spent to justify future programmed AC conversion.
3. Office Bulletin 10-01 authorizes the Department to reserve current year HBP funds for projects programmed in that current year through March 30th. After March 30th, Department redirects the HBP funds to other projects that may be advanced from future years of the FTIP. Current year programmed AC conversion must be obligated prior to March 30th.
4. Additional AC conversion may be obligated in {specify FFYs} using Expedited Project Selection Procedures (EPSP), if HBP funds are available after April 15th of each year.
5. Proposition 1B bond funds, Local Bridge Seismic Retrofit Account, matching funds may only be encumbered on the project when matching federal funds are obligated on the Project as shown in the attached draft project funding sheets.
6. Congress has not yet authorized a new transportation act. It is unknown what the State's authority to commit and/or obligate future HBP funds will be until there is a new act.
7. If the federal funds for the initial authorization of {R/W or Construction, specify} phase shown in the attached draft project funding sheets is not obligated in the year programmed, the Agency must commit additional local AC resources on the project in the following year to ensure the Project is fully funded or the project must be removed from the 4 year element of the FTIP until the next FTIP cycle. In either case, the funding commitment in this letter will be vacated and a new letter must be developed.
8. In the event the Project becomes inactive, the funding commitment in this letter may be vacated and a new a new letter must be developed. An "inactive project" is a project for which no expenditures have been charged against federal funds for the past 12 months. (23CFR630.106(a)(5))
9. Nothing in this letter can be considered a payable contractual commitment by the Department. Contractual commitments to the Agency are made through the procedures/processes defined in the Local Assistance Procedures Manual.

Other Recommendations:

10. The Agency is advised to ensure HBP funds are obligated prior to March 30th of any given year or risk losing programmed funds. It is recommended the Agency schedule project authorizations and AC conversions in the late fall of any given year to ensure federal funds are available.
11. This letter, returned to the District Local Assistance Engineer (DLAE), with Agency approval signature (below) may be used in lieu of the submittal of Exhibit 3-I, Request

Date:

FTIP/FSTIP ID:

Federal Aid Project Number:

Project Description:

for Local Advance Construction Authorization, from the Local Assistance Procedures Manual.

12. The local agency is further reminded that this project is subject to mandatory value analysis since the total project cost is in excess of \$20 million. If the total project cost is greater than \$100 million, additional federal oversight will be required such as a multi-year financial plan and other project specific federally mandated oversight.

The Department requests the Agency to commit their local resources consistent with this proposal to allow the Department to produce a new financially constrained bridge program list for the {MPO} region. In the event the Agency cannot commit local funds to cash manage the Project, the Agency may request a meeting with the Department to appeal this policy.

If you have questions, please contact _____.

Sincerely,

DLAE

Local Agency AC Commitment Block
{Specify Federal Aid Project Number}

The Agency agrees to use local funds in lieu of federal funds to finance the cost of work as shown in the attached draft project funding sheets shown as LOCAL FUNDED AC until such time that federal funds become available for obligation and subsequent reimbursement of eligible work. It also is understood that federal reimbursement is not guaranteed for funds identified as LOCAL FUNDED AC.

The Agency understands that work performed prior to federal authorization is ineligible for federal reimbursement and that advertising the construction contract prior to federal authorization will deem the construction and construction phases of work ineligible for federal funds.

Local Agency Representative Authorized to Commit Local Funds

Date

Title

California Department of Transportation

DISTRICT 8 OFFICE OF LOCAL ASSISTANCE
 464 WEST FOURTH STREET ms760 | RIVERSIDE, CA 92401-1400
 (909) 806-3944 | FAX (909) 383-7131 TTY 711
www.dot.ca.gov/caltrans-near-me/district-8



March XX, 2022

Ms. Andrea Zureick
 Director of Fund Administration
 San Bernardino County Transportation Authority
 1170 W. 3rd Street
 San Bernardino, CA 92410-1715

FTIP/FSTIP ID: SBDLS08
 Federal Aid Project Number: 6507(027)
 Project Description: Replace the North
 1st Avenue Bridge (54C0088) over
 the BNSF Railyard

Dear Ms. Zureick,

The purpose of this letter is to commit the California Department of Transportation (Department) to fund the replacement of the North 1st Avenue Bridge (54C0088) over the Burlington Northern Santa Fe (BNSF) Railyard construction project (Project) consistent with the attached draft project funding sheet. The Department requests the San Bernardino County Transportation Authority (Agency) to concur with this proposal and commit local resources to allow the Department to produce a new financially constrained Highway Bridge Program (HBP) list for the San Bernardino County Transportation Authority (SBCTA) region. SBCTA will then incorporate the revised Program list into the Federal Transportation Improvement Program (FTIP).

The Department, in cooperation with the Local Highway Bridge Program (HBP) Advisory Committee (California Streets & Highway Code Section 2413), has implemented a policy to fund high cost bridge projects. Members of Local HBP Advisory Committee include the Department (Chair), representatives from the League of California Cities, the California State Association of Counties, the California Association of Councils of Governments, California Transportation Commission staff, and the Federal Highway Administration.

It has been demonstrated that high cost projects commit large sums of federal funds but cannot spend the funds in one year due to local agency contract processes, time to mobilize the contractors and the time it takes to actually construct large projects. These idled federal funds could be used to advance other projects. Cash management is critical to effective stewardship of the local HBP.

This letter implements the cash management policy for the Project. The Project is subject to the high cost policy because the Construction phase exceeds \$35 million.

The Department's funding commitments, as shown in the attached draft project funding sheet, are conditional. The conditions are as follows:

1. Agency is responsible for committing (budgetary) non-federal fund sources to fund the Advance Construction (AC) to cash flow the high cost phase of the Project.

Ms. Andrea Zureick
 March xx, 2022
 Page 2

FTIP/FSTIP ID: SBDLS08
 Federal Aid Project Number: 6507(027)
 Project Description: Replace North 1st Avenue
 Bridge (54C0088) over the BNSF Railyard

2. AC conversion may not be automatic if there are delays in constructing the Project. At least 50% of the federal funds obligated on the Project must be reimbursed to justify future programmed AC conversion.
3. HBP Guidelines authorizes the Department to reserve current year HBP funds for projects programmed in that current year through March 30th. After March 30th, the Department redirects the HBP funds to other projects that may be advanced from future years of the FTIP. Current year programmed AC conversion must be obligated prior to March 30th.
4. Additional AC conversion may be obligated in Federal Fiscal Years 22/23, 23/24, 24/25 and 25/26 using Expedited Project Selection Procedures (EPSP), if HBP funds are available after April 15th of each year.
5. Congress has authorized a five-year transportation act which provides federal funding through Federal Fiscal Year 25/26. It is unknown what the State's authority to commit and/or obligate future HBP funds will be until there is either another new act or an extension to the current act.
6. If the federal funds for the initial authorization of the construction phase shown in the attached draft project funding sheet is not obligated in the year programmed, the Agency must commit additional local AC resources on the project in the following year to ensure the Project is fully funded or the project must be removed from the 4 year element of the FTIP until the next FTIP cycle. In either case, the funding commitment in this letter will be vacated and a new letter must be developed.
7. In the event the Project becomes inactive, the funding commitment in this letter may be vacated and a new letter must be developed. An "inactive project" is a project for which no expenditures have been charged against federal funds for the past 12 months. (23CFR630.106(a)(5))
8. Nothing in this letter can be considered a payable contractual commitment by the Department. Contractual commitments to the Agency are made through the procedures/processes defined in the Local Assistance Procedures Manual.
9. The attached draft project funding sheet includes \$4,176,725 of programming for financing costs the Agency may incur to fund local funded AC. The HBP will only reimburse financing costs for the project, should they be necessary, at the end of the project and after review of the financing information for the financing costs. The financing information shall be provided twice per year throughout the project and shall include date of commercial paper issuance and amount, maturity date, interest rate and interest amount. Financing information shall be provided at the beginning of October and March.

Ms. Andrea Zureick
 March xx, 2022
 Page 3

FTIP/FSTIP ID: SBDLS08
 Federal Aid Project Number: 6507(027)
 Project Description: Replace North 1st Avenue
 Bridge (54C0088) over the BNSF Railyard

Other Recommendations:

10. The Agency is advised to ensure HBP funds are obligated prior to March 30th of any given year or risk losing programmed funds. It is recommended the Agency schedule project authorizations and AC conversions in the late fall of any given year to ensure federal funds are available.
11. This letter, returned to the District Local Assistance Engineer, with Agency approval signature (below) and the draft project funding sheet may be used in lieu of the submittal of Exhibit 3-I, Request for Local Advance Construction Authorization, from the Local Assistance Procedures Manual.
12. The Agency is further reminded that this project is subject to mandatory value analysis since the total project cost is in excess of \$40 million. The total project costs greater than \$100 million, additional federal oversight will be required such as a multi-year financial plan and other project specific federally mandated oversight.

The Department requests the Agency to commit their local resources consistent with this proposal to allow the Department to produce a new financially constrained bridge program list for the SBCTA region.

If you have questions, please contact me at (951) 236-0135 or Karen Nguyen at (909) 963-8650.

Sincerely,

Alberto Vergel De Dios
 District 8 District Local Assistance Engineer

Enclosures

- (1) Local Agency AC Commitment Block
- (2) Draft Project Funding Sheet

Ms. Andrea Zureick
 March xx, 2022
 Page 4

FTIP/FSTIP ID: SBDLS08
 Federal Aid Project Number: 6507(027)
 Project Description: Replace North 1st Avenue
 Bridge (54C0088) over the BNSF Railyard

Local Agency AC Commitment Block
 6507(027)

The Agency agrees to use local funds in lieu of federal funds to finance the cost of work as shown in the attached draft project funding sheets shown as LOCAL FUNDED AC until such time that federal funds become available for obligation and subsequent reimbursement of eligible work. It also is understood that federal reimbursement is not guaranteed for funds identified as LOCAL FUNDED AC.

The Agency understands that work performed prior to federal authorization is ineligible for federal reimbursement and that advertising the construction contract prior to federal authorization will deem the construction and construction phases of work ineligible for federal funds.

 Local Agency Representative Authorized to Commit Local Funds

 Date

 Print Name and Title

FOR DRAFT REVIEW ONLY --- 2020/21-2025/26 Highway Bridge Program

3/29/2022, 8:56 AM

- Notes:
- 1) MPOs/RTPA's must not use this listing for programming the RTIP.
 - 2) This is NOT an approved listing for use in developing the FTIP/FSTIP. See the HBP web site for the official proposed FTIP/FSTIP program listings:

Note id: 18

District: 08 County: San Bernardino

Responsible Agency HBP-ID Project Description

San Bernardino County Transportation Authority 4780 BRIDGE NO. 54C0088, N 1ST AVENUE OVER BNSF RY, UP RR, AMTRAK, 0.2 MI N MAIN ST. Replace existing 2 lane bridge with 2 lane bridge, existing bridge to be removed (Minor seismic retrofit funds). Other Federal Funds must be programmed in FTIP. High Cost Project agreement required. SBCTA is project sponsor for construction phase only.

Phase Summary:	Prior	20/21	21/22	22/23	23/24	24/25	25/26	Beyond	Total
PE									
R/W									
CON			60,592,659						60,592,659
Total			60,592,659						60,592,659

Fund Source Summary:	Prior	20/21	21/22	22/23	23/24	24/25	25/26	Beyond	Total
Fed \$					5,900,000	20,000,000	20,000,000	7,742,681	53,642,681
Local Match			6,949,978		-305,102				6,644,876
LSSRP Bond					305,102				305,102
Local AC			53,642,681		-5,900,000	-20,000,000	-20,000,000	-7,742,681	
Total			60,592,659						60,592,659

CON Summary:	Prior	20/21	21/22	22/23	23/24	24/25	25/26	Beyond	Total
Fed \$					5,900,000	20,000,000	20,000,000	7,742,681	53,642,681
Local Match			6,949,978		-305,102				6,644,876
LSSRP Bond					305,102				305,102
Local AC			53,642,681		-5,900,000	-20,000,000	-20,000,000	-7,742,681	
Total			60,592,659						60,592,659

Project #:
6507(027)

Attachment: 22-1002785 2022 3 29 HBP 54C0088 Funding Summary (8579 : North First Avenue Bridge

District: 08 County: San Bernardino

Responsible Agency HBP-ID Project Description

MPO Summary: San Bernardino Associated Governments

Number of Projects: 1

Totals:

	Prior	20/21	21/22	22/23	23/24	24/25	25/26	Beyond	Total
Fed \$					5,900,000	20,000,000	20,000,000	7,742,681	53,642,681
Local Match			6,949,978		-305,102				6,644,876
LSSRP Bond					305,102				305,102
Local AC			53,642,681		-5,900,000	-20,000,000	-20,000,000	-7,742,681	
Total for all Phases			60,592,659						60,592,659

Contract No:	<u>15-1001119</u>	Amendment No.:	<u>4</u>
Contract Class:	<u>Payable</u>	Department:	<u>Fund Administration</u>
Vendor No.:	<u>0227</u>	Vendor Name:	<u>City of Barstow</u>
Customer ID:	<u></u>	Customer Name:	<u>City of Barstow</u>
Description:	<u>North First Avenue Bridge over BNSF Funding Agreement</u>		
List Any Related Contract Nos.:	<u>19-1002226</u>		
List Any Accounts Payable Related Contract Nos.:	<u></u>		

Contract Authorization			
Board of Directors	Date: 05/04/2022	Board	Item # 8579
Contract Management (Internal Purposes Only)			

[illegible]

Heng Chow
 Project Manager (Print Name)

Andrea Zureick
 Task Manager (Print Name)

Packet Pg. 222

AMENDMENT NO. 4 TO AGREEMENT NO. 15-1001119**BETWEEN****SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY****AND****CITY OF BARSTOW****FOR****NORTH FIRST AVENUE OVERHEAD BRIDGE OVER THE BNSF RAILROAD
BRIDGE NO. 54C-0088**

This Amendment No. 4 (“Amendment”) to the Project Funding Agreement 15-1001119 by and between the San Bernardino County Transportation Authority (“SBCTA”) and the City of Barstow (“CITY”). SBCTA and CITY are each a “Party” and are collectively the “Parties.”

RECITALS

- A. The Parties entered into Project Funding Agreement 15-1001119 (“Agreement”) on or about March 4, 2015, to fund the NORTH FIRST AVENUE OVERHEAD BRIDGE OVER THE BNSF RAILROAD BRIDGE NO. 54C-0088 in the City of Barstow (“PROJECT”); and
- B. The Parties entered into Amendment No. 1 to Project Funding Agreement 15-1001119 on or about July 10, 2019, to allocate additional funding to the PROJECT; and
- C. The Parties entered into Amendment No. 2 to Project Funding Agreement 15-1001119 on or about March 4, 2020, to add SBCTA Project Management services to the scope of the PROJECT; and
- D. The Parties entered into Agreement No. 19-1002226 on or about September 2, 2020, to delineate roles, responsibilities, and funding commitments relative to the Construction phase of the PROJECT; and
- E. The Parties entered into Amendment No. 3 to Project Funding Agreement 15-1001119 on or about September 2, 2020, to remove the Construction phase and revise the project funding for the PROJECT; and
- F. The Parties now desire to amend the Agreement to revise the project funding for the PROJECT based on the updated project estimate and available funding sources, and to extend the termination date of the Agreement to July 31, 2025, to cover the design support services during construction and as-built preparation during the closeout phase.

NOW, THEREFORE, SBCTA and CITY agree to amend the Agreement as follows:

SECTION 1

1. Section I, Paragraph 1, is hereby deleted in its entirety and replaced with the following:

“1. To reimburse CITY for the actual cost of the PROJECT up to a maximum of \$660,000 in North Desert Subarea MLHP Funds, as shown in Attachment B. The actual cost of a specific phase may ultimately vary from the estimates provided in Attachment B; however, under no circumstance are the total combined SBCTA funds to exceed \$660,000 without a written amendment to this Agreement signed by both Parties.”

2. Section I, Paragraph 2, is hereby deleted in its entirety and replaced with the following:

“2. To reimburse CITY within 30 days after CITY submits an original and two copies of the signed invoices in the proper form covering those actual allowable PROJECT expenditures that were incurred by CITY up to a maximum of \$660,000 consistent with the invoicing requirements of the Measure I 2010-2040 Strategic Plan, including backup information. Invoices may be submitted to SBCTA as frequently as monthly.”

3. Section II, Paragraph 2, is hereby deleted in its entirety and replaced with the following:

“2. To be responsible for expending that portion of the eligible PROJECT expenses that are incurred by CITY, subject to reimbursement by SBCTA hereunder, for an amount not to exceed \$660,000 in North Desert Subarea MLHP funds, and which are reimbursable by SBCTA in accordance with Section I, Paragraph 2. Expenses relative to time spent on the PROJECT by CITY are considered eligible PROJECT expenses and may be charged to the PROJECT funds subject to SBCTA’s guidelines.”

4. Section III, Paragraph 7, is hereby deleted in its entirety and replaced with the following:

“7. This Agreement will be considered terminated upon reimbursement of eligible costs by SBCTA or July 31, 2025, whichever is sooner, provided that the provisions of Paragraphs 5, 6, 7, 8 and 9 of Section II, and Paragraphs 5 and 6 of Section III, shall survive the termination of this Agreement. The Agreement may also be terminated by SBCTA, in its sole discretion, in the event the PROJECT work described in Attachment A has not been initiated or let by CITY within twelve (12) months of the Effective Date of this Agreement.”

5. Attachment A to the Agreement is amended in its entirety as reflected by Attachment A to this Amendment.

6. Attachment B to the Agreement is amended in its entirety as reflected by Attachment B to this Amendment.

7. The Recitals set forth above are incorporated herein by this reference.
8. Except as amended by this Amendment, all other provisions of the Agreement, including all previous amendments, shall remain in full force and effect.
9. This Amendment is deemed to be included and made part of the Agreement.
10. This Amendment is effective upon execution by SBCTA.

--- SIGNATURES ON NEXT PAGE ---

DRAFT

IN WITNESS WHEREOF, the Parties have executed this Amendment below:

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

CITY OF BARSTOW

By: _____
Curt Hagman, President
Board of Directors

By: _____
City Manager

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM

By: _____
Julianna K. Tillquist
SBCTA General Counsel

By: _____
CITY Attorney

Date: _____

Date: _____

DRAFT

Attachment: 15-1001119-4 (8579 : North First Avenue Bridge over BNSF - City of Barstow Coop Amendments, HCA and Release of IFB)

ATTACHMENT A
NORTH FIRST AVENUE OVERHEAD BRIDGE OVER THE BNSF RAILROAD
BRIDGE NO. 54C-0088
CITY OF BARSTOW

Description of Project and Milestones

Project Title		
NORTH FIRST AVENUE OVERHEAD BRIDGE OVER THE BNSF RAILROAD BRIDGE NO. 54C-0088		
Location, Project Limits, Description, Scope of Work, Legislative Description		
The North First Avenue Bridge over BNSF railway UPRR AMTRAK is located 0.2 miles north of Main Street. The project limits are approximately from White Street to Riverside Drive. North First Avenue Bridge is the main north-south corridor connecting then northern and southern communities of the City of Barstow. Currently, the bridge has only two lanes, no shoulder, and only a 4' clear walkway on one side of the existing bridge and a Sufficiency Rating (SR) of 3.0. The replacement bridge is proposed to address the overall condition of the bridge and provide standard lanes, shoulders, and sidewalks.		
Component	Implementing Agency	
PA&ED and PS&E	City of Barstow	
Right of Way	City of Barstow	
Construction	SBCTA	
Purpose and Need		
As stated above, North First Avenue bridge is the main north-south corridor connecting the northern and southern communities of the City of Barstow. BNSF transcontinental railway and classification yard divides these two communities. Currently the existing bridge, initially built in 1930, is listed as structurally deficient in Caltrans Structure Maintenance & Investigation reports. This rating is due to its age, geometry, substandard vertical clearance. Barstow's railroad classification yard is one of California's major facilities. The replacement of the North First Avenue Bridge will greatly minimize any potential bridge failures which may have a negative impact on the transportation of goods on the transcontinental railway tracks. A bridge failure would also disconnect northern and southern communities of the City of Barstow.		
Project Benefits		
The replacement of the bridge would have the following benefits: <ul style="list-style-type: none">Keeps Barstow's northern and southern communities connected.Keeps transportation goods moving from the west coast to middle eastern United States.Provides for a safe transportation route.Provides alternate transportation methods such as walking and bicycling.		
Project Milestone		Proposed/(Completed)
Preliminary Environmental Study (PES) Approved		(04/09/2014)
Begin Environmental (PA&ED) Phase		(04/10/2014)
Draft Environmental Document	Document Type	CE (10/03/2015)
Begin Draft Project Report		(01/05/2015)
End Environmental Phase (PA&ED Milestone)		(12/04/2015)

Begin Preliminary Engineering 30% Design (PS&E) Phase	(09/05/2015)
End Design Phase (Ready to List for Advertisement Milestone)	(02/28/2022)
Begin Right of Way Phase	(10/12/2016)
End Right of Way Phase (Right of Way Certification Milestone)	(02/18/2022)
Begin Construction Phase (Contract Award Milestone)	07/15/2022
End Construction Phase (Construction Contract Acceptance Milestone)	07/31/2024
Begin Closeout Phase	08/01/2024
End Closeout Phase (Closeout Report)	07/31/2025

DRAFT

ATTACHMENT B

NORTH FIRST AVENUE OVERHEAD BRIDGE OVER THE BNSF RAILROAD BRIDGE NO. 54C-0088 CITY OF BARSTOW

Summary of Estimated Costs and Funding

<u>Phase</u>	<u>Total Cost</u>	<u>Federal Highway Bridge Program Funds</u>	<u>AUTHORITY's Share* MLHP Funds</u>	<u>CPUC/Section 190 Funds</u>	<u>Repurposed Earmark</u>	<u>City Local Funds</u>
PS&E	\$4,610,000	\$3,917,000	\$529,000	0	0	\$164,000
ROW	\$15,000,000	\$10,172,000	\$131,000	\$2,106,000	\$2,591,000	0
Project Support	\$50,000	0	\$50,000	0	0	0
Total	\$19,660,000	\$14,089,000	\$710,000	\$2,106,000	\$2,591,000	\$164,000

* AUTHORITY's Share can be from sources under control of AUTHORITY including but not limited to Measure I Major/Local Highway program, State Transportation Improvement Program (STIP), Surface Transportation Program (STP), or other funds without necessitating an amendment of this Agreement.

Minute Action

AGENDA ITEM: 11

Date: May 4, 2022

Subject:

Funding Memorandum of Understanding with San Bernardino County Department of Public Health and San Bernardino County Superintendent of Schools regarding Safe Routes to Schools Program

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve the Memorandum of Understanding No. 22-1002801 with San Bernardino County Department of Public Health for the implementation of the countywide Safe Routes to School (SRTS) Program in the receivable amount not-to-exceed \$200,000.

B. Approve the Memorandum of Understanding No. 22-1002802 with San Bernardino County Superintendent of Schools for the development of the countywide SRTS Program in the receivable amount not-to-exceed \$100,000.

C. Authorize the Executive Director, or his designee, to release a Request for Proposals for a consultant to implement the SRTS Program.

Background:

San Bernardino County Safe Routes to School Program Implementation

The Safe Routes to School (SRTS) Program is a growing movement that strives to make walking and biking to school safer and more accessible for children. Originally federally funded, SRTS programs have provided states and local jurisdictions with the resources and tools to implement such programs that promote the “Six E’s”: Evaluation, Education, Encouragement, Engineering, Enforcement, and Equity. According to a 2011 study on U.S. school travel, data collected from the National Center for SRTS showed that, compared to 1969 levels of walking and biking to school, there have been significant increases in the number of children that are driven to school and a significant decrease in the number of children that walk or bike to school. SRTS programs hope to reverse this trend by implementing changes that would make walking or biking to school easier for children.

Numerous benefits have arisen from existing SRTS programs that have been implemented across the country which include, but are not limited to, having a safer walking and biking environment for children, an increase in the number of children walking and biking to school, a decrease in traffic congestion, decreases in vehicle miles traveled and air pollutants, and improvements in students’ health. These benefits specifically align with San Bernardino County’s Countywide Vision of having a safer and healthier community for residents.

San Bernardino County Transportation Authority (SBCTA), in partnership with local jurisdictions and school districts, has developed and implemented Countywide SRTS plans and programs. Targeting public schools across San Bernardino County, the plans and programs aim to promote the “Six E’s” through hands-on activities, events, campaigns, and workshops as well as encourage jurisdictions to continue to invest in safety measures around schools.

Entity: San Bernardino County Transportation Authority

Board of Directors Agenda Item

May 4, 2022

Page 2

Timeline of SBCTA's SRTS Program:

2015 – Phase I - Completion of SRTS Data Collection and School Prioritization Plan

2017 – Phase II - Development of SRTS Countywide Plan and Outreach

2018 – Comprehensive Update of San Bernardino County Active Transportation Plan

2019 – Phase III – Implementation of SRTS programs in 27 schools led by San Bernardino County Department of Public Health (SBC DPH) in partnership with SBCTA and San Bernardino County Superintendent of Schools (SBCSS)

2019 – Present – SRTS Implementation paused due to the COVID-19 pandemic

2022 – Restart Phase III – Implementation of SRTS programs in 30 new schools (led by SBCTA)

In 2016, SBCTA, SBC DPH, and SBCSS partnered to apply for, and received, grant funds of \$500,000 from the Active Transportation Program (ATP) and implemented SRTS programs at 27 different schools around the County of San Bernardino (County). The program implementation was led by SBC DPH's team through hiring of a SRTS coordinator and selection of a consulting team to run programs at schools' sites. In 2018, SBCTA, SBC DPH, and SBCSS partnered again to implement SRTS programs at 30 new school sites around the County. Once completed, this will account for a little over 10 percent of the total county public schools. The partnership was again successful in securing \$500,000 of state funding with local match of \$253,000 from SBCTA, \$200,000 from SBC DPH, and \$100,000 from SBCSS to complete the program. As the pandemic slowly comes to an end and schools start to implement pre-pandemic programs once again, staff felt it was time to re-start the countywide SRTS Program. However, this cycle, SBC DPH requested that SBCTA take the lead in implementing the program as the previous SRTS coordinator at the County relocated to another state. SBCTA plans to manage the program by releasing a Request for Proposals (RFP) and selecting a consulting team to implement the program.

Financial Impact:

This item has no financial impact on the Fiscal Year 2021/2022 Budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the General Policy Committee on April 13, 2022. SBCTA General Counsel and Risk Manager have reviewed this item and the draft MOUs.

Responsible Staff:

Josh Lee, Deputy Director of Planning

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

General Contract Information

Contract No: 22-1002801 Amendment No.: _____

Contract Class: Receivable Department: Planning

Customer ID: SBCDPH Customer Name: San Bernardino County Department of Public Health

Description: Funding MOU for the countywide safe routes to school program implementation

List Any Accounts Payable Related Contract Nos.: _____

Dollar Amount							
Original Contract		\$	200,000.00	Original Contingency		\$	-
Prior Amendments		\$	-	Prior Amendments		\$	-
Current Amendment		\$	-	Current Amendment		\$	-
Total/Revised Contract Value		\$	200,000.00	Total Contingency Value		\$	-
	Total Dollar Authority (Contract Value and Contingency)					\$	200,000.00

Contract Authorization

Board of Directors Date: 05/04/2022 Board Item # 8556

Contract Management (Internal Purposes Only)

Local

Funding Agreement

Accounts Receivable																																																																																			
Total Contract Funding:		\$		200,000.00		Funding Agreement No:		22-1002801																																																																											
Beginning POP Date:		07/01/2022		Ending POP Date:		06/30/2025		Final Billing Date:		N/A																																																																									
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Josh Lee

Steve Smith

Project Manager (Print Name)

Task Manager (Print Name)

Additional Notes:

Attachment: 22-1002801 CSS DPH (8556 : Funding MOUs with SBCSS and SBCDPH regarding SRTS)

CONTRACT 22-1002801**MEMORANDUM OF UNDERSTANDING****BETWEEN THE****SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY****AND THE SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC HEALTH****FOR IMPLEMENTATION OF THE****COUNTYWIDE SAFE ROUTES TO SCHOOL PROGRAM****I. PARTIES AND TERM**

- A. This Memorandum of Understanding (“MOU”) is entered by and between the San Bernardino County Transportation Authority (“SBCTA”) and the San Bernardino County Department of Public Health (“DPH”) (each individually a “PARTY” and collectively, the “PARTIES”) on the Effective Date (as defined herein).
- B. This MOU is effective as of July 1, 2022 and expires June 30, 2025, but may be extended, or terminated earlier, in accordance with provisions of this MOU.
- C. This MOU may be terminated without cause upon thirty (30) days written notice by either PARTY. DPH and SBCTA are authorized to exercise their respective rights with respect to any termination of this AGREEMENT. The DPH Director and the SBCTA Executive Director, or their designees, each have authority to terminate this AGREEMENT. .

II. RECITALS

- A. WHEREAS, SBCTA and DPH desire to implement the Countywide Safe Routes to School (SRTS) Program in the County.
- B. WHEREAS, SBCTA has been awarded partial funding from the California Department of Transportation (Caltrans) Cycle 4 Active Transportation Program in the amount of \$500,000.
- C. WHEREAS, SBCTA has allocated \$253,000 as a local match for the SRTS Program.
- D. WHEREAS, DPH has allocated \$200,000 as a local match for the SRTS Program.
- E. WHEREAS, SBCTA conducted a prioritization study to select schools based on mode share, safety, equity, and demonstrated interest analysis.

- F. WHEREAS, DPH finds SBCTA qualified to implement a Safe Routes to School Program.
- G. WHEREAS, DPH desires that such services be provided by SBCTA and SBCTA agrees to perform these services as set forth below.
- H. NOW THEREFORE, SBCTA and DPH mutually agree to the following terms and conditions.

III. RESPONSIBILITIES

- A. SBCTA General Responsibilities:
 - i. Hire a Consultant (“Consultant”) to perform the services required for the Project as described below:
 - Plan, organize, and implement the SRTS programming to educate, encourage, enforce, and evaluate walking and bicycling among students, parents, and staff at select schools throughout the County.
 - Coordinate SRTS activities and evaluation with local transportation agency staff and planning staff to identify, prioritize, and evaluate solutions needed to remove obstacles to safe walking and bicycling to school.
 - Oversee and participate in the completion of walk audits at selected school sites.
 - Coordinate SRTS activities and evaluation with school staff, law enforcement agencies, volunteers, grantors, students, and parents.
 - Serve as liaison between students, parents, schools, law enforcement, and confer with school administrators, parents, and teachers to establish and maintain SRTS activities.
 - Provide tools, resources, and training to staff, parents, and students at selected schools to identify and overcome obstacles and develop strategies to encourage walking and bicycling safety.
 - Deliver pedestrian and bicycle safety information, including the health and academic advantages of active living.
 - ii. Submit reports of the program progress and invoices for services and costs incurred within a reasonable time and receipt of invoice by SBCTA.
 - iii. SBCTA shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to this MOU, except for anonymous statistical information that does not identify participants. SBCTA shall not use or disclose any identifying information for any purpose other than carrying out the obligations under this MOU, except as may be otherwise required by law. This provision will remain in the force even after the termination of the MOU.

- B. DPH shall provide funding for implementation of the SRTS Program as detailed in Section V. Fiscal Provisions.

IV. MUTUAL RESPONSIBILITIES

- A. SBCTA and DPH will establish mutually satisfactory methods for the exchange of such information as may be necessary for each PARTY to perform its duties and functions under this MOU, and will establish appropriate procedures to ensure all information is safeguarded from improper disclosure in accordance with applicable State and Federal laws and regulations.
- B. SBCTA and DPH will establish mutually satisfactory methods for dispute resolution at the lowest possible level, with a procedure to mobilize dispute resolution up through the PARTIES' respective chains of command.
- C. SBCTA and DPH will develop and implement procedures and forms necessary to administer and document program participation, compliance, and effectiveness.
- D. SBCTA and DPH will comply with the provisions of Education Code 49073.1, adhere to the requirement that pupil records will continue to be the property of and under the control of the San Bernardino County Superintendent of Schools, and ensure compliance with the Federal Family Educational Rights and Privacy Act.

V. FISCAL PROVISIONS

- A. The maximum amount of payment to SBCTA under this MOU shall not exceed \$200,000 and shall be subject to availability of funds to DPH. The consideration to be paid to SBCTA, as provided herein, shall be in full payment for all SBCTA services and expenses incurred in the performance hereof, including travel and per diem.
- B. DPH will provide the total amount of \$200,000 to provide for the local match, to be made in two payments, one in Fiscal Year 2022/2023 for \$100,000 and one in Fiscal Year 2023/2024 for \$100,000.

VI. GENERAL PROVISIONS

- A. No waiver of any of the provisions of the MOU shall be effective unless it is made in a writing which specifies the provision(s) so waived and which is executed by both PARTIES. No course of dealing and no delay or failure of a PARTY in exercising any right under any MOU shall affect any other or future exercise of that right or any exercise of any other right. A PARTY shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.

- B. Any alterations, variations, modifications, or waivers of provisions of the MOU, unless specifically allowed in the MOU, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both PARTIES as an amendment to this MOU.
- C. This MOU constitutes the sole and entire agreement between the PARTIES governing the matters set forth herein and supersedes any prior understandings, negotiations, agreements, arrangements and undertakings, written or oral, between the PARTIES respecting the subject matter herein. All previous proposals, offers, and other communications, written or oral, relative to this MOU, are superseded except to the extent that they have been incorporated into this MOU. It is the intent of the Parties that this MOU is an integrated agreement and that no evidence may be introduced to vary in any manner its terms and conditions. No representation, warranty, covenant, inducement or obligation not included in this MOU shall be binding.

VII. MUTUAL HOLD HARMLESS

- A. DPH agrees, at its own expense, cost and risk, to indemnify, defend, save and hold harmless SBCTA, its agents, employees and officers against any and all injuries, damages, liabilities, costs, suits or expenses, including reasonable attorneys' fees, arising out of any acts or omissions of or the condition of any property owned or controlled by, DPH in the performance of this contract. It is understood that employees and any contractor or subcontractor of DPH in its performance under this contract are not agents or employees of SBCTA.
- B. SBCTA agrees, at its own expense, cost and risk, to indemnify, defend, save and hold harmless DPH, its agents, employees and officers against any and all personal injuries, damages, liabilities, costs, suits or expenses, including reasonable attorneys' fees, arising out of any acts or omissions of, or the condition of any property owned or controlled by, SBCTA in the performance of this contract. It is understood that employees and any subcontractor of SBCTA in its performance under this contract are not agents or employees of DPH.

VIII. CONCLUSION

- A. This MOU, consisting of five (5) pages, is the full and complete document including all covenants, conditions, and benefits.
- B. The signatures of the PARTIES affixed to this MOU affirm that they are duly authorized to commit and bind them to the terms and conditions set forth in this document.

----- SIGNATURES ON FOLLOWING PAGE -----

In witness whereof the PARTIES have executed this MOU on the dates written below and this MOU is effective upon the last date of execution below ("Effective Date").

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____
Curt Hagman
President, Board of Directors

Date: _____

APPROVED AS TO FORM:

By: _____
Julianna K. Tillquist
General Counsel

**SAN BERNARDINO COUNTY
DEPARTMENT OF PUBLIC HEALTH**

By: _____
Curt Hagman
Chair, Board of Supervisors

Date: _____

APPROVED AS TO FORM:

By: _____
San Bernardino County
General Counsel

General Contract Information

Contract No: 22-1002802 Amendment No.: _____

Contract Class: Receivable Department: Planning

Customer ID: SBCSS Customer Name: San Bernardino County Superintendent of Schools

Description: Funding MOU for the countywide safe routes to school program implementation

List Any Accounts Payable Related Contract Nos.: _____

Dollar Amount							
Original Contract		\$	100,000.00	Original Contingency		\$	-
Prior Amendments		\$	-	Prior Amendments		\$	-
Current Amendment		\$	-	Current Amendment		\$	-
Total/Revised Contract Value		\$	100,000.00	Total Contingency Value		\$	-
	Total Dollar Authority (Contract Value and Contingency)					\$	100,000.00

Contract Authorization

Board of Directors Date: 05/04/2022 Board Item # 8556

Contract Management (Internal Purposes Only)

Local Funding Agreement

Accounts Receivable																																																																																			
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Josh Lee

Steve Smith

Project Manager (Print Name)

Task Manager (Print Name)

Additional Notes:

Attachment: 22-1002802 CSS SBCSS (8556 : Funding MOUs with SBCSS and SBDCPH regarding SRTS)

CONTRACT 22-1002802

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND THE SAN BERNARDINO COUNTY SUPERINTENDENT OF SCHOOLS

FOR THE IMPLEMENTATION OF THE

COUNTYWIDE SAFE ROUTES TO SCHOOL PROGRAM

I. PARTIES AND TERM

- A. This Memorandum of Understanding (“MOU”) is entered by and between the San Bernardino County Transportation Authority (“SBCTA”) and the San Bernardino County San Bernardino County Superintendent of Schools (“SBCSS”) (each individually a “PARTY” and collectively, the “PARTIES”) on the Effective Date (as defined herein).
- B. This MOU is effective as of May 4, 2022 and expires June 30, 2025, but may be extended, or terminated earlier, in accordance with provisions of this MOU.
- C. This MOU may be terminated without cause upon thirty (30) days written notice by either party. SBCSS and SBCTA are authorized to exercise their respective rights with respect to any termination of this AGREEMENT. The SBCSS Director and the SBCTA Executive Director, or their designees, each have authority to terminate this AGREEMENT.

II. RECITALS

- A. WHEREAS, SBCSS and SBCTA desire to implement the Countywide Safe Routes to School (SRTS) Program in the County.
- B. WHEREAS, SBCTA has been awarded partial funding from the California Department of Transportation (Caltrans) Cycle 4 Active Transportation Program in the amount of \$500,000.
- C. WHEREAS, SBCTA has allocated \$253,000 as a local match.
- D. WHEREAS, SBCSS has allocated \$100,000 as a local match.
- E. WHEREAS, SBCSS finds SBCTA qualified to implement a Safe Routes to School Program in the County.

- F. WHEREAS, SBCSS desires that such services be provided by SBCTA and SBCTA agrees to perform these services as set forth below.
- G. NOW THEREFORE, SBCTA and SBCSS mutually agree to the following terms and conditions.

III. RESPONSIBILITIES

- A. SBCTA General Responsibilities:
- i. Hire a Consultant (“Consultant”) to perform the services required for the Project as described below:
 - Plan, organize, and implement the SRTS programming to educate, encourage, enforce, and evaluate walking and bicycling among students, parents, and staff at select schools throughout the County.
 - Coordinate SRTS activities and evaluation with local transportation agency staff and planning staff to identify, prioritize, and evaluate solutions needed to remove obstacles to safe walking and bicycling to school.
 - Oversee and participate in the completion of walk audits at selected school sites.
 - Coordinate SRTS activities and evaluation with school staff, law enforcement agencies, volunteers, grantors, students, and parents.
 - Serve as liaison between students, parents, schools, law enforcement, and confer with school administrators, parents, and teachers to establish and maintain SRTS activities.
 - Provide tools, resources, and training to staff, parents, and students at selected schools to identify and overcome obstacles and develop strategies to encourage walking and bicycling safety.
 - Deliver pedestrian and bicycle safety information, including the health and academic advantages of active living.
 - ii. Submit reports of the program progress and invoices for services and costs incurred within a reasonable time and receipt of invoice by SBCTA.
 - iii. SBCTA shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to this MOU, except for anonymous statistical information that does not identify participants. SBCTA shall not use or disclose any identifying information for any purpose other than carrying out the obligations under this MOU, except as may be otherwise required by law. This provision will remain in the force even after the termination of the MOU.
- B. SBCSS General Responsibilities
- SBCSS shall provide funding for implementation of the SRTS Program as detailed in Section V. Fiscal Provisions.

IV. MUTUAL RESPONSIBILITIES

- A. SBCTA and SBCSS will establish mutually satisfactory methods for the exchange of such information as may be necessary for each PARTY to perform its duties and functions under this MOU, and will establish appropriate procedures to ensure all information is safeguarded from improper disclosure in accordance with applicable State and Federal laws and regulations.
- B. SBCTA and SBCSS will establish mutually satisfactory methods for dispute resolution at the lowest possible level, with a procedure to mobilize dispute resolution up through the PARTIES' respective chains of command.
- C. SBCTA and SBCSS will develop and implement procedures and forms necessary to administer and document program participation, compliance, and effectiveness.
- D. SBCTA and SBCSS will comply with the provisions of Education Code 49073.1, adhere to the requirement that pupil records will continue to be the property of and under the control of the San Bernardino County Superintendent of Schools, and ensure compliance with the Federal Family Educational Rights and Privacy Act.

V. FISCAL PROVISIONS

- A. The maximum amount of payment to SBCTA under this MOU shall not exceed \$100,000 and shall be subject to availability of funds to SBCSS. The consideration to be paid to SBCTA, as provided herein, shall be in full payment for all SBCTA services and expenses incurred in the performance hereof, including travel and per diem.
- B. SBCSS will provide a one-time payment of \$100,000 in Fiscal Year 2021/2022 to provide the local match.

VI. GENERAL PROVISIONS

- A. No waiver of any of the provisions of the MOU shall be effective unless it is made in a writing which specifies the provision(s) so waived and which is executed by both PARTIES. No course of dealing and no delay or failure of a PARTY in exercising any right under this MOU shall affect any other or future exercise of that right or any exercise of any other right. A PARTY shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.
- B. Any alterations, variations, modifications, or waivers of provisions of the MOU, unless specifically allowed in the MOU, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both PARTIES as an amendment to this MOU.

- C. This MOU constitutes the sole and entire agreement between the PARTIES governing the matters set forth herein and supersedes any prior understandings, negotiations, agreements, arrangements and undertakings, written or oral, between the PARTIES respecting the subject matter herein. All previous proposals, offers, and other communications, written or oral, relative to this MOU, are superseded except to the extent that they have been incorporated into this MOU. It is the intent of the Parties that this MOU is an integrated agreement and that no evidence may be introduced to vary in any manner its terms and conditions. No representation, warranty, covenant, inducement or obligation not included in this MOU shall be binding.

VII. MUTUAL HOLD HARMLESS

- A. SBCSS agrees, at its own expense, cost and risk, to indemnify, defend, save and hold harmless SBCTA, its agents, employees and officers against any and all injuries, damages, liabilities, costs, suits or expenses, including reasonable attorneys' fees, arising out of any acts or omissions of, or the condition of any property owned or controlled by, SBCSS in the performance of this contract. It is understood that employees and any contractor or subcontractor of SBCSS in its performance under this contract are not agents or employees of SBCTA.
- B. SBCTA agrees, at its own expense, cost and risk, to indemnify, defend, save and hold harmless SBCSS, its agents, employees and officers against any and all personal injuries, damages, liabilities, costs, suits or expenses, including reasonable attorneys' fees, arising out of any acts or omissions of, or the condition of any property owned or controlled by, SBCTA in the performance of this contract. It is understood that employees and any contractor or subcontractor of SBCTA in the performance of this contract are not agents or employees of SBCSS.

VIII. CONCLUSION

- A. This MOU, consisting of five (5) pages, is the full and complete document including all covenants, conditions, and benefits.
- B. The signatures of the PARTIES affixed to this MOU affirm that they are duly authorized to commit and bind them to the terms and conditions set forth in this document.

----- SIGNATURES ON FOLLOWING PAGE -----

In witness whereof the PARTIES have executed this MOU on the dates written below and this MOU is effective upon the last date of execution below ("Effective Date").

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____

Curt Hagman
President, Board of Directors

Date: _____

APPROVED AS TO FORM:

By: _____

Julianna K. Tillquist
General Counsel

**SAN BERNARDINO COUNTY
SUPERINTENDENT OF SCHOOLS**

By: _____

Ted Alejandre
County Superintendent of Schools

Date: _____

Minute Action

AGENDA ITEM: 12

Date: May 4, 2022

Subject:

Amendment No. 1 to Agreement No. 21-1002497 with Southern California Association of Governments for Regional Early Action Planning

Recommendation:

That the Board, acting as the San Bernardino Associated Governments:

Approve Amendment No. 1 to Agreement No. 21-1002497 with Southern California Association of Governments for the Regional Early Action Planning Program, amending invoicing requirements and increasing the receivable amount by \$122,066 for a total receivable amount of \$2,563,390.

Background:

On September 3, 2020, Southern California Association of Governments (SCAG) approved the Sub-regional Partnership Program Guidelines and authorized the SCAG Executive Director, or his designee, to enter into agreements with the designated sub-regional partners to implement programs associated with Regional Early Action Planning (REAP) Grant funds from the State of California (State). As the sub-regional partner in San Bernardino County, San Bernardino Associated Governments (SBCOG) entered into Agreement No. 21-1002497 on April 5, 2021. Recently, SCAG has determined that the sub-recipients under the Sub-regional Partnership Program are eligible for an additional five percent (5%) funding, as calculated based on their final Regional Housing Needs Allocation (RHNA) under the Sub-regional Partnership Program. The additional amount of 5% allocated to the sub-recipient is \$122,066, for a total award of up to \$2,563,390. The amendment also includes language clarifying submittal of invoices.

On October 7, 2020, the SBCOG Board of Directors (Board) authorized the Executive Director to negotiate and execute a contract with SCAG in the amount of \$2,437,000. Before the contract was executed, SCAG Regional Council approved a slightly different RHNA total for San Bernardino County following the approval of two appeals. Although this did not substantially change the overall funding distribution, it did increase the funds allocated to SBCOG by \$4,324, and the contract that was executed was for \$2,441,324. With the additional 5%, the new total is \$2,563,390. Staff recommends the Board approve the amendment providing a 5% increase in funding.

Financial Impact:

The increase in receivable amount by 5% (\$122,066) is included in the Proposed Fiscal Year 2022/2023 Budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the General Policy Committee on April 13, 2022. SBCTA General Counsel and Risk Manager have reviewed this item and the draft amendment.

Responsible Staff:

Josh Lee, Deputy Director of Planning

Entity: San Bernardino Council of Governments

Board of Directors Agenda Item
May 4, 2022
Page 2

Approved
Board of Directors
Date: May 4, 2022
Witnessed By:

General Contract Information

Contract No: 21-1002497 Amendment No.: 1

Contract Class: Receivable Department: Planning

Customer ID: SCAG Customer Name: Southern California Association of Governments

Description: Regional Early Action Planning (REAP) Grant Amendment 1

List Any Accounts Payable Related Contract Nos.: 19-1002103, 19-1002152, 19-1002185, 19-1002186, 19-1002187, 19-1002188, 19-1002189

Dollar Amount						
Original Contract (see note below)		\$	2,441,324.00	Original Contingency	\$	-
Prior Amendments		\$	-	Prior Amendments	\$	-
Prior Contingency Released		\$	-	Prior Contingency Released (-)	\$	-
Current Amendment		\$	122,066.00	Current Amendment	\$	-
Total/Revised Contract Value		\$	2,563,390.00	Total Contingency Value	\$	-
	Total Dollar Authority (Contract Value and Contingency)				\$	2,563,390.00

Contract Authorization

Board of Directors Date: 05/04/2022 Board Item # 8557

Contract Management (Internal Purposes Only)

State/Local Funding Agreement Quarterly Payments

Accounts Receivable

Total Contract Funding: \$ 2,563,390.00 Funding Agreement No: 21-1002497

Beginning POP Date: 09/03/2020 Ending POP Date: 06/30/2023 Final Billing Date: 07/21/2023

Expiration Date: 06/30/2023

	Fund	Prog	Task	Task	Revenue	Total Contract Funding
GL:	6001	20	0404	0000	42905004	2,563,390.00
GL:						-
GL:						-
GL:						-
GL:						-
GL:						-

	Fund	Prog	Task	Task	Revenue	Total Contract Funding:
GL:						-
GL:						-
GL:						-
GL:						-
GL:						-
GL:						-

Josh Lee

Project Manager (Print Name)

Steven Smith

Task Manager (Print Name)

Additional Notes: The original contract was limited to \$200,000 of the \$2,441,324 available as SCAG awaited full funding from the State. Full funding is now available and an additional \$122,066 is being added for a total of \$2,563,390.

Attachment: 21-1002497 CSS (8557 : Amendment No. 1 to Contract No. 21-1002497 with SCAG for REAP)

**AMENDMENT NO. 01
MEMORANDUM OF UNDERSTANDING
No. M-015-21**

SCAG Overall Work Program (OWP) No: 300-4889Y0.01

Federal/State Awarding Agency: State of California, Department of Housing and Community Development

CFDA Number and Name: N/A

Federal Award Identification Number (FAIN) No: N/A

Federal Award Date: N/A

Total Amount of the Federal Award: N/A

Federal Award Project Description: N/A

Federal Awarding Official: N/A

Sub-Recipient Name: San Bernardino Associated Governments (SBCOG)

Sub-Recipient's DUNS No: 782991368

Total Amount of Federal Funds Obligated to the Sub-Recipient: \$0

Total Amount of Non-Federal Funds Obligated to the Sub-Recipient: \$0

Total Amount of the Sub-Award: \$2,563,390

Subaward Period of Performance Start Date: September 3, 2020

Subaward Period of Performance End Date: June 30, 2023

Type of Contract: Project Specific

Method of Payment: See Section 6 of this MOU

Project R&D: N/A

Indirect Cost Rate for the Federal Award: N/A

Subaward Project Title: SBCOG Regional Early Action Planning (REAP) Grant Partnerships and Outreach

Subaward Project Description: SBCOG Regional Early Action Planning (REAP) Grant Partnerships and Outreach will utilize REAP funding to implement planning projects to further the development of housing within the SBCOG jurisdiction.

AMENDMENT NO. 01
SCAG MEMORANDUM OF UNDERSTANDING
No. M-015-21
SBCOG FUNDING AGREEMENT
No. 21-1002497

BETWEEN THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG)
AND SAN BERNARDINO ASSOCIATED GOVERNMENTS (SBCOG)
FOR SBCOG REAP GRANT PROGRAM IMPLEMENTATION

(SCAG Project/OWP No. 300-4889Y0.01)

This Amendment No. 01 ("Amendment") to the Memorandum of Understanding No. M-015-21/SBCOG Funding Agreement No. 21-1002497 ("MOU" or "Agreement") is by and between the **Southern California Association of Governments ("SCAG")** and the **San Bernardino Associated Governments (SBCOG)** ("Sub-Recipient"), for **SBCOG REAP Grant Program Implementation**, subsequently herein referred to as "Project." SCAG and the Sub-Recipient are individually referred to herein as "Party" and may be collectively referred to herein as "Parties."

RECITALS

WHEREAS, SCAG and the Sub-Recipient are parties to that certain Agreement dated April 5, 2021;

WHEREAS, Section 10 of the Agreement permits the parties to amend the Agreement through written amendment;

WHEREAS, SCAG has determined that the Sub-Recipients under the Subregional Partnership Program shall be eligible for an additional five percent (5%) funding as calculated based on their final RHNA allocations under the Subregional Partnership Program, which may only be used for program management or approved tasks as identified in the executed Scope of Work Approval form. It may not be used for administrative costs and is subject to conditions as communicated from SCAG to Sub-Recipient; and

WHEREAS, the purpose of this Amendment No. 01 is to allow the Sub-Recipient to submit invoices to SCAG on a quarterly basis and to amend the amount of the funding award to include an additional amount allocated to the Sub-Recipient of up to One Hundred Twenty-Two Thousand Sixty-Six Dollars (\$122,066) for a total award of up to Two Million Five Hundred Sixty-Three Thousand Three Hundred Ninety Dollars (\$2,563,390).

NOW THEREFORE, IT IS MUTUALLY AGREED THAT:

1. Section 4b (Program Management) is amended to read:

For purposes of this MOU, SCAG designates the following individual as its Project Manager:

David Kyobe
 Associate Regional Planner
 (213) 236-1858
kyobe@scag.ca.gov

SCAG reserves the right to change this designation upon written notice to the Sub-Recipient.

2. Section 5a. (Funding) is amended to read as follows:

SCAG's contribution to the Project is funded wholly with state REAP Program funds, in an amount not to exceed Two Million Five Hundred Sixty-Three Thousand Three Hundred Ninety Dollars (\$2,563,390). SCAG shall not be obligated to make payments for any Project costs that exceed Two Million Five Hundred Sixty-Three Thousand Three Hundred Ninety Dollars (\$2,563,390). SCAG shall not be obligated to pay for any increase in Project costs which exceeds SCAG's obligated funding amount. SCAG shall not be obligated to make payments from any source other than funds provided by HCD to SCAG pursuant to the REAP Program. SCAG shall only be obligated to make payments to the Sub-Recipient from REAP Program funding that SCAG actually receives and only for work performed as part of the Scope of Work regarding the Project, up to the maximum amount of Two Million Five Hundred Sixty-Three Thousand Three Hundred Ninety Dollars (\$2,563,390).

3. Section 6b. (Invoices and Progress Reports) is amended to read as follows:

For all reimbursements sought by Sub-Recipient for allowable amounts incurred following execution of this MOU, the Sub-Recipient may elect to invoice SCAG for reimbursement no less frequently than once in every calendar quarter; provided, however, that if accumulated invoice charges for which reimbursement will be sought reach the minimum amount of One Hundred Thousand Dollars (\$100,000), then the Sub-Recipient shall submit an invoice within not more than 30 days of the \$100,000 threshold being reached (or by the end of the calendar quarter, whichever is sooner). Notwithstanding the foregoing, SCAG may require the Sub-Recipient to return to a monthly billing cycle at its sole discretion upon thirty (30) days' notice. SCAG shall reimburse the Sub-Recipient for paid Staff charges and paid Consultant invoices. Sub-Recipient shall submit invoices to SCAG using the Invoice Report, attached hereto and incorporated herein by this reference and subsequently herein referred to as "Exhibit B." SCAG agrees to advance the Sub-Recipient for Staff charges and Consultant charges identified and described on such invoices, subject to the provisions of this Agreement relating to SCAG's audit and inspection rights and further conditioned on Sub-Recipient not being in uncured default as to any of Sub-Recipient's material obligations contained in this Agreement. The Invoice Report shall include a narrative description of the progress towards completion of tasks related to the Project and copies of approved Staff charges and Consultant invoices. After receipt of the Invoice Report, SCAG shall review the invoices for compliance and consistency with this Agreement and, if SCAG determines in its reasonable discretion that such invoice is compliant and consistent with this Agreement, then SCAG shall issue funds to the Sub-Recipient to pay the approved invoices. The Sub-Recipient is required to issue payments on the submitted invoices no later than ten (10) days from the receipt of funding from SCAG and submit a proof of the payments to SCAG.

In all other respects, the terms and conditions of the Agreement shall remain in full force and effect.

[Signatures on Following Page]

**SIGNATURE PAGE TO
AMENDMENT NO. 01
MEMORANDUM OF UNDERSTANDING
NO. M-015-21**

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized representatives as of the dates indicated below:

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (“SCAG”)

By: _____ Date _____
Cindy Giraldo
Chief Financial Officer

APPROVED AS TO FORM:

By: _____ Date _____
Michael R.W. Houston
Chief Counsel/Director of Legal Services

SAN BERNARDINO ASSOCIATED GOVERNMENTS (“SBCOG”)

By: _____ Date _____
Curt Hagman
President

APPROVED AS TO FORM:

By: _____ Date _____
Julianna K. Tillquist
General Counsel

Minute Action

AGENDA ITEM: 13

Date: May 4, 2022

Subject:

Award Contract No. 21-1002658 to CPM Partners, Inc. for Arrow Maintenance Facility Hydrogen Fuel Upgrade Project Construction Management Consultant Services

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

A. Award Contract No. 21-1002658 to CPM Partners, Inc., for Construction Management Consultant Services for the construction of the hydrogen fueling station and the retrofit needed to support hydrogen vehicle operations, also referred to as the Arrow Maintenance Facility (AMF) Hydrogen Fuel Upgrade Project, for an amount not-to-exceed \$1,041,815.21, a contract term through June 30, 2024, and two (2) one-year option terms.

B. Approve contingency of an amount not-to-exceed \$104,181.52 for Contract No. 21-1002658 and authorize the Executive Director, or his designee, to release contingency as necessary for the AMF Hydrogen Fuel Upgrade Project.

Background:

On October 6, 2021, the San Bernardino County Transportation Authority (SBCTA) Board of Directors (Board) authorized the Executive Director, or his designee, to release Request for Proposals (RFP) No. 21-1002658 to contract with a Construction Management Consultant (CMC) for the Arrow Maintenance Facility (AMF) Hydrogen Fuel Upgrade Project (Project). The CMC is to assist with the implementation of the Project and will be tasked with managing the construction of the Project, which includes the hydrogen fueling facility and the retrofit to the AMF building to support hydrogen operations.

The CMC will perform constructability reviews of the final design documents and provide assistance in developing detailed construction contract specifications and terms. The CMC will provide assistance during the bidding of the construction contract for the Project, assist with cost estimates, and ultimately provide oversight of all the contractors needed to construct the Project, including, but not limited to, inspection, testing, and commissioning.

The RFP was released on January 11, 2022, and the notice was received by over 1,305 entities. The RFP was made available to various organizations, to enable them to reach out to specialized firms with experience in hydrogen fueling and facilities retrofit for hydrogen use. It was downloaded by 41 firms.

On February 10, 2022, SBCTA received two (2) proposals, one from CPM Partners, Inc. and the other from Crystallogly, Inc.

The Evaluation Committee (Committee) consisted of three SBCTA staff. The Committee members reviewed each proposal to determine whether it was responsive to the requirements of the RFP. Each panel member independently read and scored each firm's proposal and on February 28, 2022, the Committee met to evaluate and rank the firms based on qualifications, related experience, reference scores, staffing and organization, and work plan. The panel

Entity: San Bernardino County Transportation Authority

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members individually scored the proposals based on the following evaluation criteria: Qualifications of the Firm – 30 points, Proposed Staffing and Project Organization – 35 points, and Work Plan - 35 points, for a total of 100 points, giving each firm a potential combined points of 300 on the technical proposal.

On March 7, 2022, CPM Partners, Inc., and Crystallogly, Inc., were invited for a virtual interview to further assess their firms' capabilities in providing construction management services for the Project. Both firms were asked identical questions, with Crystallogly, Inc. receiving one extra question to clarify the role for a project stated in its proposal. The Committee independently scored each firm based on the firms' answers to the questions.

The interview and technical proposal were weighted 60% and 40%, respectively. CPM Partners, Inc., was ranked number 1, while Crystallogly, Inc., was ranked number 2. As a result of the scoring, the Committee recommended that the contract to perform the scope of work, as outlined in the Request for Proposals No. 21-1002658, be awarded to CPM Partners, Inc. The firm ranked first in technical score and overall score. The firm clearly demonstrated a thorough understanding of the scope of work and proposed an overall solid team.

Conclusively, staff recommends CPM Partners, Inc. to be awarded the CMC contract in the amount not-to-exceed \$1,041,815.21, for an initial term through June 30, 2024, and two (2) one-year option terms.

Financial Impact:

This item is consistent with the Fiscal Year 2021/2022 Budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the Transit Committee on April 14, 2022. SBCTA General Counsel, Acting Procurement Manager and Risk Manager have reviewed this item and the draft contract.

Responsible Staff:

Carrie Schindler, Director of Transit and Rail Programs

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

General Contract Information

Contract No: 21-1002658 Amendment No.: _____

Contract Class: Payable Department: Transit

Vendor No.: 03774 Vendor Name: CPM Partners, Inc.

Description: Construction Management Services - Arrow Maintenance Facility Hydrogen Fuel Upgrade Project

List Any Related Contract Nos.: _____

Dollar Amount							
Original Contract		\$	1,041,815.21	Original Contingency		\$	104,181.52
Prior Amendments		\$	-	Prior Amendments		\$	-
Current Amendment				Current Amendment		\$	-
Total/Revised Contract Value		\$	1,041,815.21	Total Contingency Value		\$	104,181.52
	Total Dollar Authority (Contract Value and Contingency)					\$	1,145,996.73

Contract Authorization

Board of Directors Date: 05/04/2022 Board Item # 8550

Contract Management (Internal Purposes Only)

Other Contracts State Sole Source? No No Budget Adjustment N/A

Professional Services (Non-A&E) N/A

Accounts Payable

Estimated Start Date:				05/04/2022		Expiration Date:				06/30/2024		Revised Expiration Date:					
NHS:				N/A		QMP/QAP:				N/A		Prevailing Wage:				N/A	
												Total Contract Funding:		Total Contingency:			
		Fund	Prog	Task	Sub-Task	Object	Revenue	PA Level	Revenue Code Name		\$	1,041,815.21		\$	104,181.52		
GL:	2565	30	0315	0336	52200	42206506			TIRCP Inf CON			1,041,815.21			104,181.52		
GL:												-			-		
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Carrie Schindler

Carrie Schindler

Project Manager (Print Name)

Task Manager (Print Name)

Additional Notes:

Attachment: CSS CMC 21-1002658 (8550 : Award Contract No. 21-1002658 for AMF H2 Upgrade Project CM Services)

CONTRACT No. 21-1002658**BY AND BETWEEN****SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY****AND****CPM Partners, Inc.****FOR****ARROW MAINTENANCE FACILITY HYDROGEN FUEL UPGRADE PROJECT
("PROJECT") CONSTRUCTION MANAGEMENT SERVICES**

This contract ("Contract") is made and entered into by and between the San Bernardino County Transportation Authority, ("SBCTA"), whose address is 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715; and CPM Partners, Inc. ("CONSULTANT") whose address is: 535 Encinitas Blvd. Suite 114 Encinitas, CA 92024. SBCTA and CONSULTANT are each a "Party" and collectively the "Parties".

RECITALS:

WHEREAS, SBCTA requires certain work or services as described in Exhibit A of this Contract; and

WHEREAS, CONSULTANT has confirmed that CONSULTANT has the requisite professional qualifications, personnel and experience and is fully capable and qualified to perform the services identified herein; and

WHEREAS, CONSULTANT desires to perform all Work identified herein and to do so for the compensation and in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, the Parties agree as follows:

Attachment: 21-1002658 (8550 : Award Contract No. 21-1002658 for AMF H2 Upgrade Project CM Services)

ARTICLE 1. PROJECT DESCRIPTION/SCOPE OF WORK

- 1.1 CONSULTANT agrees to perform the work and services set forth in Exhibit A – “Scope of Work” (“Work”), in accordance with all applicable professional architectural, engineering, construction management, land surveying and/or materials testing standards which are generally accepted in the State of California, in accordance with the terms and conditions expressed herein and in the sequence, time, and manner defined herein. The word "Work", as used herein, includes without limitation, the performance, fulfillment and discharge by CONSULTANT of all obligations, duties, tasks, and Work imposed upon or assumed by CONSULTANT hereunder; and the Work performed hereunder shall be completed to the satisfaction of SBCTA, with their satisfaction being based on prevailing applicable professional standards.
- 1.2 The Project Manager for this Contract is Carrie Schindler, P.E., or such other designee as shall be designated in written notice to CONSULTANT from time to time by the Executive Director of SBCTA or his or her designee. The Project Manager shall have authority to act on behalf of SBCTA in administering this Contract, including giving notices (including without limitation, notices of default and/or termination), technical directions and approvals, demanding performance and accepting work performed, but is not authorized to receive or issue payments or execute amendments to the Contract itself.

ARTICLE 2. CONTRACT TERM

The Contract term shall commence upon issuance of a written Notice To Proceed (NTP) issued by SBCTA’s Procurement Analyst and shall continue in effect through June 30, 2024 or until otherwise terminated, or unless extended as hereinafter provided by written amendment. Except that all indemnity and defense obligations hereunder shall survive termination of this Contract. CONSULTANT shall not be compensated for any work performed or costs incurred prior to issuance of the NTP.

SBCTA, in its sole discretion, may extend the original term of the Contract for two one-year option terms. The maximum term of this Contract, including the Option Term(s), if exercised, will not exceed June 30, 2026.

ARTICLE 3. COMPENSATION

- 3.1 SBCTA will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the Work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT’s cost proposal, Exhibit B, unless additional reimbursement is provide for by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds SBCTA’s approved overhead rate set forth in the Cost Proposal. In the event, that SBCTA determines that a change to the Work from that specified in the Cost Proposal and Contract is required, the Contract time or actual costs reimbursable by SBCTA shall be adjusted by contract amendment to accommodate the changed work. The maximum cost as specified herein shall not be exceeded, unless authorized by written amendment.

Escalation shall be at a specific rate, as shown on the Bureau of Labor Statistics Employment Cost Index for Total Compensation for private industry workers, Table 5, Private Industry Workers, Occupational Group "Professional and Related" or its successor. The Employment Cost Index will be annually adjusted, apply to total benefits for the private industry economic sector, not be seasonally adjusted, but will include a 12-month percent change. Escalation shall commence as of (May 1, 2023), and shall be applied each (May 1st) for the term of the Contract.

3.2 INTENTIONALLY OMITTED

3.3 Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.

3.4 When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from SBCTA before exceeding such cost estimate.

3.5 Progress payments will be made monthly in arrears based on Services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Scope of Work, SBCTA shall have the right to delay payment or terminate this Contract in accordance with the Termination provisions herein.

3.6 No payment will be made prior to approval of any Work, nor any Work performed prior to approval of this Contract.

3.7 CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by SBCTA of itemized invoices. Invoices shall be submitted no later than 45 calendar days after the performance of Work for which CONSULTANT is billing except for the month of June, which will require the invoice to be submitted by July 10th. Invoices shall detail the Work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number. Final invoice must contain the final cost and all credits due SBCTA including any equipment purchased under the provisions of this Contract. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's Work. Invoices should be e-mailed to SBCTA at the following address:

ap@gosbcta.com

3.8 INTENTIONALLY OMITTED

3.9 CONSULTANT shall include a statement and release with each invoice, satisfactory to SBCTA, that CONSULTANT has fully performed the Work invoiced pursuant to this Contract for the period covered, that all information included with the invoice is true and correct and that all payments to and claims of CONSULTANT and its subconsultants for Work during the period will be satisfied upon the making of such payment. SBCTA shall not be obligated to make payments to CONSULTANT until CONSULTANT furnishes such statement and release.

- 3.10 CONSULTANT agrees to promptly pay each subconsultant for the satisfactory completion of all Work performed under this Contract, no later than ten (10) calendar days from the receipt of payment from SBCTA. SBCTA reserves the right to request documentation from CONSULTANT showing payment has been made to its subconsultants. SBCTA also reserves the right, at its own sole discretion, to issue joint checks to CONSULTANT and any subconsultant(s), which shall constitute payment to CONSULTANT in compliance with the terms of this Contract.
- 3.11 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Ch. 1, Subch. E, Part 31, are subject to repayment by CONSULTANT to SBCTA.
- 3.12 The total amount payable by SBCTA to CONSULTANT including the fixed fee shall not exceed One Million Forty-One Thousand Eight Hundred and Fifteen dollars and Twenty-One cents \$ (1,041,815.21).
- 3.13 Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by SBCTA. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.
- 3.14 All subcontracts in excess of \$25,000 shall contain the above provisions.

ARTICLE 4. TAXES, DUTIES AND FEES

Except to the extent expressly provided elsewhere in this Contract, CONSULTANT shall pay when due, and the compensation set forth herein shall be inclusive of all: a) local, municipal, State, and federal sales and use taxes; b) excise taxes; c) taxes on personal property owned by CONSULTANT; and d) other governmental fees and taxes or charges of whatever nature applicable to CONSULTANT to enable it to conduct business.

ARTICLE 5. AVAILABILITY OF FUNDS

The award and performance of this Contract is contingent on the availability of funds. If funds are not appropriated and/or allocated and available to SBCTA for the continuance of Work performed by CONSULTANT, Work directly or indirectly involved may be suspended or terminated by SBCTA at the end of the period for which funds are available. When SBCTA becomes aware that any portion of Work will or may be affected by a shortage of funds, it will promptly notify CONSULTANT. Nothing herein shall relieve SBCTA from its obligation to compensate CONSULTANT for Work already performed pursuant to this Contract. No penalty shall accrue to SBCTA in the event this provision is exercised.

ARTICLE 6. PERMITS AND LICENSES

CONSULTANT shall, without additional compensation, keep current all governmental permits, certificates and licenses (including professional licenses) and required registrations necessary for CONSULTANT to perform Work identified herein.

ARTICLE 7. DOCUMENTATION AND RIGHT TO AUDIT

- 7.1 CONSULTANT shall maintain all records related to this Contract in an organized way in the original format, electronic and hard copy, conducive to professional review and audit, for a period of three (3) years from the date of final payment by SBCTA, or until the conclusion of all litigation, appeals or claims related to this Contract, whichever is longer. CONSULTANT shall provide SBCTA, the California State Auditor, or other authorized representatives of SBCTA, access to Consultants' records which are directly related to this Contract for the purpose of inspection, auditing or copying during the entirety of the records maintenance period above. CONSULTANT further agrees to maintain separate records for costs of Work performed by amendment. CONSULTANT shall allow SBCTA and its representatives or agents to reproduce any materials as reasonably necessary.
- 7.2 The cost proposal and/or invoices for this Contract are subject to audit by SBCTA and/or any state or federal agency funding this Project at any time. After CONSULTANT receives any audit recommendations, the cost proposal shall be adjusted by CONSULTANT and approved by SBCTA's Project Manager to conform to the audit recommendations. CONSULTANT agrees that individual items of cost identified in the audit report may be incorporated into the Contract at SBCTA's sole discretion. Refusal by CONSULTANT to incorporate the audit or post award recommendations will be considered a breach of the Contract and cause for termination of the Contract. Any dispute concerning the audit findings of this Contract shall be reviewed by SBCTA's Chief Financial Officer. CONSULTANT may request a review by submitting the request in writing to SBCTA within thirty (30) calendar days after issuance of the audit report.
- 7.3 Subcontracts in excess of \$25,000 shall contain this provision.

ARTICLE 8. RESPONSIBILITY OF CONSULTANT

- 8.1 CONSULTANT shall be responsible for the professional quality, technical accuracy, and the assurance of compliance with all applicable federal, State, and local laws and regulations, and other Work furnished by the CONSULTANT under the Contract. The Contract includes reference to the appropriate standards for design or other standards for Work performance stipulated in the Contract.
- 8.2 In addition to any other requirements of this Contract or duties and obligations imposed on CONSULTANT by law, CONSULTANT shall, as an integral part of its Work, employ quality control procedures that identify potential risks and uncertainties related to scope, schedule, cost, quality and safety of the Project and the Work performed by CONSULTANT within the areas of CONSULTANT's expertise. Risks that may be encountered include, but are not limited to, soil conditions, constructability, factors of safety, impact on adjacent properties, public safety, and environmental considerations. At any time during performance of the Scope of Work, should CONSULTANT observe, encounter, or identify any unusual circumstances or uncertainties which could pose potential risk to SBCTA or the Project, CONSULTANT shall immediately document such matters and notify SBCTA in writing. CONSULTANT shall also similarly notify SBCTA in regard to the possibility of any natural catastrophe, potential failure, or any situation that exceeds environmental, design, and/or construction assumptions and could precipitate a

failure of any structure or other part of the Project. Notifications under this paragraph shall be specific, clear and timely, and in a form which will enable SBCTA to understand and evaluate the magnitude and effect of the risk and/or uncertainties involved.

- 8.3 Intentionally omitted.
- 8.4 SBCTA shall advise CONSULTANT of their responsibility and collect the amount due, including but not limited to, withholding of payments, if the recoverable cost will exceed the administrative cost involved or is otherwise in SBCTA's best interest. SBCTA shall include in the Contract Audit File a written statement of the reasons for the decision to recover or not recover the costs from CONSULTANT.
- 8.5 CONSULTANT shall document the results of the Work to the satisfaction of SBCTA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of SBCTA's objectives.
- 8.6 As applicable, the responsible consultant/engineer shall sign all plans, specifications, estimates (PS&E) and engineering data furnished by him/her, certify as-built drawings, and where appropriate, indicate his/her California registration or license number.

ARTICLE 9. REPORTING AND DELIVERABLES

All reports and deliverables shall be submitted in accordance with Exhibit A – "Scope of Work". At a minimum, CONSULTANT shall submit monthly progress reports with their monthly invoices. The report shall be sufficiently detailed for SBCTA to determine if the CONSULTANT is performing to expectations or is on schedule to provide communication of interim findings, and to sufficiently address any difficulties or problems encountered, so remedies can be developed.

ARTICLE 10. TECHNICAL DIRECTION

- 10.1 Performance of Work under this Contract shall be subject to the technical direction of SBCTA's Project Manager, identified in Section 1.2. The term "Technical Direction" is defined to include, without limitation:
 - 10.1.1 Directions to CONSULTANT which redirect the Contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the contractual Scope of Work.
 - 10.1.2 Provision of written information to CONSULTANT which assists in the interpretation of drawings, reports, or technical portions of the Scope of Work described herein.
 - 10.1.3 Review and, where required by the Contract, approval of technical reports, drawings, specifications and technical information to be delivered by CONSULTANT to SBCTA under the Contract.
 - 10.1.4 SBCTA's Project Manager may modify this Contract for certain administrative modifications without issuing a written amendment. Administrative modifications as defined herein are limited to: substitutions of personnel identified in this Contract, including Key Personnel and subconsultants; modifications to hourly

rates, classifications, and names of personnel in Exhibit B; and modifications of the address of the CONSULTANT. All administrative modifications shall be documented in writing between the Parties.

- 10.2 Technical Direction must be within the Scope of Work under this Contract. SBCTA's Project Manager does not have the authority to, and may not, issue any Technical Direction which:

10.2.1 Increases or decreases the Scope of Work;

10.2.2 Directs CONSULTANT to perform Work outside the original intent of the Scope of Work;

10.2.3 Constitutes a change as defined in the "CHANGES" Article of the Contract;

10.2.4 In any manner causes an increase or decrease in the Contract price as identified in Article 3, herein, or the time required for Contract performance;

10.2.5 Changes any of the expressed terms, conditions or specifications of the Contract; unless identified herein;

10.2.6 Interferes with the CONSULTANT's right to perform the terms and conditions of the Contract; or

10.2.7 Approves any demand or claim for additional payment.

- 10.3 Failure of CONSULTANT and SBCTA's Project Manager to agree that the Technical Direction is within the scope of the Contract, or a failure to agree upon the Contract action to be taken, shall be subject to the provisions of the "DISPUTES" Article herein.

- 10.4 All Technical Direction shall be issued in writing by SBCTA's Project Manager.

- 10.5 CONSULTANT shall proceed promptly with the performance of Technical Direction issued by SBCTA's Project Manager, in the manner prescribed by this Article and within their authority under the provisions of this Article. If, in the opinion of CONSULTANT, any instruction or direction by SBCTA's Project Manager falls within one of the categories defined in 10.2.1 through 10.2.7 above, CONSULTANT shall not proceed but shall notify SBCTA in writing within five (5) working days after receipt of any such instruction or direction and shall request SBCTA to modify the Contract accordingly. Upon receiving the notification from the CONSULTANT, SBCTA shall:

10.5.1 Advise CONSULTANT in writing within thirty (30) calendar days after receipt of the CONSULTANT's letter that the Technical Direction is or is not within the scope of this Contract.

10.5.2 Advise CONSULTANT within a reasonable time whether SBCTA will or will not issue a written amendment.

ARTICLE 11. CHANGES

- 11.1 The Work shall be subject to changes by additions, deletions, or revisions made by SBCTA. CONSULTANT will be advised of any such changes by written notification from SBCTA describing the change. This notification will not be binding on SBCTA until SBCTA's Awarding Authority has approved any amendment to this Contract.
- 11.2 Promptly after such written notification of change is given to CONSULTANT by SBCTA, the Parties will attempt to negotiate a mutually agreeable adjustment to compensation or time of performance, and amend the Contract accordingly.

ARTICLE 12. EQUAL EMPLOYMENT OPPORTUNITY

- 12.1 During the term of this Contract, CONSULTANT shall not willfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, gender, sex, marital status, gender identity, gender expression, sexual orientation, age, or military or veteran status. CONSULTANT agrees to comply with the provisions of Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.
- 12.2 The contractor and all subcontractors shall comply with all provisions of Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, and national origin. In addition, the contractor and all subcontractors will ensure their services are consistent with and comply with obligations and procedures outlined in SBCTA's current Board-adopted Title VI Program, including the Public Participation Plan and the Language Assistance Plan.

ARTICLE 13. CONFLICT OF INTEREST

CONSULTANT agrees that it presently has no interest, financial or otherwise and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Work required under this Contract or be contrary to the interests of SBCTA as to the Project. CONSULTANT further agrees that in the performance of this Contract no person having any such interest shall be employed. CONSULTANT is obligated to fully disclose to SBCTA, in writing, any conflict of interest issues as soon as they are known to CONSULTANT. CONSULTANT agrees that CONSULTANT and its staff shall comply with SBCTA's Conflict of Interest Policy, No. 10102.

ARTICLE 14. KEY PERSONNEL

The personnel specified below are considered to be essential to the Work being performed under this Contract. Prior to diverting any of the specified individuals to other projects, or reallocation of any tasks or hours of Work that are the responsibility of Key Personnel to other personnel, CONSULTANT shall notify SBCTA in writing in advance and shall submit justifications (including proposed substitutions, resumes and payroll information to support any changes to the

labor rate) in sufficient detail to permit evaluation of the impact on the Project. Diversion or reallocation of Key Personnel shall not be made without prior written consent of SBCTA. CONSULTANT shall not substitute any Key Personnel without the prior written consent of SBCTA. In the event that the Parties cannot agree as to the substitution of key personnel, SBCTA may terminate the Contract. Key Personnel are:

Name	Job Classification/Function
Alex Janecek	PM/RE Construction Manager
Pooya Kadkhoda	Quality Assurance Manager

ARTICLE 15. REPRESENTATIONS

All Work supplied by CONSULTANT under this Contract shall be supplied by personnel who are qualified, careful, skilled, experienced and competent in their respective trades or professions. CONSULTANT agrees that they are supplying professional services, findings, and/or recommendations in the performance of this Contract and agrees with SBCTA that the same shall conform to professional and engineering and environmental principles and standards that are generally accepted in the profession in the State of California.

ARTICLE 16. PROPRIETARY RIGHTS/CONFIDENTIALITY

- 16.1 If, as part of this Contract, CONSULTANT is required to produce materials, documents data, or information ("Products"), then CONSULTANT, if requested by SBCTA, shall deliver to SBCTA the original of all such Products which shall become the sole property of SBCTA.
- 16.2 All materials, documents, data or information obtained from SBCTA's data files or any SBCTA-owned medium furnished to CONSULTANT in the performance of this Contract will at all times remain the property of SBCTA. Such data or information may not be used or copied for direct or indirect use outside of this Project by CONSULTANT without the express written consent of SBCTA.
- 16.3 Except as reasonably necessary for the performance of the Work, CONSULTANT agrees that it, its employees, agents and subconsultants will hold in confidence and not divulge to third parties without prior written consent of SBCTA any information obtained by CONSULTANT from or through SBCTA unless (a) the information was known to CONSULTANT prior to obtaining same from SBCTA, or (b) the information was at the time of disclosure to CONSULTANT, or thereafter becomes, part of the public domain, but not as a result of the fault or an unauthorized disclosure of CONSULTANT or its employees, agents, or subconsultants, or (c) the information was obtained by CONSULTANT from a third party who did not receive the same, directly or indirectly, from SBCTA and who had, to CONSULTANT's knowledge and belief, the right to disclose the same. Any materials and information referred to in this Article which are produced by CONSULTANT shall remain confidential until released in writing by SBCTA, except to the extent such materials and information become subject to disclosure by SBCTA under the California Public Records Act or other law, or otherwise become public information through no fault of CONSULTANT, or its employees or agents.

- 16.4 CONSULTANT shall not use SBCTA's name or photographs in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of SBCTA.
- 16.5 All press releases or press inquiries relating to the Project or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be made only by SBCTA unless otherwise agreed to in writing by the Parties.

ARTICLE 17. CONSTRUCTION CLAIMS

- 17.1 If claims are filed by SBCTA's construction contractor, and additional information or assistance from the CONSULTANT's personnel is required in order to evaluate or defend against such claims, CONSULTANT agrees to make its personnel available for consultation with SBCTA's construction contract administrator and legal staff, and for testimony, if necessary, at depositions, administrative proceedings, trial or arbitration proceedings.
- 17.2 CONSULTANT's personnel that SBCTA considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from SBCTA. Consultation or testimony will be reimbursed at the same rates, including travel costs, that are being paid for the CONSULTANT's personnel under this Contract.
- 17.3 Services of the CONSULTANT's personnel in connection with SBCTA's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Contract in order to finally resolve the claims.

ARTICLE 18. TERMINATION

- 18.1 Termination for Convenience - SBCTA shall have the right at any time, with or without cause, to terminate further performance of Work by giving thirty (30) calendar days written notice to CONSULTANT specifying the date of termination. On the date of such termination stated in said notice, CONSULTANT shall promptly discontinue performance of Work and shall preserve Work in progress and completed Work, pending SBCTA's instruction, and shall turn over such Work in accordance with SBCTA's instructions.
- 18.1.1 CONSULTANT shall deliver to SBCTA all deliverables prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA. Upon such delivery, CONSULTANT may then invoice SBCTA for payment in accordance with the terms herein.
- 18.1.2 If CONSULTANT has fully and completely performed all obligations under this Contract up to the date of termination, CONSULTANT shall be entitled to receive from SBCTA as complete and full settlement for such termination a pro rata share of the Contract cost based upon the percentage of all contracted Work satisfactorily executed to the date of termination.
- 18.1.3 CONSULTANT shall be entitled to receive the actual costs incurred by CONSULTANT to return CONSULTANT's tools and equipment, if any, to it or its

suppliers' premises, or to turn over Work in progress in accordance with SBCTA's instructions plus the actual cost necessarily incurred in effecting the termination.

- 18.2 Termination for Cause - In the event CONSULTANT shall file a petition in bankruptcy court, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy shall be filed against CONSULTANT or a receiver shall be appointed on account of its insolvency, or if CONSULTANT shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice, SBCTA may, without prejudice to any other rights or remedies SBCTA may have, and in compliance with applicable Bankruptcy Laws: (a) hold in abeyance further payments to CONSULTANT; (b) stop any Work of CONSULTANT or its subconsultants related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONSULTANT specifying the date of termination. In the event of such termination by SBCTA, SBCTA may take possession of the products and finished Work by whatever method SBCTA may deem expedient. A waiver by SBCTA of one default of CONSULTANT shall not be considered to be a waiver of any subsequent default of CONSULTANT of the same or any other provision, nor be deemed to waive, amend, or modify this Contract.

18.2.1 CONSULTANT shall deliver to SBCTA all finished and unfinished deliverables under this Contract prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA within ten (10) working days of said notice.

- 18.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to SBCTA, satisfactory in form and content to SBCTA and verified by SBCTA. In no event shall CONSULTANT be entitled to any payment for prospective profits or any damages because of such termination.

ARTICLE 19. STOP WORK ORDER

Upon failure of CONSULTANT or its subconsultants to comply with any of the requirements of this Contract, SBCTA shall have the right to stop any or all Work affected by such failure until such failure is remedied or to terminate this Contract in accordance with the Termination For Cause provision herein.

ARTICLE 20. CLAIMS

SBCTA shall not be bound to any adjustments in the Contract amount or schedule unless expressly agreed to by SBCTA in writing. SBCTA shall not be liable to CONSULTANT for any claim asserted by CONSULTANT after final payment has been made under this Contract.

ARTICLE 21. INSURANCE

21.1 CONSULTANT shall furnish SBCTA with original Certificates of Insurance, including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page(s) of the CGL policy listing all policy endorsements, before Work begins. SBCTA reserves the right to require full-certified copies of all Insurance coverages and endorsements. Prior to commencing the Work, subject to the provisions of Article 21.2 “General Provisions”, at all times during the performance of the Work, and for such additional periods as required herein, CONSULTANT shall, at CONSULTANT’s sole expense, procure and maintain insurance coverage with the following minimum requirements, and shall require all subcontractors of every tier performing any portion of the Work to procure and maintain such insurance as specified below:

21.1.1 Professional Liability - The policies must include the following:

- A limit of liability not less than \$3,000,000 per claim
- An annual aggregate limit of not less than \$6,000,000
- Coverage shall be appropriate for the CONSULTANT’s profession and provided services to include coverage for errors and omissions arising out of the CONSULTANT’s professional services, or services of any person employed by the CONSULTANT, or any person for whose acts, errors, mistakes or omissions the CONSULTANT may be legally liable.
- If Coverage is on a claims made basis:
 - Policy shall contain a retroactive date for coverage of prior acts, which date will be prior to the date the CONSULTANT begins to perform Work under this Contract.
 - CONSULTANT shall secure and maintain “tail” coverage for a minimum of Five (5) years after Contract completion.

21.1.2 Worker’s Compensation/Employer’s Liability - The policies must include the following:

- Coverage A. Statutory Benefits
- Coverage B. Employer’s Liability
- Bodily Injury by accident - \$1,000,000 per accident
- Bodily Injury by disease - \$1,000,000 policy limit/\$1,000,000 each employee

Such policies shall contain a waiver of subrogation (WC 00 03 13) in favor of the parties named as additional insureds and/or Indemnitees below. Such insurance shall be in strict accordance with the applicable workers’ compensation laws in effect during performance of the Work by CONSULTANT or any subconsultant of any tier. All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and

maintain the same insurance coverage as specified in this subparagraph, with a waiver of subrogation in favor of CONSULTANT and all parties named as Indemnitees below. Where coverage is provided through the California State Compensation Insurance Fund, the requirement for a minimum A.M. Best rating does not apply.

20.1.3 Commercial General Liability - The policy must include the following:

- Consultant shall maintain commercial general liability (CGL) insurance (Insurance Services Office (ISO) Form CG 00 01), and, if necessary, excess/umbrella commercial liability insurance, with a combined limit of liability of not less than **\$5,000,000 each occurrence**. If the contract value is equal to or in excess of \$25,000,000, then the combined limit of liability shall be no less than **\$25,000,000 each occurrence**.
- The policy shall, at a minimum, include coverage for any and all of the following: bodily injury, property damage, personal injury, broad form contractual liability (including coverage to the maximum extent possible for the indemnifications in this Contract), premises-operations (including explosion, collapse and underground coverage), duty to defend in addition to (without reducing) the limits of the policy(ies), and products and completed operations.
 - \$2,000,000 per occurrence limit for property damage or bodily injury
 - \$1,000,000 per occurrence limit for personal injury and advertising injury
 - \$2,000,000 per occurrence limits for products/completed operations coverage (ISO Form 20 37 10 01) if SBCTA's Risk Manager determines it is in SBCTA's best interests to require such coverage,
 - If a general aggregate applies, it shall apply separately to this project/location. The project name must be indicated under "Description of Operations/Locations" (ISO Form CG 25 03 or CG 2504).
- Coverage is to be on an "occurrence" form. "Claims made" and "modified occurrence" forms are not acceptable.
- A copy of the declaration page or endorsement page listing all policy endorsements for the CGL policy must be included.

All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the CGL insurance coverage with limits not less than:

- Each occurrence limit: \$1,000,000
- General aggregate limit: \$2,000,000
- Personal injury and advertising limit \$1,000,000
- Products-completed operations aggregate limit \$2,000,000

All subconsultants' and sub-subconsultants' deductibles or self-insured retentions must be acceptable to SBCTA's Risk Manager.

21.1.4 Umbrella/Excess CGL - The policy must include the following:

- If the CONSULTANT elects to include an umbrella or excess policy to cover any of the total limits required beyond the primary commercial general liability policy limits and/or the primary commercial automobile liability policy limits, then the policy must include the following:
 - The umbrella or excess policy shall follow form over the CONSULTANT's primary general liability coverage and shall provide a separate aggregate limit for products and completed operations coverage.
 - The umbrella or excess policy shall not contain any restrictions or exclusions beyond what is contained in the primary policy.
 - The umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.
 - The umbrella or excess policy must also extend coverage over the automobile policy if it is to be used in combination with the primary automobile policy to meet the total insurance requirement limits.

There shall be no statement limiting the coverage provided to the parties listed as additionally insureds or as indemnitees below.

21.1.5 Commercial Auto - The policy must include the following:

- A total limit of liability of not less than **\$1,000,000** each accident. This total limit of liability may be met by combining the limits of the primary auto policy with an umbrella or excess policy in accordance with subparagraph 4 (Umbrella/Excess CGL) of Section A of this Article.
- Such insurance shall cover liability arising out of any vehicle, including owned, hired, leased, borrowed and non-owned vehicles assigned to or used in performance of the CONSULTANT services.
 - Combined Bodily Injury and Property Damage Liability insurance
The commercial automobile liability insurance shall be written on the most recent edition of ISO Form CA 00 01 or equivalent acceptable to SBCTA.

21.1.6 INTENTIONALLY OMITTED

21.1.7 Railroad Protective Liability - The policy must include the following:

- Should the CONSULTANT need to perform activities in a railroad right-of-way, SBCTA's Risk Manager and/or a railroad operator may require CONSULTANT to provide Railroad Protective Liability.
- In such a case, the policy shall be in amounts and coverages and from issuers acceptable to SBCTA's Risk Manager in his/her sole discretion.
- Depending on facts and circumstances, and the terms and conditions of the policy involved, SBCTA's Risk Manager may choose to find that the CONSULTANT satisfactorily meets this requirement by obtaining one of the following: a) an

acceptable Railroad Protective Liability specific policy; b) a waiver of any railroad liability exclusion from the CONSULTANT's existing general liability policy; or c) acceptable general liability insurance without a railroad exclusion.

- 21.1.8 Technology Professional Liability Errors and Omissions Insurance – appropriate to the CONSULTANT's profession and Work hereunder, with limits not less than \$1,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the CONSULTANT in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of SBCTA in the care, custody, or control of the CONSULTANT. If not covered under the CONSULTANT's liability policy, such "property" coverage of SBCTA may be endorsed onto the CONSULTANT's Cyber Liability Policy as covered property as follows:

Cyber Liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of SBCTA that will be in the care, custody, or control of CONSULTANT.

21.2 General Provisions

- 21.2.1 Qualifications of Insurance Carriers - If policies are written by insurance carriers authorized and admitted to do business in the state of California, then the insurance carriers must have a current A.M. Best rating of A-VIII or better, and if policies are written by insurance carriers that are non-admitted but authorized to conduct business in the state of California, then they must meet the current A.M. Best rating of A-X or better, unless otherwise approved in writing by SBCTA's Risk Manager.

- 21.2.2 Additional Insured Coverage - All policies, except those for Workers' Compensation and Professional Liability insurance, shall be endorsed by ISO Form CG 20 10 11 85, or if not available, then ISO Form CG 20 38, to name, Southern California Regional Rail Authority, BNSF Railway, San Bernardino County Transportation Authority and its officers, directors, members, employees, agents and volunteers, as additional insureds ("Additional Insureds"). With respect to general liability arising out of or connected with work or operations performed by or on behalf of the CONSULTANT under this Contract, coverage for such Additional Insureds shall not extend to liability to the extent prohibited by section 11580.04 of the Insurance Code. The additional insured endorsements shall not limit the scope of coverage for SBCTA to

vicarious liability but shall allow coverage for SBCTA to the full extent provided by the policy.

- 21.2.3 Proof of Coverage - Evidence of insurance in a form acceptable to SBCTA's Risk Manager, including declarations pages of each policy, certificates of insurance and the required additional insured endorsements, shall be provided to SBCTA's Procurement Analyst prior to issuance of the NTP or prior to commencing any Work, as SBCTA specifies. Certificate(s) of insurance, as evidence of the required insurance shall: be executed by a duly authorized representative of each insurer; show compliance with the insurance requirements set forth in this Article; set forth deductible amounts applicable to each policy; list all exclusions which are added by endorsement to each policy; and also include the Contract Number and the SBCTA Project Manager's name on the face of the certificate. If requested in writing by SBCTA, CONSULTANT shall submit complete copies of all required insurance policies within ten (10) business days of a written request by SBCTA.
- 21.2.4 Deductibles and Self-Insured Retention - Regardless of the allowance of exclusions or deductibles by SBCTA, CONSULTANT shall be responsible for any deductible or self-insured retention (SIR) amount and shall warrant that the coverage provided to SBCTA is consistent with the requirements of this Article. CONSULTANT will pay, and shall require its subconsultants to pay, all deductibles, co-pay obligations, premiums and any other sums due under the insurance required in this Article. Any deductibles or self-insured retentions must be declared to and approved in writing by SBCTA's Risk Manager. Without SBCTA's Risk Manager's expressed written approval, no deductibles or SIR will be allowed. At the option of SBCTA, if the deductible or SIR is approved and it is greater than \$10,000 or one (1) percent of the amount of coverage required under this Contract, whichever is less, the CONSULTANT shall guarantee that either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to SBCTA, its directors, officials, officers, employees and agents; or, (2) the CONSULTANT shall procure a bond guaranteeing the amount of the deductible or self-insured retention. SBCTA shall have the right to review any and all financial records that SBCTA, at its sole discretion, deems necessary to approve any deductible or SIR. SBCTA will have the right, but not the obligation, to pay any deductible or SIR due under any insurance policy. If SBCTA pays any sums due under any insurance required above, SBCTA may withhold said sums from any amounts due to CONSULTANT. The CONSULTANT's policies will neither obligate nor prohibit SBCTA, or any other Additional Insured, from paying any portion of anyCONSULTANT's deductible or SIR.

- 21.2.5 CONSULTANT's and Subconsultants' Insurance will be Primary - All policies required to be maintained by the CONSULTANT or any subconsultant with the exception of Professional Liability and Worker's Compensation shall be endorsed, with a form at least as broad as ISO Form CG 20 01 04 13, to be primary coverage, and any coverage carried by any of the Additional Insureds shall be excess and non-contributory. Further, none of CONSULTANT's or subconsultants' pollution, automobile, general liability or other liability policies (primary or excess) will contain any cross-liability exclusion barring coverage for claims by an additional insured against a named insured.
- 21.2.6 Non-Limitation of Insurance Requirements - The insurance coverage provided and limits required under this Contract are minimum requirements and are not intended to limit the CONSULTANT's indemnification obligations under the Contract, nor do the indemnity obligations limit the rights of the Indemnified Parties to the coverage afforded by their insured status. To the extent required by Law in connection with Work to be performed, the CONSULTANT shall obtain and maintain, or cause to be obtained and maintained, in addition to the insurance coverage expressly required under this Contract, such other insurance policies for such amounts, for such periods of time and subject to such terms, as required by Law and any other agreements with which the CONSULTANT is required to comply, including any Third-Party Agreements. Liability insurance coverage will not be limited to the specific location designated as the Site, except that if the CONSULTANT arranges project-specific general liability, excess liability, or workers' compensation coverage, limitations of coverage to the Site will be permitted subject to SBCTA approval and use of the broadest available site-specific endorsements. No liability policy will contain any provision or definition that would serve to eliminate so-called "third-party-over action" claims, including any exclusion for bodily injury to an employee of the insured or of any Subcontractor. The CONSULTANT acknowledges and will at all times comply with the provisions of Labor Code Section 3700 which require every employer in the State to be insured against liability for workers' compensation, or to undertake self-insurance in accordance with the provisions of that code.
- 21.2.7 Waiver of Subrogation Rights - To the fullest extent permitted by law, CONSULTANT hereby waives all rights of recovery under subrogation against the Additional Insureds named herein, and any other consultant, subconsultant or sub-subconsultant performing work or rendering services on behalf of SBCTA, in connection with the planning, development and construction of the Project. To the fullest extent permitted by law, CONSULTANT shall require similar written express waivers and insurance clauses from each of its subconsultants of every tier. CONSULTANT shall require all of the policies and coverages required in this Article to waive all rights of subrogation against the Additional Insureds (ISO Form CG 24 04 05

09). Such insurance and coverages provided shall not prohibit CONSULTANT from waiving the right of subrogation prior to a loss or claim.

21.2.8 Cancellation - If any insurance company elects to cancel or non-renew coverage for any reason, CONSULTANT will provide SBCTA thirty (30) days' prior written notice of such cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium, CONSULTANT will provide SBCTA ten (10) days' prior written notice. In any event, CONSULTANT will provide SBCTA with a copy of any notice of termination or notice of any other change to any insurance coverage required herein which CONSULTANT receives within one business day after CONSULTANT receives it by submitting it to SBCTA at procurement@gosbcta.com to the attention of SBCTA's Procurement Analyst, and by depositing a copy of the notice in the U.S. Mail in accordance with the notice provisions of this Contract.

21.2.9 Project Specific Insurance - All insurance coverage required to be provided by CONSULTANT, with the exception of automobile liability and workers' compensation, shall apply specifically and exclusively for the Project and extend to all aspects of the Work, with coverage limits dedicated solely to the Project. Use of other insurance programs is acceptable, provided that coverage under such programs provides dedicated Project-specific limits and identified premiums and meets all requirements described in contract.

21.2.10 No Representations or Warranties - SBCTA makes no representation or warranty that the coverage, limits of liability, or other terms specified for the insurance policies required under this contract are adequate to protect the CONSULTANT against its undertakings under this Contract or its liability to any third party, nor will they preclude SBCTA from taking any actions as are available to it under this Contract or otherwise at law.

21.2.11 Enforcement - SBCTA may take any steps as are necessary to assure CONSULTANT's compliance with its insurance obligations as identified within this Article. Failure to continuously maintain insurance coverage as provided herein is a material breach of contract. In the event the CONSULTANT fails to obtain or maintain any insurance coverage required, SBCTA may, but is not required to, maintain this coverage and charge the expense to the CONSULTANT or withhold such expense from amounts owed CONSULTANT, or terminate this Contract. The insurance required or provided shall in no way limit or relieve CONSULTANT of its duties and responsibility under the Contract, including but not limited to obligations to indemnify, defend and hold harmless the Indemnitees named below. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve CONSULTANT for liability in excess of such coverage, nor shall it preclude SBCTA from taking other actions as available to it under any other provision of the Contract or law. Nothing contained herein shall relieve CONSULTANT or any subconsultant of any tier of their obligations to

exercise due care in the performance of their duties in connection with the Work, and to complete the Work in strict compliance with the Contract.

- 21.2.12 No Waiver - Failure of SBCTA to enforce in a timely manner any of the provisions of this Article shall not act as a waiver to enforcement of any of these provisions at a later date.
- 21.2.13 Subconsultant Insurance - Insurance required of the CONSULTANT shall be also provided by subconsultants or by CONSULTANT on behalf of all subconsultants to cover their services performed under this Contract. CONSULTANT may reduce types and the amounts of insurance limits provided by subconsultants to be proportionate to the amount of the subconsultant's contract and the level of liability exposure for the specific type of work performed by the subconsultant. CONSULTANT shall be held responsible for all modifications, deviations, or omissions in these insurance requirements as they apply to subconsultant.
- 21.2.14 Higher limits = If CONSULTANT maintains higher limits than the minimums shown above, SBCTA shall be entitled to coverage for the higher limits maintained by CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to SBCTA.
- 21.2.15 Review of Coverage – SBCTA may at any time review the coverage, form, and amount of insurance required under this contract, and may require the CONSULTANT to make changes in such insurance reasonably sufficient in coverage, form, and amount to provide adequate protection against the kind and extent of risk that exists at that time. SBCTA may change the insurance coverages and limits required under this contract by notice to the CONSULTANT, whereupon the CONSULTANT will, within sixty (60) days of such notice date, procure the additional and/or modified insurance coverages. Upon such change any additional cost (at actual cost) from such change will be paid by SBCTA and any reduction in cost will reduce the Contract Price pursuant to a Change Order.
- 21.2.16 Special Risks or Circumstances - SBCTA reserves the right to modify any or all of the above insurance requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

ARTICLE 22. INDEMNITY

- 22.1 To the extent, but only to the extent, that CONSULTANT's Work falls within the scope of Civil Code Section 2782.8, the following indemnification is applicable:

CONSULTANT shall indemnify and defend (with legal counsel reasonably approved by SBCTA) SBCTA, Federal Railroad Administration, and their authorized officers, employees,

agents and volunteers, from any and all losses, damages, liability, actions, and/or costs for claims that arise out of, pertain to, or are related to the negligence, recklessness, or willful misconduct of the design professional.

- 22.2 For all other Work, CONSULTANT agrees to indemnify, defend (with legal counsel reasonably approved by SBCTA) and hold harmless SBCTA, Southern California Regional Rail Authority, BNSF Railway, and their authorized officers, employees, agents and volunteers (Indemnitees), from any and all claims, actions, losses, damages and/or liability (Claims) arising out of or related to any act or omission of CONSULTANT or any of its officers, employees, agents, subconsultants or volunteers and for any costs or expenses incurred by SBCTA on account of any such Claims except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. CONSULTANT's indemnification obligation applies to SBCTA's "active" as well as "passive" negligence but does not apply to SBCTA's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

ARTICLE 23. ERRORS AND OMISSIONS

CONSULTANT shall be responsible for the professional quality, technical accuracy, and coordination of all Work required under this Contract. CONSULTANT shall be liable for SBCTA costs resulting from errors or deficiencies in Work furnished under this Contract, including but not limited to any fines, penalties, damages, and costs associated with a modification to a construction contract required because of an error or deficiency in the Work provided by CONSULTANT under this Contract.

ARTICLE 24. OWNERSHIP OF DOCUMENTS

All deliverables, including but not limited to, drawings, reports, worksheets, and other data developed by CONSULTANT under this Contract, shall become the sole property of SBCTA when prepared, whether delivered to SBCTA or not.

ARTICLE 25. SUBCONTRACTS

- 25.1 CONSULTANT shall not subcontract performance of all or any portion of Work under this Contract, except to those subconsultants listed in the CONSULTANT's proposal, without first notifying SBCTA in writing of the intended subcontracting and obtaining SBCTA's written approval of the subcontracting and the subconsultant. The definition of subconsultant and the requirements for subconsultants hereunder shall include all subcontracts at any tier.
- 25.2 CONSULTANT agrees that any and all subconsultants of CONSULTANT performing Work under this Contract will comply with the terms and conditions of this Contract applicable to the portion of Work performed by them. CONSULTANT shall incorporate all applicable provisions of this Contract into their subcontracts regardless of the tier. If requested by SBCTA, CONSULTANT shall furnish SBCTA a copy of the proposed subcontract for SBCTA's approval of the terms and conditions thereof and shall not execute such subcontract until SBCTA has approved such terms and conditions. SBCTA's approval shall not be unreasonably withheld.

- 25.3 Approval by SBCTA of any Work to be subcontracted and the subconsultant to perform said Work will not relieve CONSULTANT of any responsibility or liability in regard to the acceptable and complete performance of said Work. Any substitution of subconsultants must be approved in writing by SBCTA. CONSULTANT shall have the sole responsibility for managing of their subconsultants, including resolution of any disputes between CONSULTANT and its subconsultants.

ARTICLE 26. INSPECTION OF OPERATIONS

SBCTA or any of its designees, representatives or agents shall at all times have access during normal business hours to CONSULTANT's operations and products wherever they are in preparation or progress, and CONSULTANT shall provide sufficient, safe, and proper facilities for such access and inspection thereof. Inspection or lack of inspection by SBCTA shall not be deemed to be a waiver of any of their rights to require CONSULTANT to comply with the Contract or to subsequently reject unsatisfactory Work or products.

ARTICLE 27. INDEPENDENT CONTRACTOR

CONSULTANT is and shall be at all times an independent contractor. Accordingly, all Work provided by CONSULTANT shall be done and performed by CONSULTANT under the sole supervision, direction and control of CONSULTANT. SBCTA shall rely on CONSULTANT for results only, and shall have no right at any time to direct or supervise CONSULTANT or CONSULTANT's employees in the performance of Work or as to the manner, means and methods by which Work is performed. All personnel furnished by CONSULTANT under this Contract, and all representatives of CONSULTANT, shall be and remain the employees or agents of CONSULTANT or of CONSULTANT's subconsultant(s) at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of SBCTA.

ARTICLE 28. ATTORNEY'S FEES

If any legal action is instituted to enforce or declare any Party's rights under the Contract, each Party, including the prevailing Party, must bear its own costs and attorneys' fees. This Article shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a Party hereto and payable under the "Indemnity" provision of the Contract.

ARTICLE 29. GOVERNING LAW AND VENUE

This Contract shall be subject to the law and jurisdiction of the State of California. The Parties acknowledge and agree that this Contract was entered into and intended to be performed in whole or substantial part in San Bernardino County, California. The Parties agree that the venue for any action or claim brought by any Party to this Contract will be the Superior Court of California, San Bernardino County. Each Party hereby waives any law or rule of court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the Parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County.

ARTICLE 30. FEDERAL, STATE AND LOCAL LAWS

CONSULTANT warrants that in the performance of this Contract it shall comply with all applicable federal, State and local laws, ordinances, rules and regulations.

ARTICLE 31. PRECEDENCE

- 31.1 The Contract consists of the Contract Articles, Exhibit A “Scope of Work,” and Exhibit B “Cost Proposal”, SBCTA’s Request For Proposal, and CONSULTANT’s proposal, all of which are incorporated in this Contract by this reference.
- 31.2 The following order of precedence shall apply: first, the Contract Articles; second, Exhibits A and B; third, SBCTA’s Request For Proposal; and last, CONSULTANT's Proposal. In the event of a conflict between the Contract Articles and the Scope of Work, the Contract Articles will prevail.
- 31.3 In the event of an express conflict between the documents listed in this Article, or between any other documents which are a part of the Contract, CONSULTANT shall notify SBCTA in writing within three (3) business days of its discovery of the conflict and shall comply with SBCTA's resolution of the conflict.

ARTICLE 32. COMMUNICATIONS AND NOTICES

Notices sent by mail shall be by United States Mail, postage paid, certified mail (return receipt requested). Any and all notices permitted or required to be given hereunder shall be deemed duly given and received: (a) upon actual delivery, if delivery is personally made or if made by email or fax during regular business hours; (b) the first business day following delivery by fax when not made during regular business hours; or (c) the fourth business day following deposit of such notice into the United States Mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time by a notice given in accordance with this Article. CONSULTANT shall notify SBCTA of any contact information changes within ten (10) business days of the change.

To CONSULTANT	To SBCTA
535 Encinitas Blvd. Suite 114	1170 W. 3rd Street, 2nd Floor
Encinitas, CA 92024	San Bernardino, CA 92410-1715
Attn: Alex Janecek	Attn: Carrie Schindler
	cc: Procurement Manager
Phone: 310-989-3104	Phone: (909) 884-8276

ARTICLE 33. DISPUTES

- 33.1 In the event any dispute, other than an audit, arises between the Parties in connection with this Contract (including but not limited to disputes over payments, reimbursements, costs, expenses, Work to be performed, Scope of Work and/or time of performance), the dispute shall be decided by SBCTA’s Contract Administrator within thirty (30) calendar days after notice thereof in writing, which shall include a particular statement of the grounds of the dispute. If CONSULTANT does not agree with the decision, then CONSULTANT shall have ten (10) calendar days after receipt of the decision in which to file a written appeal

thereto with SBCTA's Executive Director. If the Executive Director fails to resolve the dispute in a manner acceptable to CONSULTANT, then such dispute may be reviewed by a court of competent jurisdiction.

- 33.2 During resolution of the dispute, CONSULTANT shall proceed with performance of the Contract with due diligence.

ARTICLE 34. GRATUITIES

CONSULTANT, its employees, agents, or representatives shall not offer or give to any officer, official, agent or employee of SBCTA, any gift, entertainment, payment, loan, or other gratuity.

ARTICLE 35. REVIEW AND ACCEPTANCE

All Work performed by CONSULTANT shall be subject to periodic review and approval by SBCTA at any and all places where such performance may be carried on. Failure of SBCTA to make such review, or to discover defective work, shall not prejudice the rights of SBCTA at the time of final acceptance. All Work performed by CONSULTANT shall be subject to periodic and final review and acceptance by SBCTA upon completion of all Work.

ARTICLE 36. CONFIDENTIALITY

Any SBCTA communications or materials to which CONSULTANT or its subconsultants or agents have access, or materials prepared by CONSULTANT under the terms of this Contract, shall be held in confidence by CONSULTANT, who shall exercise reasonable precautions to prevent the disclosure of confidential information to anyone except as expressly authorized by SBCTA. Any communications with or work product of SBCTA's legal counsel to which CONSULTANT or its subconsultants or agents have access in performing Work under this Contract shall be subject to the attorney-client privilege and attorney work product doctrine, and shall be confidential. CONSULTANT shall not release any reports, information or promotional material or allow for the use of any photos related to this Contract for any purpose without prior written approval of SBCTA. CONSULTANT agrees to inform itself and make its employees, agents, and subconsultants aware of the requirements of SBCTA's privacy and confidentiality policies and to abide by the same. CONSULTANT further agrees to require all employees, agents, and subconsultants assigned to any SBCTA project or task to sign a SBCTA Confidentiality Agreement as directed by SBCTA personnel.

ARTICLE 37. EVALUATION OF CONSULTANT

CONSULTANT's performance may be evaluated by SBCTA periodically throughout the Contract performance period, such as at the completion of certain milestones as identified in Exhibit A and/or at the completion of the Contract. A copy of the evaluation will be given to CONSULTANT for their information. The evaluation information shall be retained as part of the Contract file and may be used to evaluate CONSULTANT if they submit a proposal on a future RFP issued by SBCTA.

ARTICLE 38. SAFETY

CONSULTANT shall strictly comply with all OSHA regulations, local, municipal, state, and federal safety and health laws, orders and regulations applicable to CONSULTANT's operations in the performance of Work under this Contract. CONSULTANT shall comply with safety

instructions issued by SBCTA and their representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while on the Project construction site.

ARTICLE 39. DRUG FREE WORKPLACE

CONSULTANT agrees to comply with the Drug Free Workplace Act of 1990 per Government Code Section 8350 et seq.

ARTICLE 40. ASSIGNMENT

CONSULTANT shall not assign this Contract in whole or in part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of SBCTA. SBCTA's exercise of consent shall be within its sole discretion. Any purported assignment without SBCTA's prior written consent shall be void and of no effect, and shall constitute a material breach of this Contract. Subject to the foregoing, the provisions of this Contract shall extend to the benefit of and be binding upon the successors and assigns of the Parties.

ARTICLE 41. AMENDMENTS

The Contract may only be changed by a written amendment duly executed by the Parties. Work authorized under an amendment shall not commence until the amendment has been duly executed.

ARTICLE 42. STATE PREVAILING WAGE RATES

- 42.1 CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the Work.
- 42.2 Any subcontract entered into as a result of this Contract if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.

ARTICLE 43. CONTINGENT FEE

CONSULTANT warrants, by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, SBCTA has the right to terminate the Contract without liability, pay only for the value of the Work actually performed, or in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 44. FORCE MAJEURE

CONSULTANT shall not be in default under this Contract in the event that the Work performed by CONSULTANT is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, acts of terrorism, civil disturbances, insurrection, explosion, pandemics, quarantines, acts of God, acts of government or governmental restraint, and natural disasters such as floods, earthquakes, landslides, and fires, or other catastrophic events which are beyond the

reasonable control of CONSULTANT and which CONSULTANT could not reasonably be expected to have prevented or controlled. "Other catastrophic events" does not include the financial inability of CONSULTANT to perform or failure of CONSULTANT to obtain either any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of CONSULTANT.

ARTICLE 45. WARRANTY

CONSULTANT warrants that all Work performed shall be in accordance with the Contract, and all applicable professional standards. In the event of a breach of this provision, CONSULTANT shall take the necessary actions to correct the breach at CONSULTANT's sole expense. If CONSULTANT does not take the necessary action to correct the breach, SBCTA, without waiving any other rights or remedies it may have, may take the necessary steps to correct the breach, and CONSULTANT shall promptly reimburse SBCTA for all expenses and costs incurred.

ARTICLE 46. ENTIRE DOCUMENT

- 46.1 This Contract constitutes the sole and only agreement governing the Work and supersedes any prior understandings, written or oral, between the Parties respecting the Project. All previous proposals, offers, and other communications, written or oral, relative to this Contract, are superseded except to the extent that they have been expressly incorporated into this Contract.
- 46.2 No agent, official, employee or representative of SBCTA has any authority to bind SBCTA to any affirmation, representation or warranty outside of, or in conflict with, the stated terms of this Contract, and CONSULTANT hereby stipulates that it has not relied, and will not rely, on same.
- 46.3 Both Parties have been represented or had the full opportunity to be represented by legal counsel of their own choosing in the negotiation and preparation of this Contract. Therefore, the language in all parts of this Contract will be construed, in all cases, according to its fair meaning, and not for or against either Party.

ARTICLE 47. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

CONSULTANT shall comply with all applicable provisions of the Americans With Disabilities Act in performing Work under this Contract.

ARTICLE 48. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

Intentionally omitted.

ARTICLE 49. EFFECTIVE DATE

The date that this Contract is executed by SBCTA shall be the Effective Date of the Contract.

-----SIGNATURES ARE ON THE FOLLOWING PAGE-----

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the day and year written below.

CPM Partners, Inc.

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____
Maribel Janecek
President

By: _____
Curt Hagman
President, Board of Directors

Date: _____

Date: _____

By: _____
Alex Janecek

Date: _____

APPROVED AS TO FORM

By: _____
Julianna K. Tillquist
General Counsel

CONCURRENCE

By: _____
Shaneka Morris
Procurement Manager

Attachment: 21-1002658 (8550 : Award Contract No. 21-1002658 for AMF H2 Upgrade Project CM Services)

EXHIBIT A – “SCOPE OF WORK”**ARROW MAINTENANCE FACILITY (AMF) HYDROGEN FUEL UPGRADE
PROJECT****CONSTRUCTION MANAGEMENT SERVICES – SCOPE OF WORK**

DRAFT

Attachment: 21-1002658 (8550 : Award Contract No. 21-1002658 for AMF H2 Upgrade Project CM Services)

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1.0 INTRODUCTION

1.1 *Arrow Maintenance Facility (AMF) Hydrogen Fuel Upgrade Project (Project)*

The San Bernardino County Transportation Authority (SBCTA), in coordination with the Southern California Regional Rail Authority (SCRRA) is implementing the Arrow Maintenance Facility (AMF) Hydrogen Fuel Upgrade Project to facilitate the integration of a zero-emission multiple unit (ZEMU) rail vehicle into SBCTA's planned Arrow service. SBCTA is currently completing the constructing the AMF to service SBCTA's diesel multiple unit (DMU) rail vehicle fleet for the Arrow service, which will start operations in 2022. The SCRRA will operate and dispatch the Arrow service in coordination with SCRRA's existing Metrolink service. The proposed Project includes integration of the ZEMU rail vehicle into the Arrow service in 2024, and associated modifications and upgrades to the AMF to facilitate hydrogen (H2) storage, refueling, and required safety improvements.

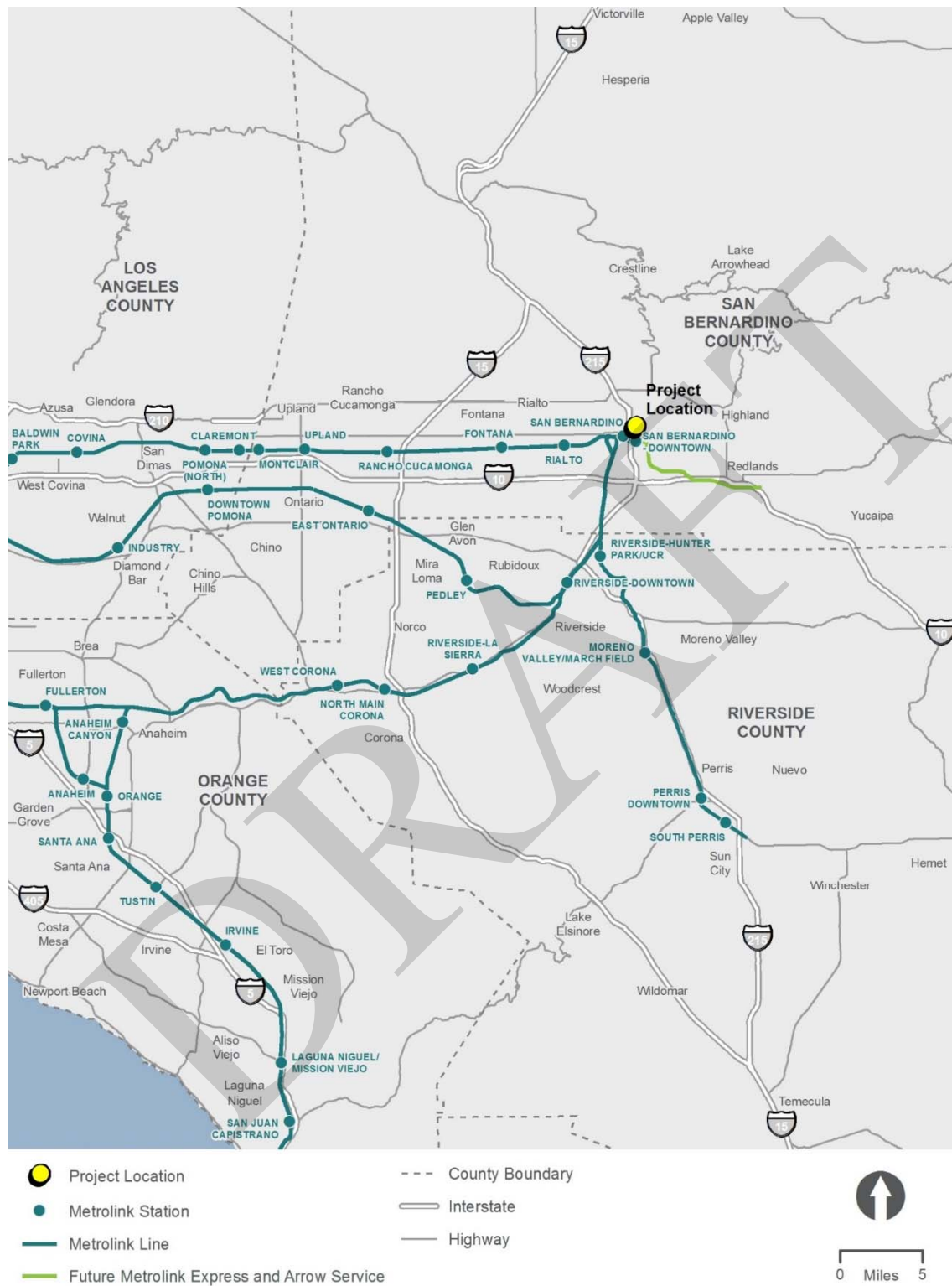
Project operations of the proposed ZEMU vehicle on SCRRA's San Gabriel subdivision would follow FRA safety regulations and integrate with the planned DMU and Metrolink passenger train service.

1.2 *Project Location*

The AMF is located within the City of San Bernardino, California, near the intersection of North J Street and 3rd Street. The AMF site is located to the east of existing San Bernardino Santa Fe Depot and Metrolink Station Platforms. The Project area abuts existing railroad track infrastructure to the north, west, and south. Vacant, industrial-zoned land borders the AMF site to the east and an intermodal freight yard owned by the Burlington Northern Santa Fe (BNSF) Railway. A small residential community is located to the south of the AMF site and Third Street along North J Street and Kendall Avenue.

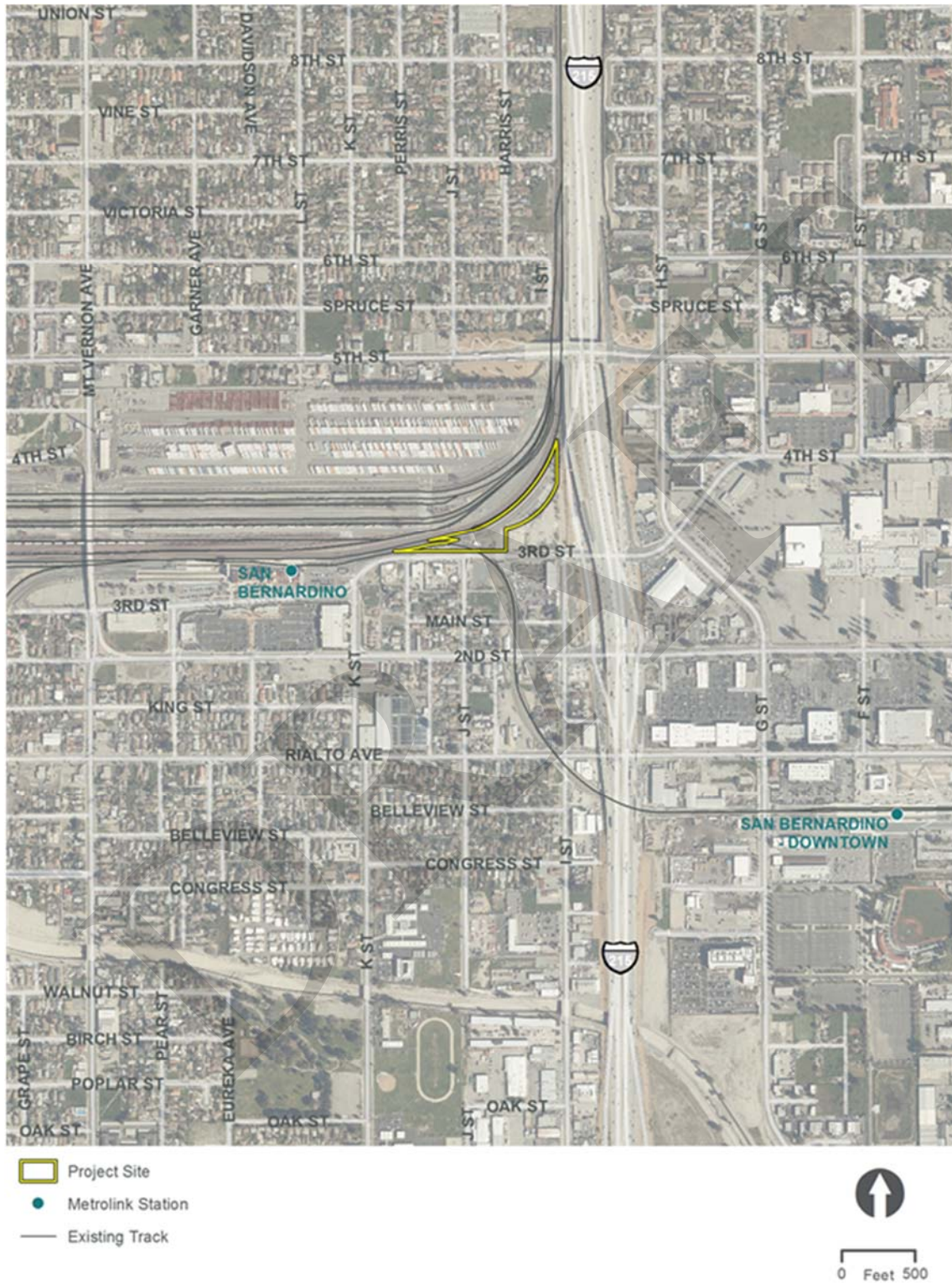
Much of the work would occur within the southern portion of SBCTA's existing AMF site (Assessor Parcel Numbers (APN): 013823113 and 013823114). Figure 1.1 shows the regional location of the Project. Figure 1.2 shows the Project's location in San Bernardino, the extent of the proposed improvements, and the Project study area. Figure 1.3 shows the Project Detail Map

FIGURE 1-1 : REGIONAL LOCATION



21-1002658

FIGURE 1-2 : PROJECT LOCATION



21-1002658

FIGURE 1-3 : PROJECT DETAIL MAP



1.3 Project Schedule

The current schedule for the Project reflects a revenue service date of March 2024 with schedule reserve. To that end, SBCTA intends to procure a construction contract for the fueling facility in November 2021 and release an Invitation for Bids for maintenance facility upgrades in July 2022, award the contract in November 2022. Other key Project dates are anticipated as follows.

Phase/Project Component	Start	Finish
Environmental Analysis	January 2021	September 2021
AMF Building Retrofit Preliminary Engineering and Final Design	July 2021	June 2022
Maintenance Facility Upgrades	November 2022	August 2023
Hydrogen Fueling Station	April 2022	October 2023
Vehicle Procurement	November 2019	March 2024
Anticipated Start of Revenue Service	Mach 2024	

1.4 Summary of Consultant Services

The Construction Management Consultant (CONSULTANT) will provide qualified construction management and inspection, materials testing, and contract administration for the entire Project as outlined in this Scope of Work.

The construction administration function is to assure compliance with the technical and administrative provisions of each construction contract. The CONSULTANT will prepare a detailed Construction Management Plan (CMP) that will detail safety, quality, change management cost control of all construction activities and contract administration. The CMP will be implemented in conformance with all federal and state regulations, including quality assurance, quantity control, materials testing, source inspection, structural and architectural inspection, and compliance with county, state and federal requirements covering contract procedures and fair employment.

The CONSULTANT will oversee the construction of the Project. The CONSULTANT is responsible for overseeing the activities of all the construction work by the general contractors. SBCTA intends to award separate construction contracts for the hydrogen fueling station and the AMF building retrofit (individually, “Construction Contractor” and collectively, “Construction Contractors”). The CONSULTANT will support both as a single Project. The intent is to bring on the CONSULTANT to assist with constructability and bid-ability review and to allow the CONSULTANT team to be familiar with the project and organizationally prepared for the start of construction.

1.5 Reporting Structure and Other Project Consultants

The CONSULTANT will report to and receive direction from SBCTA through the PMC Project Manager in accordance with the Project Management Plan, which is attached hereto as Exhibit A and incorporated by reference herein. The PMC Project Manager is responsible for coordination of all SBCTA construction activities and for coordinating the efforts of the total construction team. The PMC Project Manager will be the main contact and primary source of information between the CONSULTANT and SBCTA and other consultants working on the Project, and Project stakeholders.

MOTT MACDONALD is the Project Management Consultant (PMC) for the Project. The PMC provides project management, oversight, expertise and technical support to ensure that the Project advances through the project development, engineering, and construction phases and is ready for revenue service operations. The PMC will serve as integrated staff resources to SBCTA to support the management and oversight of project development, engineering, construction management, and construction contractors to be procured by SBCTA through separate procurements.

The public awareness campaign for the Project, which focuses on providing hydrogen education of hydrogen use in transportation to residents, businesses and other stakeholders, will be led by SBCTA's Legislative and Public Affairs department, through an on-call consultant.

2.0 STAFFING REQUIREMENTS

2.1 General

The CONSULTANT is expected to provide the necessary personnel to administer the construction support services and to assign qualified field personnel to perform the requested services. The scope of responsibility and the total number of personnel assigned to each phase is left to the discretion of the CONSULTANT.

2.2 Project Manager

The CONSULTANT will provide a full-time Project Manager to coordinate CONSULTANT operations with SBCTA. The Project Manager shall be responsible for all matters related to CONSULTANT personnel and operations. The Project Manager will also serve as the Resident Engineer. The Resident Engineer will be responsible for all construction management and construction activity within the Project. The Project Manager must be licensed as a Professional Engineer in the State of California at the time of proposal submittal and through the duration of the CONSULTANT Contract.

2.3 Staffing Plan

2.3.1 Proposal Requirements

The Proposal shall include a staffing plan, organization chart and resource-loaded schedule, all of which will be incorporated by reference into the CONSULTANT Contract. These submittals will demonstrate the firm's ability to appropriately staff and manage the Project.

2.3.2 Quality and Quantity of Staffing

SBCTA and CONSULTANT will jointly determine the quality and quantity of services that are required by CONSULTANT personnel. The number of CONSULTANT personnel assigned to the Project will vary throughout the duration of the contract. CONSULTANT personnel will be assigned, in varying levels of responsibility, as needed by the CONSULTANT to meet the Project schedule, Project requirements, and construction activities.

The staffing plan will include, in addition to the Project Manager, Construction Management Quality Assurance Representative, and all other engineers and inspection personnel who will be assigned to direct and coordinate all Project-specific field activities and responsibilities as needed for CONSULTANT's satisfactory performance on the Project.

2.3.3 Resumes and SBCTA Approvals

Resumes of personnel must be submitted to SBCTA and if applicable, SCRRA, for review and approval prior to assignment to the Project. Personnel selected for assignment by CONSULTANT shall be made available for personal interviews prior to acceptance by SBCTA. If, in the opinion of SBCTA, an individual lacks adequate experience, the individual may be rejected or may be accepted on a trial basis until such time as the individual's ability to perform the required services has been demonstrated. If, at any time, the performance of CONSULTANT personnel is unsatisfactory to SBCTA, SBCTA may release the individual by written notice and may request another qualified person be assigned.

2.4 Key Personnel

The Project Manager and Construction Management Quality Assurance Representative will be Key Personnel. In addition, Key Personnel may be identified by SBCTA and the CONSULTANT. Key Personnel shall not be transferred from the Project unless approved in writing by SBCTA. SBCTA shall have the authority to penalize CONSULTANT up to \$25,000 for removal of key CONSULTANT staff from the Project without prior SBCTA approval. If CONSULTANT personnel are on leave of absence, the Project Manager shall provide equally qualified replacement personnel until the assigned personnel returns to the Project.

2.5 Availability and Work Hours

The typical workday includes all hours worked by SBCTA's Construction Contractor including nights and weekends. The Construction Contractor's operations may be restricted to specific hours during the week, which will become the normal workday for CONSULTANT's personnel. On days when work is not performed by the Construction Contractor, such as rainy or unsuitable weather days, CONSULTANT services will not be provided unless authorized by the SBCTA Project Manager. The Project Manager, with prior concurrence from SBCTA, shall have the authority to increase, decrease, or eliminate CONSULTANT personnel work hours dependent on the schedule and requirements of the Construction Contractor.

Unless otherwise directed by SBCTA, the normal work week will consist of 40 hours. From time to time, overtime may be required. However, overtime will be worked only when approved in writing by SBCTA. All overtime pre-planned by CONSULTANT personnel shall be

approved and authorized by SBCTA prior to each occurrence. If extraordinary circumstances require CONSULTANT over- time, the time along with an explanation shall be submitted to SBCTA within five (5) working days of the incident.

3.0 PERFORMANCE STANDARDS

3.1 Legal Compliance

All services required herein shall be performed in accordance with Federal Transit Administration (FTA), and where applicable, California Department of Transportation (Caltrans) guidelines, regulations, policies, procedures, manuals, and standards, except as noted in the special provisions.

3.2 Consultant Personnel

CONSULTANT personnel shall be knowledgeable of and comply with all applicable local, state, and federal regulations. CONSULTANT personnel shall cooperate and consult with SBCTA, State, Federal, and City officials during the course of the Project. CONSULTANT personnel shall perform duties as may be required to assure that construction is being performed in accordance with the Project plans and specifications and all appropriate State and Federal rules and regulations. CONSULTANT personnel shall keep accurate and timely records and document all work performed by the Contractor and CONSULTANT.

Construction team member's conduct shall be professional, ethical, and business-like during all contact between Agency representatives, the Contractor, the public, and any other parties involved with the project. The Resident Engineer (RE) shall handle normal contact and day-to-day flow of correspondence with the Contractor. Construction Management field staff (i.e., RE, office engineers, and inspectors) shall control all project records at the field office in accordance with the Construction Management Plan (to be developed) procedures.

4.0 DUTIES AND RESPONSIBILITIES

4.1 Primary Construction Management Assignments

The CONSULTANT is responsible for oversight and management of the construction for the Project. The construction management team's primary assignments are as follows, and as more fully described in this Scope of Work:

1. Verify the scope of work is constructed in accordance with the contract documents
2. Oversee the work to ensure it is performed in a safe and productive manner
3. Verify design changes and responses to submittals and Requests for Information (RFI) are submitted to the contractor in a timely manner
4. Confirm the claims avoidance and mitigation techniques are implemented. The Contract is administered in a fair and equitable manner and contractual actions are accurately documented.

5. Always safeguard the best interests of SBCTA Coordinate all safety related matters between the safety program and the contractors
6. Verify constructed facilities and systems meet applicable inspection and test requirements of the quality program
7. Confirm construction contractors effectively implement SBCTA approved QC Programs

4.2 Project Phases

Construction Management activities will be performed in three project phases as generally outlined below and throughout this Scope of Work. This generalized scope of work does not list all of the CONSULTANT responsibilities. CONSULTANT shall provide complete and comprehensive construction management services for each phase of work, for each construction contract issued by SBCTA to complete the Project.

4.2.1 Pre-Construction Services

The duties will include:

1. Constructability review of PS&E and Special Provisions
2. Bid-ability review
3. Pre-Bid and Contract award support
4. Participating in and providing input for meetings and correspondence for various agencies.

4.2.2 Construction Services

The duties will include:

1. Administration of construction contracts
2. Coordinate communications between the contractor and all other project participants
3. Public outreach support
4. Coordination with the PMC engineering manager for design support during construction
5. Resident Engineering services
6. Field inspection
7. Office engineering to process, collect, and maintain project communications and records
8. Quality assurance inspections and management of independent quality assurance testing
9. Quality assurance surveying (i.e. verification, control point, and benchmark survey)

10. Liaison with affected stakeholders including government agencies and utilities
11. Analysis and approval of contractor construction schedules and progress payments
12. Review and negotiation of contract changes, disputes, maintenance of project record files and documentation
13. Perform environmental compliance management/mitigation
14. Labor compliance oversight and assist with enforcement
15. Systems inspection, testing, commissioning, start-up support services
16. Monitor construction work in accordance with third party agreements and utility relocation agreements
17. Completion of aerial photos of the construction site quarterly

4.2.3 **Post-Construction Services**

The duties will include:

1. Tabulate contract work that is either incomplete or requires remedial action for final acceptance
2. Collect and organize records of material testing, inspection and certifications
3. Assist with resolution of change orders
4. Establish dates of substantial completion and final completion
5. Participate in assessing liquidated damages, back charges or similar adjustment to the final contract value
6. Review and approve final progress payment with required documentation
7. Enforce manufacturer warranties
8. Ensure as-built drawings are created and properly stored

5.0 **PRE-CONSTRUCTION SERVICES**

During the Pre-Construction phase, the CONSULTANT will complete the following tasks:

1. Create a complete Construction Management (CM) Plan and Procedures Manual modeled after similar maintenance facility projects. At a minimum, it should address the control and management of construction- related documents including: Requests for Information; Change Orders; Contractor Submittals; Construction Photos; Operations and Maintenance Manuals; As-built drawings and Project Record

Documents. This document shall follow and implement appropriate guidelines in the latest FTA “Project and Construction Management Guidelines.”

2. Perform constructability analysis of the construction documents. Mott MacDonald will support this analysis and coordinate with the CONSULTANT on appropriate plan, specification and bid item revisions.
3. Participate in risk management sessions to identify and mitigate against construction risk and hazards.
4. Per the specifications, create a project construction schedule detailing phasing and tasks and sub-tasks for each phase. Include all work items from Construction Contractor, SBCTA, third parties and CONSULTANT work items.
5. Assist SBCTA and Mott MacDonald in responding to bid addenda, and bid analysis, pre-qualification of contractors, and recommend award of the construction contracts to the Board.
6. Prior to construction and during the constructability reviews, coordinate with Mott MacDonald in conducting an existing conditions surveys identifying potential adverse impacts to schedule and costs and report theses to SBCTA.
7. Assist SBCTA with coordination of the pre-bid meeting. Assist in responses to contractor’s questions during the bid period.
8. Attend pre-construction meetings as requested.
9. Document existing conditions through digital still photography and submit all photos in digital format to SBCTA prior to start of construction.
10. Perform site reconnaissance and review contract document provisions for site access, staging, parking, utilities, etc. and make recommendations for items to be included in the construction contract documents.
11. Monitor all Construction Environmental Control Plan requirements (address all NEPA/CEQA mitigation and permit requirements as listed in the specifications) with Mott MacDonald.
12. Prior to construction, assist SBCTA/Mott MacDonald with environmental surveys (prior to start of construction).
13. Prepare a CM Quality Assurance/Quality Control (QA/QC) Plan, including review and audits of construction contractor QA/QC plan. The CONSULTANT’s QA/QC Plan shall be developed in accordance with “FTA-MA-06-0189-92-1 Quality Assurance and Quality Control Guidelines.” and.
14. Review contract requirements for Contractor Safety Plan used to govern job-site safety during the construction process.

15. Review project specific testing requirements to be included in the construction contract documents. These will be utilized to ensure that all job materials and construction activities are being reviewed and tested.
16. Review contract specific and overall project start-up and test procedures that will be included in the construction contract documents. These procedures shall comply with all state and federal agency requirements necessary to make the completed project ready for revenue service.
17. Review systems verification, testing and start-up plan.
18. Review hazardous material identification, notification and remediation policy referenced in the construction contract documents and used to facilitate prompt and legal disposal of job-site hazardous materials during the construction process.
19. Review the draft Storm Water Pollution Prevention Plan (SWPPP), in accordance with the State Water Resource Control Board requirements.
20. Verify that all required permits, easements, utility relocation agreements, cooperative agreements, and memorandums of understanding (MOU's) are complete and the associated requirements are incorporated into the construction plans and special provisions.
21. Review PMP to assist in understanding federal requirements for construction management procedures and reporting.

6.0 CONSTRUCTION SERVICES

6.1 Document Control

CONSULTANT will adhere to SBCTA document control procedures and maintain hard copies of records. All documents are to be scanned and saved electronically in the field with weekly backups maintained off site.

6.2 Submittals, Nonconformance Reports (NCR) and Requests for Information (RFI)

CONSULTANT will review Construction Contractor submittals for quality and completeness, as well as process and track the submittals according to the Construction Contract. Mott MacDonald has a supporting role in responding to RFIs and reviewing non-conformance reports and also in reviewing Construction Contractor submittals and shop drawings for adherence to design and specifications. CONSULTANT will coordinate and transmit RFIs and submittals to the Mott MacDonald as directed by SBCTA. CONSULTANT will facilitate timely review of the following submittals by the Construction Contractor.

1. Progress Payments: Review/approve/reject contractor's monthly progress payment requests. Measure and track quantities installed for all unit rate items and maintain Schedule of Values progress payment in FTA format.

2. Monitor permits, submittals, shop drawings, material procurement, RFIs, bulletins, change requests, change orders, schedules, and recovery plans, coordination with agencies, jurisdictions, utilities, and Engineer of Record.
3. Changes/Claims: Recommend and implement change orders and claim avoidance practices. Analyze, negotiate, facilitate settlement of claims, and process change orders in a timely manner in accordance with the approved PMP procedures. Mott MacDonald will revise design documents as required.
4. Track/analyze/report on contractor/subcontractor lien releases.
5. Contractor Insurance: Track policies and renewals including subcontractors.
6. Labor Compliance and Disadvantaged Business Enterprise (DBE) Monitoring: Support SBCTA by obtaining certified payrolls; ensure that DBEs and UDBEs are performing designated work. Obtain contractor's DBE compliance reports. Track and document contractor compliance with prevailing wages and Equal Employment Opportunity (EEO) including performing field interviews of contractor personnel.

6.3 **Additional Compliance Tracking**

1. Construction Safety and Security: Review contractor's site-specific Safety and Security Plans. Monitor, document, and prepare accident reports. Observe and document in an incident log contractor's compliance with the project safety plan.
2. Storm Water Pollution Prevention (SWPPP): Track compliance with the project SWPPP (and/or Water Quality Control Plan (WQCP)). Perform site inspections to ensure Best Management Practices (BMPs) have been implemented as outlined in the SWPPP/WPQP and that they are properly installed and performing correctly. Perform weekly or daily inspections during the rainy season. Perform run-on/run-off sampling and testing if required by the SWPPP/WQCP.
3. CONSULTANT shall monitor for Contractor's compliance with the labor standards provisions of the Projects and the related wage determination decisions of the Secretary of Labor.
4. CONSULTANT personnel shall assist SBCTA and local agencies in obtaining compliance with the safety and accident prevention provisions. CONSULTANT will coordinate traffic handling with local agencies if necessary.

6.4 **Geotechnical Services**

Provide construction related geotechnical services necessary to monitor compliance with contract requirements as necessary.

6.5 Systems Inspection, Testing Commissioning and Start Up

Complete manufacturers' quality audits, test reports, safety certifications, and verify as-built drawings and calculations. The CONSULTANT shall also coordinate with SBCTA and SCRRA in implementing both construction phase and start-up phase testing as necessary. The CONSULTANT shall submit timely reports on problems, progress, and completion of the start-up testing shall be submitted to SBCTA. The CONSULTANT shall also provide technical assistance to SBCTA and coordinate the interface between construction and operations personnel for the start of revenue service.

6.6 Survey Support (QA/QC) Services

Monitor construction contractor compliance with surveying requirements; verify layout and controls, perform independent survey checks of line and grade, spot check contractor reference points and verify location and preservation of the critical baseline survey points prior to and after construction (SBCTA provides construction control surveys). The CONSULTANT shall include a California licensed surveyor on the CONSULTANT team to provide these services and additional one baseline surveys in the event that the Construction Contractor's survey cannot be relied upon. CONSULTANT will provide one set of construction staking for all aspects of the construction. Additional staking will be at the contractor's expense. CONSULTANT shall review and provide Quality Assurance and Quality Control of the Contractor's construction surveys for the Project.

6.7 Communication

CONSULTANT is responsible for interfacing, coordination, and communication of all activities during construction, and to keep SBCTA well informed at all times. This effort of interfacing, coordination, and communication includes but is not limited to: utility companies; community relations (SBCTA and CONSULTANT); labor organizations; cities and the County; SCRRA; Engineer of Record; architects, artist and other agencies; CONSULTANTS; and other entities associated with the Project.

6.8 Design Consultant Coordination

Coordinate with Mott MacDonald to facilitate prompt resolution to design and construction related issues.

6.9 Utility Coordination

Assist Construction Contractor and coordinate Project utility requirements with Mott MacDonald. Assist SBCTA with coordination of Southern California Edison for required utility service upgrade. Provide knowledgeable utility field inspectors to oversee utility design, and integration of required changes to resolve utility conflicts. These inspectors will be required to coordinate interface milestones, work windows, and monitor the overall efforts of Construction Contractors.

6.10 Maintenance of Traffic and Access to Private Property

CONSULTANT will review Construction Contractor's Traffic Plans (Detours and Lane Closures), assist with resolution of issues, and assist with coordination of the traffic plans with the roadway agencies (City of San Bernardino and Caltrans) and adjacent property owners.

6.11 Weekly Progress Reports

Prepare weekly progress reports to include daily dairies, project/contract status, deficiency logs, field change notices, new and outstanding issues, actions to be taken, schedule update, calendar days spent and remaining, claims evaluation, and status of all logs including submittals, RFIs, contract change order documents, drawing registers/control logs, etc.

6.12 Monthly Progress Summary Reports

CONSULTANT will prepare Monthly Progress Summary Reports indicating CONSULTANT and Contractor's contract status, job site conditions, specific conditions encountered, corrective measure taken, progress and record photos, manpower reports, construction schedule update (including narrative), current project cost, and projection of cost including potential change orders, issues and resolutions, itemize all to-date project costs and forecast project costs by totaling base contract payments. It should also include any critical issues requiring action by discussing and prioritizing issues and setting action responsibilities identifying any significant problems with the budget or staffing. Reports will be submitted to the SBCTA.

6.13 Aerial Photos

CONSULTANT will prepare aerial photos of the Project site on a quarterly basis. A report will be submitted to the SBCTA.

6.14 Significant Problems

CONSULTANT shall immediately notify SBCTA of any significant construction problem that may impact cost, schedules, relations with other entities, or accidents. This notification shall, as soon as practicable, include written recommendations on options to resolve the problem.

6.15 Conferences and Meetings

The CONSULTANT will conduct weekly progress, pre-work, weekly safety, and third-party coordination meetings. Conduct and produce meeting minutes and action item lists for weekly contractor progress review meetings for submittal to SBCTA. Provide agendas to include the weekly progress report elements.

6.16 Partnering Program

Prepare, coordinate, facilitate and participate in Partnering Program and conferences at the onset of construction and throughout the duration of construction activities with SBCTA, Mott MacDonald, all Construction Contractors, and other key Project stakeholders. This Program shall promote teamwork and open lines of communication to facilitate the successful completion of the Project.

6.17 Public Affairs

CONSULTANT will assist SBCTA in providing community outreach to educate the public on the impact of construction work in their local area. Provide support for preparing presentations to cities, agencies, municipalities, SBCTA Board, the public and others as directed. Further, meet and confer with SBCTA Public Outreach Liaison on a regular basis and provide weekly information on potential project impacts to the community.

6.18 Tailgate Briefings – Construction Schedule

CONSULTANT will coordinate and monitor the need for tailgate briefings based on the construction schedule. The CONSULTANT will schedule the briefings between the Contractor and the Mott MacDonald. Additionally, the CONSULTANT will notify SBCTA of the need for a briefing and include SBCTA in the briefing.

6.19 Schedule Control

1. Review and monitor contractor's schedule for accuracy, compliance, completed work, and forecast reasonableness.
2. Expand and maintain the Primavera CPM Master Project planning and construction overview schedule to include individual construction contracts with milestones and start-up activities.
3. Review and approve baseline construction schedules, monthly schedule updates, and 3-week look-ahead schedules submitted by contractors for compliance with the construction contract specifications.
4. Provide assistance to develop work-around schedules or recommend other measures required to mitigate delays or expedite the schedule.
5. Review and approve delay analyses submitted by contractors for change order work.
6. Prepare monthly report summarizing contractor progress, critical path analysis, and contractual milestone comparisons of baseline versus current schedule, and resource and cash flow projections.

6.20 Cost Control and Estimating

1. Maintain an up-to-date trend system that identifies all potential cost (and cost of schedule) impacts and forecast to complete.
2. The CONSULTANT is responsible for construction contract administration activities, field review and verification of work in place, review and approval of contractor' payment requests, and the negotiation and recommended approval of certain change orders in accordance with approved guidelines. Develop and maintain logs at the field office sites of all-active contract change orders, claims, trends, bid item adjustments, and incurred cost. At the end of each reporting period, CONSULTANT will provide a summary of these logs. The summary will show the cumulative totals of the above logs for each contract.

3. Prepare monthly, a three-month look ahead Project Staffing Projections to effectively monitor and compare the CONSULTANT costs to the original proposed Work Plan and Budget.
4. The CONSULTANT will assist in, or participate in negotiations for contract change orders, including but not limited to preparing an independent cost estimate to help establish a price for extra work and delays. The fair and reasonable cost estimate will be used as a basis for the change order negotiations, and as backup documentation.
5. In preparing cost estimates, the CONSULTANT will prepare and maintain complete documentation establishing the basis of the estimates. This documentation prepared in accordance with FTA requirements shall include the basis for all labor, material and equipment costs. Costs shall include all applicable direct and indirect costs, including negotiated profit margins. Any cost necessary to reflect the unique or unusual characteristic of the change order shall be included.

6.21 Inspection Control

1. Provide on-site daily inspections and thorough documentation to check the quality and quantity of the work performed by all trades and guard SBCTA against defects and deficiencies in the work of the contractors. Inspect workmanship, quality, construction means, methods, techniques, and sequences to evaluate the contractor's compliance with the requirements of the construction documents and recommend necessary remedial action to SBCTA and the Contractor.
2. Prepare daily field reports detailing weather conditions, status of work, and the location and type of work performed by the Contractor. For each daily work activity, document the number and classification of craft labor, supervision, equipment and materials used.
3. Any construction work not properly inspected and tested shall be grounds for removal of the CONSULTANT or specified personnel.
4. Routine responsibilities associated with providing inspection during construction include, but are not limited to, the following:
 - a. Provide daily inspection and documentation of job-related activities.
 - b. Prepare and maintain thorough daily inspection reports.
 - c. Provide continual review of plans and specifications to identify discrepancies, and ambiguities, omissions, or conflicts in plans, specifications, and bid schedules that may generate misinterpretations and/or lead to disagreements.
 - d. Provide inspection oversight for utility relocations performed by non-SBCTA contractors. Coordinate work schedule with contractor for testing and surveying.

- e. Document information related to manpower, equipment, and time for extra or force account work or claim monitoring.
- f. Attend and document contractor tailgate safety meetings.
- g. Observe and enforce safety attire compliance requirements and on-track safety certification.
- h. Confirm accurate measured quantities and review pay estimates submitted by the contractor.
- i. Provide electronic pictorial and video logbook of construction activities.
- j. Report all discrepancies requiring corrective actions to SBCTA.
- k. Meet with contractor to review proposed work and schedule required inspection.
- l. Provide monthly inspection of contractor's As-Built drawings.
- m. Maintain separate As-Built drawings.
- n. Develop "Punch List" items and follow-up with corrective measures.

6.22 Material Sampling and Testing (if needed)

1. CONSULTANT will provide QC, obtain laboratory testing services, and provide independent verification of contractor compliance with specifications.
2. The CONSULTANT shall maintain primary responsibility for verification testing for contract compliance of materials sampling and testing. The Construction Contractors have the primary responsibility for materials sampling and testing. The CONSULTANT shall satisfy themselves that the Construction Contractor's test, frequency of test, re-tests, and results comply with contract specifications. All materials sampling and testing documentation shall be reviewed by the CONSULTANT. A copy of all tests shall be maintained in the Project file.
3. CONSULTANT shall provide verification tests as deemed necessary. The Testing Laboratory personnel shall be qualified and certified as applicable with field testing capabilities for soil, concrete, asphalt, welding, and materials testing to complement the CONSULTANT's field inspection staff. The scope of testing shall include, but not be limited to on-site inspections and sampling, laboratory materials testing, and off-site source testing and inspection as needed. All test results shall be timely and accurate, so that the contractors work is not impacted.

4. The following represents the minimum anticipated Field Materials Sampling and Testing Requirements:
 - a. Soil – Compaction/Density/Moisture/Resistivity
 - b. Concrete – Materials/Cylinders/Slump/Air Entrainment
 - c. Asphalt Concrete – Yield
 - d. Masonry – Grout/Mortar Test/Reinforcing Steel
 - e. Coring – Asphalt/Concrete

6.23 Quality Assurance/ Quality Control (QA/QC)

1. The CONSULTANT will submit to SBCTA for approval a QA/QC Plan within 45 calendar days after NTP. The CONSULTANT's QA/QC Plan shall identify the individual(s) responsible for QA/QC activities for this contract. The representative shall be responsible for monitoring all construction quality activities for the project and have the authority to act in all issues relating to quality. The representative shall be fully qualified by certification and/or experience and technical training to perform the necessary quality review and monitoring activities and fully implement the QA/QC Plan. The CONSULTANT's QA/QC Plan shall be developed in accordance with "FTA-MA-06-0189-92-1 Quality Assurance and Quality Control Guidelines" and shall be consistent with SBCTA's Program Management Plan (PMP) and Quality Assurance Program.
2. Review and accept Construction Contractors' QA/QC plan. Audit the contractor's compliance with the accepted QA/QC Plan.
3. The QA section of the CONSULTANT's program will identify all planned and systematic actions necessary to ensure that the scope of work requirements are met to ensure quality throughout all phases of construction. The QA Plan shall identify actions ensuring that equipment and staffing are capable of performing tasks related to the Contract and documenting the quality efforts.
4. The QC section of the CONSULTANT's program shall identify the operational techniques and activities, inspections, tests, documentation and other processes that will be used to fulfill requirements specified in the QA section. Provide Resident Engineers, QC inspection, and materials compliance with QA/QC plan and specifications.

6.24 Project Liaison and Coordination

The CONSULTANT will support SBCTA staff in coordinating program activities and maintaining good working relationships with the following:

- The general public
- FTA
- SCRRA
- CalSta/Caltrans
- SCAQMD

- Fire Authority and First Responders
- Other local and state agencies
- Utility companies
- Private companies and entities that might be affected by Project construction or implementation

6.25 Environmental Mitigation Compliance Inspection and Reporting

1. Follow construction environmental control plan requirements, ensure contractor compliance with environmental permits such as discharge permits and erosion and sedimentation control requirements, mitigations, monitoring and sound management practices. Provide other environmental compliance services requested by SBCTA
2. CONSULTANT shall also conduct tailgate briefings on select environmental topics, if necessary, prior to construction in sensitive areas or in response to ongoing compliance issues. These tailgate briefings should generally be held in coordination with construction tailgate briefings and should simply serve as reminders of key environmental concerns or requirements

6.26 Prevailing Wage Monitoring

1. All contracts are subject to Federal and State prevailing wage laws. The CONSULTANT shall be responsible for the day-to-day administration of all Prevailing wage requirements on all construction contracts for the project.
2. The CONSULTANT shall have procedures and processes to verify that the weekly certified payrolls are received for all covered construction workers, including all prime and sub-contractors.
3. CONSULTANT shall notify SBCTA of any irregularities in the construction contractors' adherence to prevailing wage requirements. In the event of contractor noncompliance with payroll submittal and any other prevailing wage requirements, the CONSULTANT shall prepare written notifications to the Prime Contractors itemizing any deficiencies, defining the remedies and noticing of applicable progress payment withholdings and penalties associated with the noncompliance.

7.0 POST-CONSTRUCTION SERVICES

7.1 Contract Closeout

1. Perform final inspection and testing.
2. Prepare comprehensive punch list, resolve outstanding issues, address changes and deficiencies and monitor corrections to completion.
3. Coordinate and schedule final inspections.

4. Balance Change Orders and prepare proposed final estimate. Review and process final payment request.
5. Receive, review, approve, and transmit O&M Manuals from contractor to SBCTA.
6. Produce and issue relief of maintenance and responsibility letter to contractor when authorized.
7. Receive, review, correct, and transmit As-Built Drawings from contractor to SBCTA.
8. Coordinate completion of final reproducible record set of drawings.
9. Receive, review and transmit Warranty/Guarantee documents from contractor to SBCTA.
10. Obtain final acceptance from SCRRA, utility companies, and any other relevant Project stakeholders.
11. Produce and issue Final Acceptance to contractor when authorized by SBCTA.
12. Continue claims support in the event that issues are not resolved prior to construction completion.
13. Assess liquidated damages in the event that the contractor exceeds his allowable number of working days.
14. Expedite closeout process and prepare final closeout report.
15. As-Built Drawings: Ensure construction contractor maintains as-builts and coordinate with Mott MacDonald. Document and track all design changes. Review final as-built drawings prepared by Mott MacDonald to ensure all changes have been incorporated. Verify that all work was completed in conformance with the plans and specifications and provide a letter to SBCTA to this effect.

7.2 **Warranties**

CONSULTANT will monitor and track warranties.

8.0 **DELIVERABLES**

1. Inspector daily reports, extra work daily diaries and Resident Engineers' daily diaries.
2. Monthly Project Activity Summary Reports.
3. Quarterly aerial photos of the Project site.
4. Monthly Contractor progress payments, back-up documentation, and Contractor payment records.

5. Contractor final payment documents, delivered to SBCTA no later than ten (10) working days after acceptance by SBCTA of the completed construction Project.
6. All Project files, Project reports, correspondence, memoranda, shop drawings, Project logs, project photo and logs, change order data, claims and claim reports, and Contractor payment records.
7. Certified payrolls and fringe benefit statements for all employees, CONSULTANT and Contractor, who are subject to the State and/or Federal prevailing wage rates.
8. All material test results will be provided in accordance with the applicable Standard Specifications and Special Provisions, and test methods. Failing tests will be immediately reported to the Resident Engineer. All test results will be recorded on the appropriate forms. The test documents will be legible and show the identity of the tester where appropriate. A notebook containing all test results and reports will be maintained by CONSULTANT throughout the duration of the Project and delivered to SBCTA with the Project files.

9.0 EQUIPMENT AND MATERIALS

9.1 *Provided by Consultant*

1. CONSULTANT shall provide all necessary equipment including software, materials, supplies, miscellaneous tools, phones, vehicles, and safety equipment required for its personnel to perform the services accurately, efficiently, and safely. The above noted items shall be considered part of the CONSULTANTS overhead.
2. CONSULTANT personnel shall be provided with vehicles suitable for the location and nature of the work involved.
3. CONSULTANT personnel shall be provided with a mobile radio, cellular phone, or other means to assure full-time communication. If a radio system is to be used, CONSULTANT shall provide a base station at the field office.
4. CONSULTANT personnel shall be provided with all applicable standard plans, specifications, and other standards as appropriate.
5. For Materials Testing, CONSULTANT and its staff will be fully equipped at all times to perform the services required, including but not limited to the following:
 - A. An on-site mobile laboratory or laboratory in close proximity to the Project will be required. The type and location of the lab should be such that it can meet the needs of the Project in an efficient, time effective manner. The laboratory is to be fully staffed, equipped, and supplied to conduct all required soils, materials, and concrete breaking tests in a timely manner.

- B. Field personnel will be provided with all necessary safety equipment to permit work to be performed safely and efficiently within operating rail and construction zone environments.
- C. All equipment to be calibrated as per Section 3-10 and 3-11 of Caltrans' Quality Assurance Program Manual.

9.2 Provided by SBCTA

SBCTA will provide three (3) copies of all Project construction documents including plans, and special provisions, and one (1) copy of all other reports, designer prepared resident engineer files, and contracts. In addition, SBCTA will provide one (1) full size (24" x 36") sets of plans for use in the construction field office as record documents. SBCTA will provide copies of all previously secured permits and Project authorizations.

10.0 LIMITATIONS TO AUTHORITY

10.1 No Authority

CONSULTANT does not have the authority to take any of the following actions.

1. Authorize deviations from the contract documents.
2. Approve substitute materials or equipment; except as authorized in writing by SBCTA.
3. Conduct or participate in tests or third-party inspections; except as authorized in writing by SBCTA.
4. Assume any of the responsibilities of the Contractors, Contractors' Superintendent, or subcontractors.
5. Exercise control over or be responsible for construction means, methods, techniques, sequences, procedures, or safety precautions.
6. Communicate directly with subcontractors or material suppliers without the prior consent of the Contractor.
7. Verbally authorize or approve change orders or extra work for the Project.
8. Offer or receive incentives, inducements; or other forms of enumeration to or from the Contractor to perform services or work outside the terms of any executed contracts for this Project.

10.2 Third-Party Relationships

This Contract is intended to provide unique services for a specific project. In the development of the Project, SBCTA has worked closely with various professional CONSULTANTS, agencies, and others in the preparation of the construction documents and other Project-related

materials. SBCTA, however, is solely responsible for and will be the sole point of contact for all contractual matters related to the Project. CONSULTANT shall take direction **only** from SBCTA and shall regularly inform **only** SBCTA of Project progress, outstanding issues, and all Project related matters.

During the course of the Project, CONSULTANT may find occasion to meet with Stakeholders, City or County representatives, the design engineer, Project CONSULTANTS, or other third parties who have assisted with the Project. These entities may, from time to time, offer suggestions and/or recommendations regarding the Project or elements of the Project. While SBCTA enjoys a close relationship with, and has considerable confidence in, the capabilities of these other parties, CONSULTANT shall not act on any suggestions, solicited or unsolicited, without obtaining specific direction from SBCTA. All oral and written communication with outside agencies or CONSULTANTS related to the Project shall be directed only to SBCTA. Distribution of Project-related communication and information shall be at the sole discretion of SBCTA representatives.

11.0 CONSTRUCTION SAFETY

Safety and security are to be priorities in conducting all work on the WVC BRT Project to ensure the safety and security of employees, the public and emergency responders during the design, construction, and operation of the project. A Safety & Security Management Plan [SSMP] and a Safety and Security Certification Plan [SSCP] (currently in development) will form a framework for the integration of safety and security throughout each phase of the Project lifecycle.

11.1 Safety and Security Management Plan

The CONSULTANT will administer the SSMP in accordance with the FTA requirements of Guidance Circular 5800.1. It documents the policies and procedures that will be implemented to ensure all facility and systems design, construction, testing, training, certification, and documentation associated with the project is completed, that all “work around” procedures are in place if any, and all required certifications have been properly authenticated prior to the commencement of revenue service. Furthermore, the SSMP describes the process through which safety and security activities are integrated into the overall project management process; it documents the project’s planned approach:

- To identify all safety and security tasks that will be performed throughout the project;
- To designate project personnel with responsibility for safety and security;
- To assign personnel and resources for their performance;
- To develop policies and procedures for management review and evaluation of safety and security activities.

The CONSULTANT may participate in the Safety and Security Review Committee and a Fire/Life Safety and Security Committee will be established and continue to meet on a regular schedule. These and other committees will govern safety and security activities as required by the SSMP.

11.2 Safety and Security Certification Plan

The CONSULTANT will assist in administering the SSCP in accordance with guidelines set forth in the FTA Handbook for Transit Safety and Security Certification. The SSCP documents the

processes and procedures that will guide Safety and Security Certification of the project prior to the initiation of revenue service. A thorough certification process will verify that the project is designed, constructed, and tested in accordance with industry standards of safety and security.

Safety and Security Certification is the process to confirm that the hydrogen fueling station and retrofit to the maintenance building is deemed safe for, employees, emergency service personnel, and the general public. The certification process functions as the assurance and validation portion of the SSMP and serves to verify satisfactory compliance with a set of formal safety and security requirements.

The certification process, described in detail in the SSCP, includes the following steps:

- Design criteria verification
- Construction conformance verification
- Testing and inspection verification
- Hazard and vulnerability resolution verification
- Operational readiness verification
- Development of Final Safety and Security Certification Verification Report

11.3 Safety and Security Risk Evaluation

CONSULTANT will assist in the safety and security risk evaluation will be performed to identify potential safety and security issues with the proposed system and eliminate or minimize the risks associated with those issues through design or procedural mitigations or controls. Safety manages unintentional harm and security deals with intentional harm. Both safety and security risk assessment, described below, include project staff and first responders to capture and minimize hazards and vulnerabilities.

11.3.1 Threat and Vulnerability Assessment

The CONSULTANT may participate in the Threat and Vulnerability Assessment is developed to identify potential security threats and vulnerabilities related to various elements of the WVC. This document has been identified as Sensitive Security Information to meet the requirements for 49 CFR Parts 15 and 1520. The main goal is to establish satisfactory provisions for the deterrence, detection, and response to intentional harmful acts in the planning, design, and operation of the system.

11.3.2 Preliminary Hazard Analysis

The CONSULTANT may participate in the identification, assessment, and resolution of potential safety hazards are an important means of assuring the highest practical level of safety in any system. This provides the basis for the Arrow Maintenance Facility (AMF) Hydrogen Fuel Upgrade Project Preliminary Hazard Assessment (PHA). The PHA is part of the hazard management process defined in the SSMP to identify, analyze, and resolve potential hazards related to various elements of the transit system, such as personnel, passengers, system visitors, contractors, facilities, and equipment.

11.4 Site Safety

In addition to the requirements specified elsewhere in this Contract, the following also will apply.

1. CONSULTANT's field personnel will wear hard hats with proper suspension, orange vests with reflective tape, sleeved shirt, long pants, and leather boots with ankle support and rubber soled shoes (with steel toes within the railroad right of way) at all times while working in the field.
2. CONSULTANT will provide appropriate safety training for all CONSULTANT's personnel, including work on and near highways and railroad right-of-way.
3. All safety equipment will be provided by CONSULTANT.

**EXHIBIT B
COST PROPOSAL**

Name	Classification/ Title	Job Function	Hourly Rate*	Total Hours	Extended Amount
Alex Janecek	Program Manager/ Resident Engineer	Program Manager/ Resident Engineer	\$222.33	1884	\$418,876.92
Alex Janecek	Inspector	Inspections	\$192.02	1256	\$241,171.56
Ylonda Miles	Office Engineer	Project Administration	\$130.14	952	\$123,892.46
Pooya Kadhoda	CM QA Representative	Quality Assurance	\$232.14	721	\$167,374.27
	Verification Surveys	Verification Surveys	**	**	\$25,000.00
	QA Material Testing	QA Material Testing	**	**	\$35,000.00
TOTAL					\$1,011,315.21

* Hourly Rate is used to calculate not to exceed contract amount only. Actual billing rate must be used to invoice hours worked.

** Survey and testing will be done in an as needed bases and will be performed according to prevailing wage. Extended amount is a not-to-exceed amount

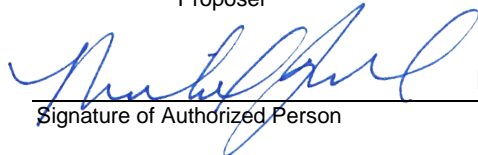
Other Direct Cost Schedule (ODC)

All ODC's are to be proposed at cost-without mark-ups.

Type of ODC	Unit	Qty.	Unit Cost	Estimated Budget Amount
Mileage	Mile	8547	\$ 0.59	\$ 5,000.00
Vehicle Lease (Lease, gas, maintenance)	Month	24	\$ 1,000.00	\$ 24,000.00
Prints/Reproduction (at cost)	Allowance	1	\$ 1,500.00	\$ 1,500.00
			\$	\$ -
			\$	\$ -
			\$	\$ -
			\$	\$ -
			\$	\$ -
			\$	\$ -
			\$	\$ -
			\$	\$ -
			\$	\$ -
			\$	\$ -
			\$	\$ -
TOTAL				30,500.00

CPM PARTNERS, Inc.

Proposer


Signature of Authorized Person

Maribel Janecek, President

4/1/2022

Date

Minute Action

AGENDA ITEM: 14

Date: May 4, 2022

Subject:

Amendment No. 4 to Contract No. 16-1001363 with Kaplan Kirsch & Rockwell, LLP

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

Approve Amendment No. 4 to Contract No. 16-1001363 between San Bernardino County Transportation Authority and Kaplan Kirsch & Rockwell, LLP, for railroad right-of-way legal services, extending the contract term to June 30, 2024.

Background:

San Bernardino County Transportation Authority (SBCTA) originally procured the services of Kaplan Kirsch & Rockwell, LLP (KK&R) in September 2015 via an on-call contract to provide legal services related to Federal and California state law and regulations affecting railroads, and to provide legal advice, opinions and representation in litigation and administrative proceedings. Over the course of the contract, SBCTA primarily tasked KK&R with reviewing and drafting agreements for the Redlands Passenger Rail Project (RPRP). Most notably, KK&R provided legal advice on meeting Federal Transit Administration (FTA) Buy America requirements for the purchase of rail vehicles to support RPRP, the three-party Arrow service operating and maintenance agreement, and tax-exemption status for the rail vehicles. Staff is requesting an extension to existing Contract No. 16-1001363 with KK&R to ensure continued access to their legal expertise specific to railroads, shared-use agreements, and related regulatory requirements.

In November 2016, Amendment No.1 to Contract No. 16-1001363 was approved to increase the contract value from \$100,000 to \$200,000. In June 2019, Amendment No. 2 to the contract was approved, extending the term through June 30, 2020. In June 2020, Amendment No. 3 to the contract was approved, extending the contract term through June 30, 2022 and making a one-time adjustment of a 3% increase to the assigned hourly rates. In accordance with SBCTA Contracting and Procurement Policy No. 11000, the maximum term for procurement contracts shall be five (5) years unless otherwise authorized by the SBCTA Board of Directors (Board). Staff is requesting the Board approve Amendment No. 4 to authorize the extension of Contract No. 16-1001363 with KK&R to June 30, 2024, ensuring access to their services through the delivery of RPRP and start-up of Arrow service. An increase to the contract value is not being requested at this time as there is sufficient contract balance to support the anticipated services needed. **Continued on-call legal services related to Federal and California state law and regulations affecting railroads, beyond June 30, 2024, will be needed. Prior to the expiration of Contract No. 16-1001363, staff anticipates presenting a new contract for similar legal services to the Board for consideration of approval.**

Financial Impact:

This item is consistent with the Fiscal Year 2021/2022 Budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the Transit Committee on April 14, 2022. SBCTA General Counsel, Acting Procurement Manager and Risk Manager have reviewed this item and the draft amendment.

Entity: San Bernardino County Transportation Authority

Board of Directors Agenda Item
May 4, 2022
Page 2

Responsible Staff:

Ryan Aschenbrenner, Right of Way Manager

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

San Bernardino County Transportation Authority

General Contract Information

Contract No: 16-1001363 Amendment No.: 4

Contract Class: Payable Department: Transit

Vendor No.: 01190 Vendor Name: Kaplan Kirsch & Rockwell, LLP

Description: Legal Services for Railroad ROW and Litigation Administrative Proceedings Representation

List Any Accounts Payable Related Contract Nos.: _____

Dollar Amount

Original Contract	\$	100,000.00	Original Contingency	\$	-
Prior Amendments	\$	100,000.00	Prior Amendments	\$	-
Prior Contingency Released	\$	-	Prior Contingency Released (-)	\$	-
Current Amendment	\$	-	Current Amendment	\$	-
Total/Revised Contract Value	\$	200,000.00	Total Contingency Value	\$	-
Total Dollar Authority (Contract Value and Contingency)				\$	200,000.00

Contract Authorization

Board of Directors Date: 05/04/2022 Board Item # 8551

Contract Management (Internal Purposes Only)

Capital Project Contracts Sole Source? No No Budget Adjustment

Local Professional Services (Non-A&E) N/A

Accounts Payable

Estimated Start Date: 07/29/2015 Expiration Date: 06/30/2022 Revised Expiration Date: 06/30/2024

NHS: N/A QMP/QAP: N/A Prevailing Wage: N/A

							Total Contract Funding:		Total Contingency:	
Fund	Prog	Task	Sub-Task	Object	Revenue	PA Level	Revenue Code Name	\$		\$
GL	4150	30	0315	0324	52200	41100000	MSI - Rail	200,000.00		-
GL	6250	30	0315	0324	52200	49053505	MSI Bond - Rail	157,089.41		-
GL								42,910.59		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-
GL								-		-

Ryan Aschenbenner

Project Manager (Print Name)

Victor Lopez

Task Manager (Print Name)

Additional Notes:

Attachment: CSS 16-1001363 Amendment 4 (8551 : Amendment No. 4 to Contract No. 16-1001363 with Kaplan Kirsch & Rockwell, LLP)

AMENDMENT NO. 4 TO CONTRACT NO. 16-1001363

FOR

RAILROAD RIGHT OF WAY LEGAL SERVICES

(KAPLAN KIRSCH & ROCKWELL, LLP)

This Amendment No. 4 to Contract No.16-1001363 ("Amendment No. 4") is made and entered into by and between San Bernardino County Transportation Authority ("SBCTA"), and Kaplan Kirsch & Rockwell, LLP ("ATTORNEY"). SBCTA and ATTORNEY are each a "Party" and collectively "Parties".

RECITALS:

- A. On July 29, 2015, SBCTA and ATTORNEY entered into Contract No. 16-1001363 for ATTORNEY to provide legal services related to Federal and state law and regulations affecting railroads, including providing legal advice and options and representation in litigation and administrative proceedings ("Contract"); and
- B. On November 28, 2016, SBCTA and ATTORNEY entered into Amendment No. 1 to Contract, increasing the contract price by \$100,000.00 for a total Contract value not-to exceed amount of \$200,000.00; and
- C. On June 3, 2019, SBCTA and ATTORNEY entered into Amendment No. 2 to Contract, extending the contract term through June 30, 2020; and
- D. On June 6, 2020, SBCTA and ATTORNEY entered into Amendment No. 3 to Contract, extending the contract term through June 30, 2022 and adjusting the hourly rates; and
- E. SBCTA and ATTORNEY desire to amend the Contract to further extend the Contract term through June 30, 2024.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, SBCTA and ATTORNEY agree as follows:

1. ARTICLE 2. PERIOD OF PERFORMANCE is deleted and replaced in its entirety to read as follows:

The Period of Performance by ATTORNEY under this Contract shall commence upon issuance of a written Notice to Proceed issued by SBCTA, unless agreed otherwise, and shall continue in full force and effect through completion of Services or June 30, 2024, whichever is first to occur.

2. The Recitals set forth above are incorporated herein by this reference.

3. Except as amended by this Amendment No. 4, all other provisions of the Contract as previously amended shall remain in full force and effect and are incorporated herein by this reference.
4. This Amendment No.4 is effective upon execution by SBCTA.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 4 below.

KAPLAN KIRSCH & ROCKWELL, LLP

By: _____
Charles Spitulnik
Partner

Date: _____

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____
Curt Hagman
Board President

Date: _____

APPROVED AS TO FORM:

By: _____
Julianna K. Tillquist
General Counsel

CONCURRENCE:

By: _____
Shaneka Morris
Procurement Manager

Minute Action

AGENDA ITEM: 15

Date: May 4, 2022

Subject:

Bi-Annual Fiscal Year 2021/2022 Railroad Right-of-Way Grants of Right of Use Report

Recommendation:

Receive and file the first half of Fiscal Year 2021/2022 (July 2021 through December 2021) Right-of-Way Grants of Right of Use Report.

Background:

The San Bernardino County Transportation Authority Board of Directors (Board) adopted Rail Property Policy No. 31602 on July 2, 2014 and approved revisions to Policy No. 31602 on March 6, 2019 and on October 6, 2021. In accordance with Policy No. 31602, Part VI, Policy Principles and Authority to Execute Grants of Right of Use, Section B, Approved Templates, the Board authorized the Executive Director, or his designee, to approve all Grants of Right of Use documents as approved to form by General Counsel.

Attachment A reports the Grants of Right of Use issued, amended, denied, and/or terminated in the first half of Fiscal Year 2021/2022 in accordance with the reporting requirements of Policy 31602, Part IX, Section H. Presentation of the Bi-Annual Right-of-Way Grants Right of Use report demonstrates compliance with the Rail Property Policy No. 31602.

Financial Impact:

This item is consistent with the Fiscal Year 2021/2022 Budget.

Reviewed By:

This item was received by the Transit Committee on April 14, 2022.

Responsible Staff:

Ryan Aschenbrenner, Right of Way Manager

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

Entity: San Bernardino County Transportation Authority

Attachment A

Bi-annual Fiscal Year 2021-2022 (July 2021 to December 2021) Right-of-Way Grants of Right of Use Report

Action	Vendor Name	Contract No.	Agreement Type	Minute Traq Item	Linked Agreements	Executed Date	Term	Application Fee	Annual Admin Fee	Use Fee	Amendment or Extension Fee	Waived Fees	Type Fees Waived	Waived Fee Comments
Issued	Frontier California Inc.	22-1002680	Master Right of Entry Permit	7911	18-1002124	9/10/2021	9/9/2022	\$ -	\$ -	\$ -	\$ -	\$ -	n/a	Master Right of Entry Permit has no fees.
Issued	City of Redlands	21-1002489	License Agreement	7104	RRND-7367	7/12/2021	Month to Month	\$ -	\$ -	\$ -	\$ -	\$ 1,760	All Fees	Fees waived for benefit of RPRP scheduling.
Issued	Upland Lawnmower Inc.	21-1002569	Lease Agreement	7494	RSSB-3218	7/30/2021	Month to Month	\$ -	\$ -	\$ 6,129	\$ 560	\$ -	n/a	n/a
Issued	Southern California Edison Co.	21-1002650	Right of Entry Permit	7806	RRND-7564	7/12/2021	8/11/2021	\$ -	\$ -	\$ -	\$ -	\$ 4,007	All Fees	Fees waived for benefit of RPRP scheduling.
Issued	Southern California Edison Co.	22-1002701	Right of Entry Permit	8027	RRND-7564 21-1002650	10/6/2021	11/12/2021	\$ -	\$ -	\$ -	\$ -	\$ 4,007	All Fees	Fees waived for benefit of RPRP scheduling.
Terminated	Thomas Lindley	RSSB-3218	Lease Agreement	7494	21-1002569	7/30/21	Month to Month	\$ -	\$ -	\$ 3,472	\$ -	\$ -	n/a	n/a
Grand Total								\$ -	\$ -	\$ 9,601	\$ 560	\$ 9,774		

Minute Action

AGENDA ITEM: 16

Date: May 4, 2022

Subject:

San Bernardino County Multimodal Transportation Quarterly Update

Recommendation:

Receive and file the San Bernardino County Multimodal Transportation Quarterly Update.

Background:

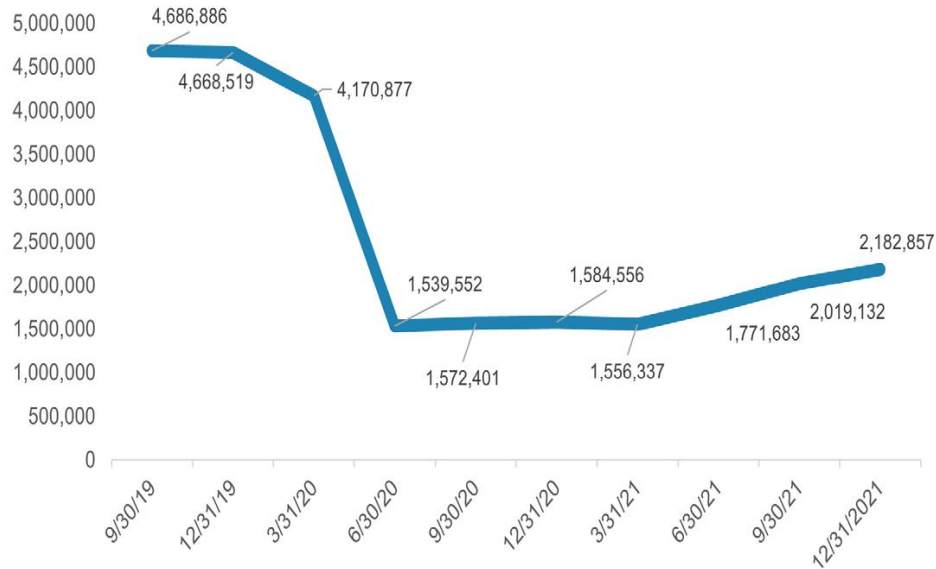
Multimodal services are an important part of how people travel throughout San Bernardino County. This is reflected in projects and programs the San Bernardino County Transportation Authority (SBCTA) is currently constructing and managing, as well as its involvement with the transit operators and the Southern California Regional Rail Authority (SCRRA). Although SBCTA's primary responsibility to the operators is to allocate funding, SBCTA is still required to be tuned in to the trends and statistics of its operators. To help facilitate this, as well as keeping the SBCTA Transit Committee and Board of Directors apprised of this information, SBCTA staff, in consultation with the transit operators, SCRRA and AMMA Transit Planning, created the San Bernardino County Multimodal Transportation Quarterly Report (Report).

The primary source of data used in the Report is from TransTrack. TransTrack is a county-wide transit performance software that the San Bernardino County (County) transit operators, except SCRRA, use to provide operations and financial data on a monthly basis. This allows SBCTA to pull data reports independently from the transit operators. The other source of data for this report came from transit operators' staff as well as their respective Board of Directors agenda reports. This allows for collaboration between SBCTA staff and the operators' staff to ensure that an accurate picture is being presented. The data is collected directly from SCRRA and reviewed as part of the SCRRA Member Agency Advisory Committee (MAAC) activities. SBCTA is working with SCRRA on adding access to Arrow Service data through TransTrack for consistency. Development of this component in TransTrack is underway and will be ready when revenue service begins in Fall 2022.

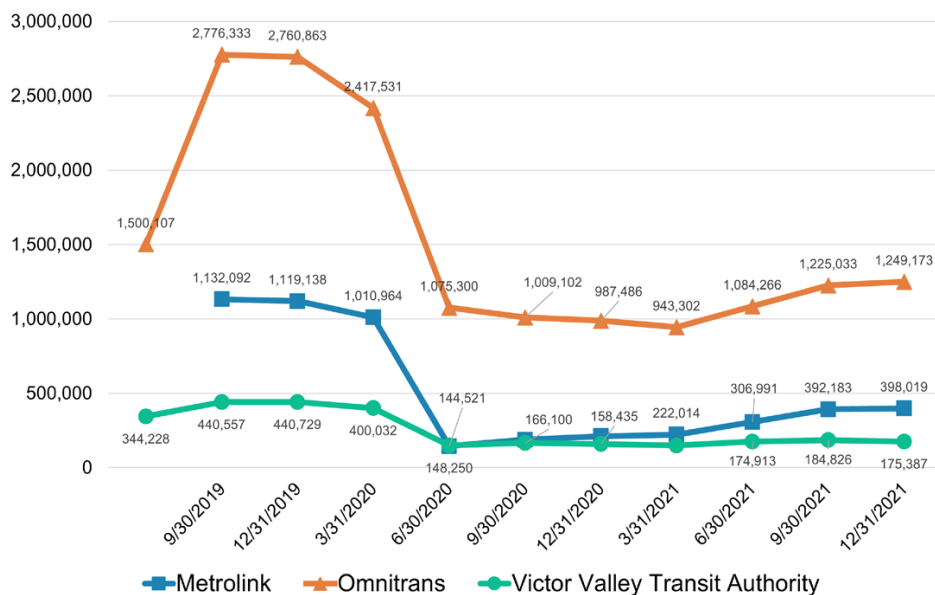
The purpose of the Report is to identify the range of public transportation options available, provide high level information about services, and report on current initiatives being worked on by the operators and SBCTA. It also tracks key performance indicator trends. Attached is the second quarter report for Fiscal Year (FY) 2021/2022 which encompasses data beginning October 2021 through December 2021. The first quarter has been included to reflect the continuing growth in the county.

After the steep decline in ridership at the beginning of the pandemic, transit ridership held steady for months, and is now slowly growing. Overall, the County's public transit operators provided 2.2 million trips in the second quarter of FY 2021/2022, or 163,725 more trips than the previous quarter (Exhibit 2). This represents an 8% increase from first quarter of FY 2021/2022 and nearly a 42% increase from the lowest point of pandemic ridership in April, May and June of 2020.

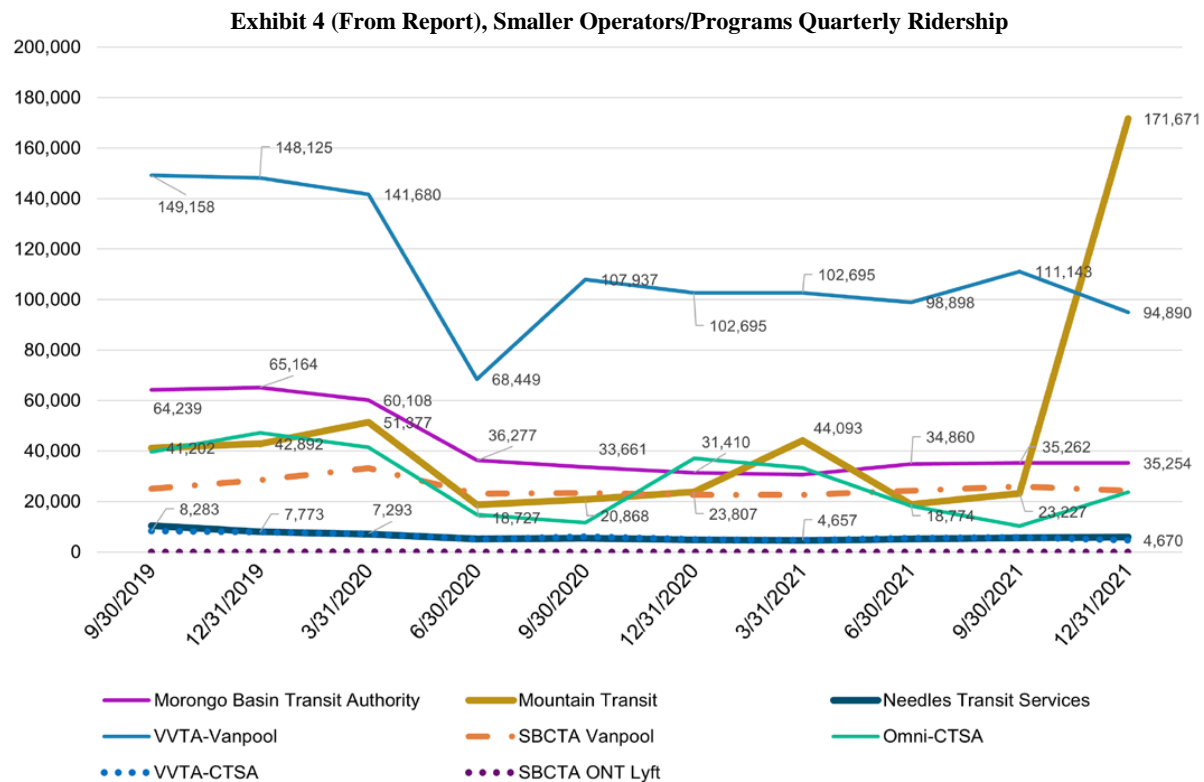
Entity: San Bernardino County Transportation Authority

Exhibit 2 (From Report), Quarterly System-wide Ridership

The largest operators saw steady gains in ridership, providing 1.8 million trips during this reporting period. Omnitrans' trips grew 2% over the prior quarter to 1.25 million. Metrolink climbed to approximately 400,000 trips provided on its lines to San Bernardino, 1.5% over the prior quarter. Victor Valley Transit Authority (VVTa) provided 175,000 trips in the second quarter which was a 5% decrease from previous quarters. This was due to VVTa reducing service on eight fixed-routes in response to challenges in rebuilding its workforce, continuing to serve its riders while training 19 new bus operators.

Exhibit 3 (From Report), Larger Operators Quarterly Ridership

Mountain Transit experienced an incredible growth of 639%, attributed to its new free fare program and accompanying marketing and promotion in Big Bear. Omnitrans' Consolidated Transportation Services Agency programs also saw great growth, with 130% increase in trips provided, as several human service programs returned to normal operations for the first time since the March 2020 Stay-at-Home orders. Among the vanpool programs, San Bernardino Loop lost three vanpools, while VVTA gained three vanpools. For both programs, there were decreases in passenger miles traveled during this second quarter, as work schedules continue to adapt to changing pandemic conditions.



Ongoing and Current Initiatives

The operators have continued to work diligently to provide quality service to their riders.

On Friday, February 4, 2022, SBCTA and all the County operators participated in Transit Equity Day (TED). TED is celebrated on February 4th in honor of Rosa Parks' Birthday and is a national day of action to promote public transit as a civil right and a strategy to combat climate change.

Through the SBCTA Multimodal Working Group, which consists of SBCTA and County operators, marketing materials were developed to promote TED and free fares across the County on their own. The follow are examples of promotions for TED:

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Exhibit 6 (From Report) – Metrolink’s Facebook Page

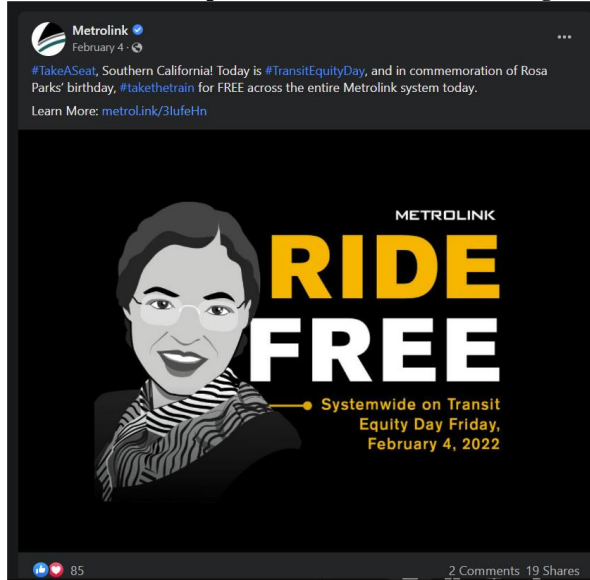
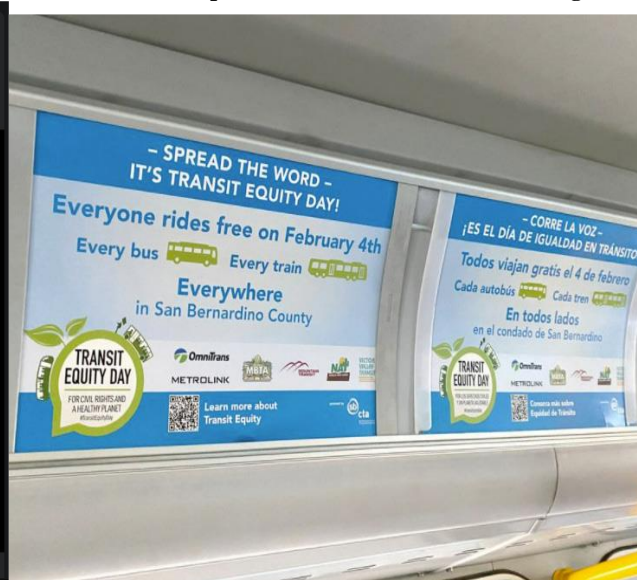


Exhibit 7 (From Report) – VVTA Bus Cards Promoting TED



TED was a successful event with ridership increasing for most of the operators compared to the prior Friday:

- Metrolink had the largest gain with close to a 66% increase system-wide, while the San Bernardino Line increased more than 50%.
- Needles Area Transit a 40% increase on their fixed route service and Morongo Basin Transit Authority a 16% increase

On October 31, 2021 Mountain Transit launched free fares in Big Bear Valley in an effort to combat major congestion and to help maintain good air quality. The following partners committed to paying fares for a two-year demonstration period: City of Big Bear Lake, Big Bear Valley Airport, Big Bear Mountain Resorts, and Supervisor Dawn Rowe.

Omnitrans launched free fare for K-12 students beginning on August 1, 2021. Through this pilot program, students can ride to school, after school activities, and around town to meet up with friends on safe Omnitrans buses, for free. No purchase or registration is necessary. Students can board the bus for free by showing their student ID. K-12 students receive a 50% discount on premium OmniRide service through the Free Fares for School program.

VVTA now offers free rides to any Options for Youth Charter School student in the Greater High Desert Area, as of February 1, 2022. The program allows all students currently enrolled in any of the Options for Youth five locations in the Victor Valley to board any fixed or county bus fare-free by simply presenting the bus operator with their current student identification (ID). Providing High Desert students with free and equitable transportation that supports student learning is paramount to VVTA. Students at Victor Valley College and Cal State University San Bernardino also ride VVTA buses for free with a valid school ID.

Board of Directors Agenda Item

May 4, 2022

Page 5

In April, Metrolink will be initiating a 91% service restoration, reinstating trains across all lines. This will occur during a regular schedule change.

Lastly, all six transit agencies have continued to work with SBCTA's Multimodal Working Group during the current fiscal year. SBCTA staff appreciates their involvement and their willingness to help promote transit, not just their efforts as an agency, but efforts to help promote all transit within the county.

Financial Impact:

This item has no financial impact on the Fiscal Year 2021/2022 Budget.

Reviewed By:

This item was received by the Transit Committee on April 14, 2022.

Responsible Staff:

Nancy Strickert, Transit Manager

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

4/4/2022

Fiscal Year 2021/2022 San Bernardino County Multimodal Transportation Quarterly Update – Second Quarter

Nancy Strickert
Transit Manager



Board of Directors
May 4, 2022

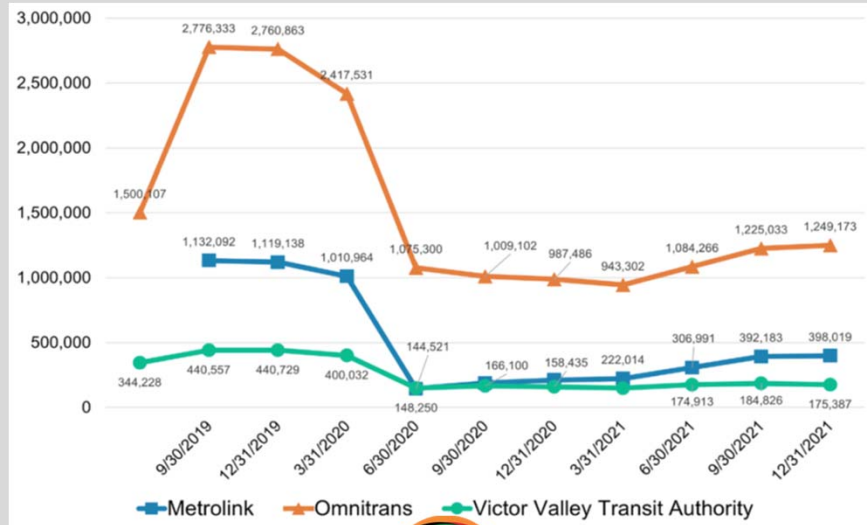
San Bernardino County
Transportation Authority

Quarterly System-Wide Ridership

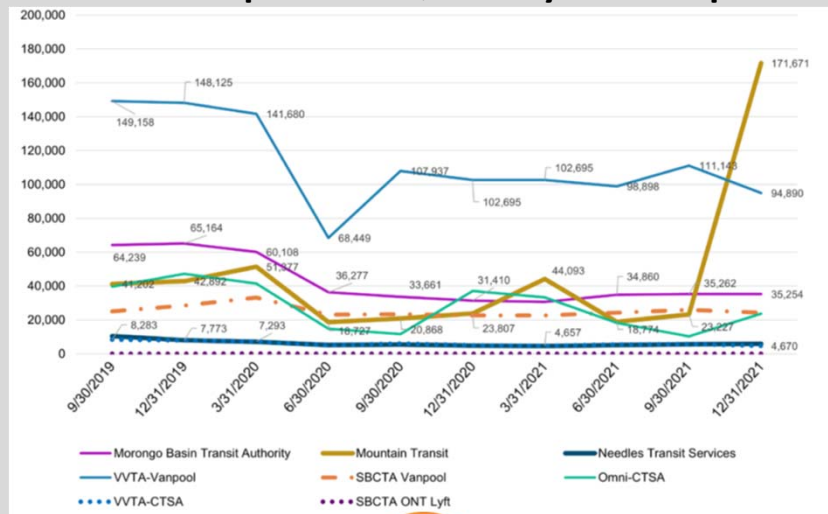


4/4/2022

Large Operators Quarterly Ridership



Small Operators Quarterly Ridership



4/4/2022

Recent Initiatives

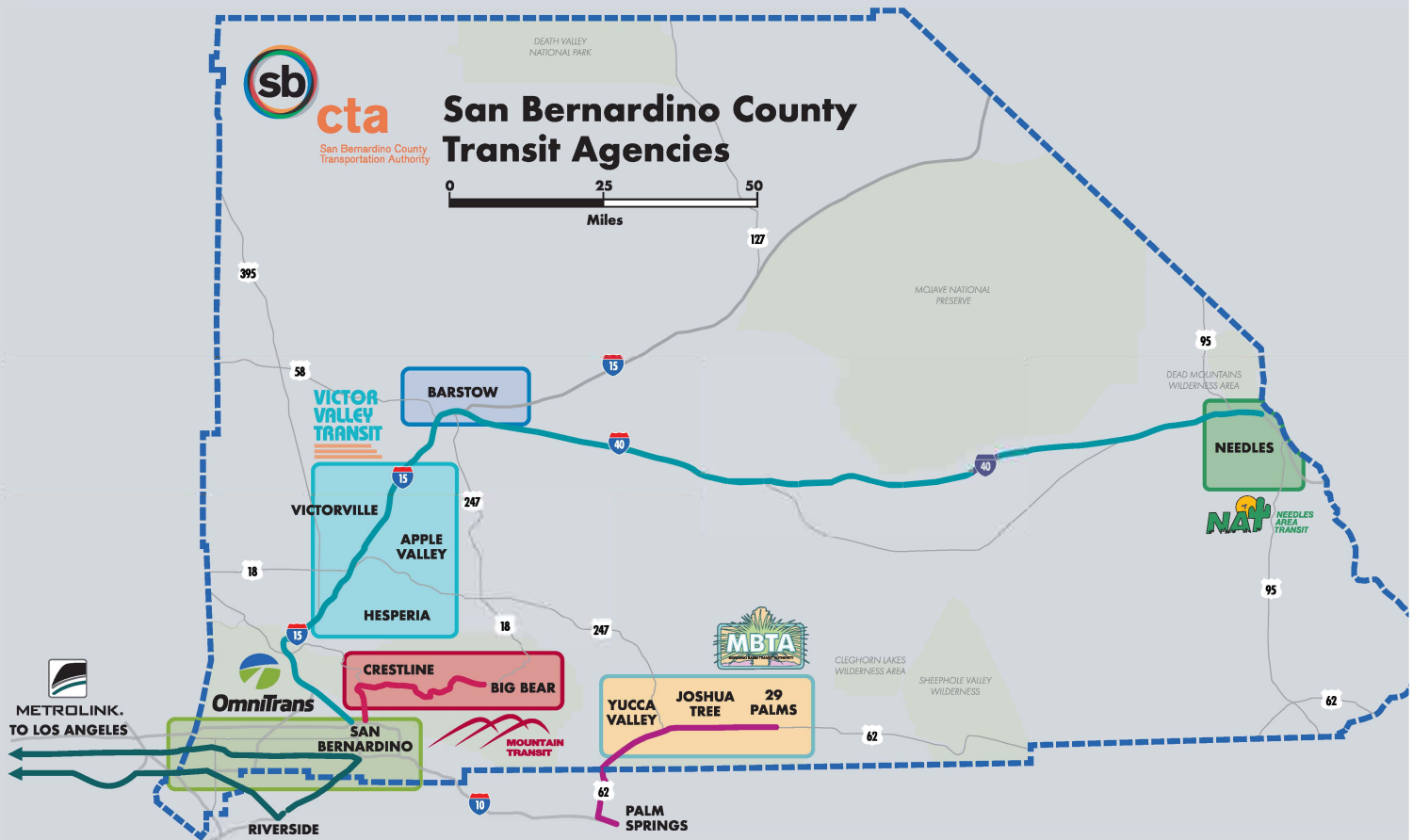




cta

San Bernardino County
Transportation Authority

San Bernardino County Multimodal Transportation Quarterly Update



First Quarter and Second Quarter FY 2021/2022
Volume 3, Number 2



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SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT

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Introduction

A Two-Quarter Review

San Bernardino County Transportation Authority (SBCTA) presents two quarters in the current fiscal year of transportation provision in this iteration of the SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT (Volume 3, Number 2). This two-quarter picture during FY 2021/2022 (FY 21/22) documents very recent trends and contrasts experience with the first quarter of FY 2020/2021. Current initiatives by the transit operators to grow ridership are also reported.

This report has two primary purposes in informing San Bernardino County policy makers, members of the general public and interested stakeholders:

1. To provide high-level information about specific transportation services and programs available.
2. To report on current initiatives and to track trends in key performance indicators.

Exhibit 1, San Bernardino County Public Transit Bus Operators



The County's Public Transportation Modes and Programs

San Bernardino County is served by six public transit operators, providing rail, fixed-route bus services and Americans with Disabilities Act (ADA) complementary paratransit services. The five bus operators are depicted in Exhibit 1. The County's public transit operators include:

- **Metrolink** – Providing passenger rail service across a 538-mile network throughout the counties of Los Angeles, Orange, Riverside, San Bernardino and Ventura.
- **Omnitrans** – Providing services in the San Bernardino Valley, connecting to Riverside and Los Angeles counties.
- **Victor Valley Transit Authority (VVTa)** – Providing services in the Greater Victor Valley and the Barstow area, connecting to the San Bernardino Valley.
- **Morongo Basin Transit Authority (MBTA)** – Providing services in Twentynine Palms, Yucca Valley, Joshua Tree and the Morongo Valley communities, connecting to the Coachella Valley.
- **Mountain Transit** – Providing services in the Lake Arrowhead and Big Bear communities, connecting to the San Bernardino Valley.
- **Needles Area Transit Services** – Providing services within the City of Needles and limited connections into Arizona.

Three additional modes of transportation support San Bernardino County residents:

- **Consolidated Transportation Services Agencies (CTSAs) programs** – Specialized transportation operated and administered by Omnitrans and VVTa.
- **Vanpool programs** operated by SBCTA and VVTa.
- **SBCTA's ONT Lyft** – This Lyft subsidy program connects Metrolink stations with Ontario International Airport.

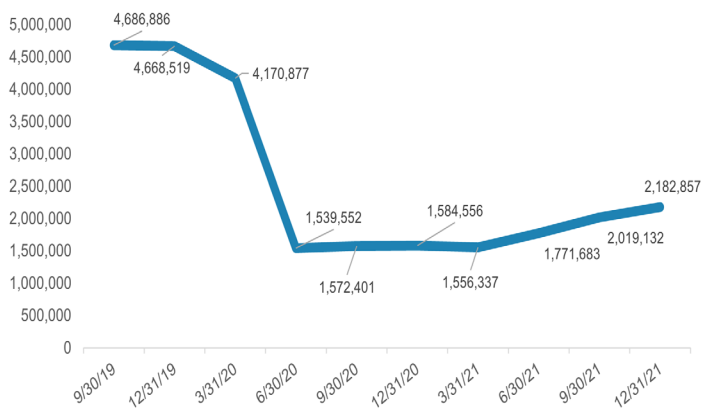
SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT

Commentary

A Picture of Steady Growth

Public transit ridership continues to climb steadily, after months of decline during the coronavirus (COVID-19) pandemic. Overall, the County's public transit operators provided 2.2 million trips in the second quarter of FY 21/22, or 163,725 more trips than the previous quarter (Exhibit 2). This represents an 8% increase from the first quarter of FY 21/22 and nearly a 42% increase from the lowest point of pandemic ridership in April, May and June of 2020.

Exhibit 2, Countywide Quarterly Ridership Total, All Transit Modes

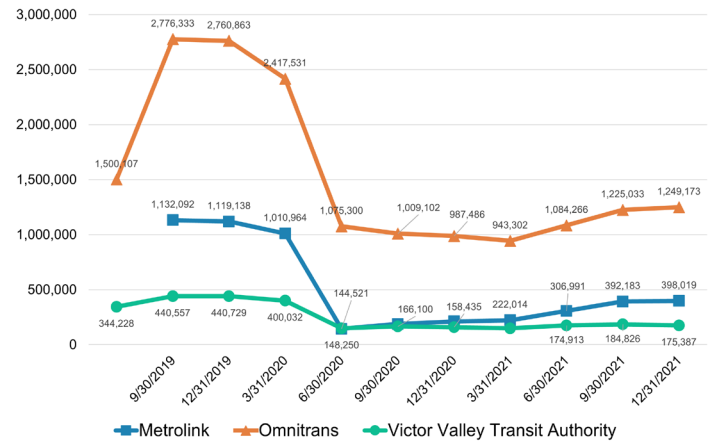


Two of the largest operators saw continuing, if small, gains in ridership, providing 1.8 million total trips during this second quarter (Exhibit 3). Omnitrans realized 2% growth this quarter over the prior quarter, with 1.25 million trips provided. Metrolink experienced a small increase, providing nearly 400,000 trips on its two lines to San Bernardino (SB and IEOC), a 1.5% over the prior quarter.

Victor Valley Transit Authority (VVTA) in total provided 175,000 trips, a 5% reduction overall. Of note, during this reporting period, VVTA reduced service on eight fixed routes in response to challenges in rebuilding its workforce, continuing to serve its riders while training 19 new bus operators.

There was greater variance in ridership among the smaller operators and programs — some with significant gains while others saw slight drops compared to the previous quarter (Exhibit 4).

Exhibit 3, Larger Operators' Quarterly Ridership



Mountain Transit experienced an incredible growth of 639%, attributed to its new free fare program and accompanying marketing and promotion in Big Bear.

Omnitrans CTSA programs also saw great growth, with a 130% increase in trips provided, as several human service programs returned to normal operations for the first time since the March 2020 Stay-at-Home orders.

Among the vanpool programs, SB Loop lost three vanpools, while VVTA gained three vanpools. For both programs, there were decreases in passenger miles traveled during this second quarter, as work schedules continue to adapt to changing pandemic conditions.

Exhibit 4, Smaller Operators' and Programs' Quarterly Ridership

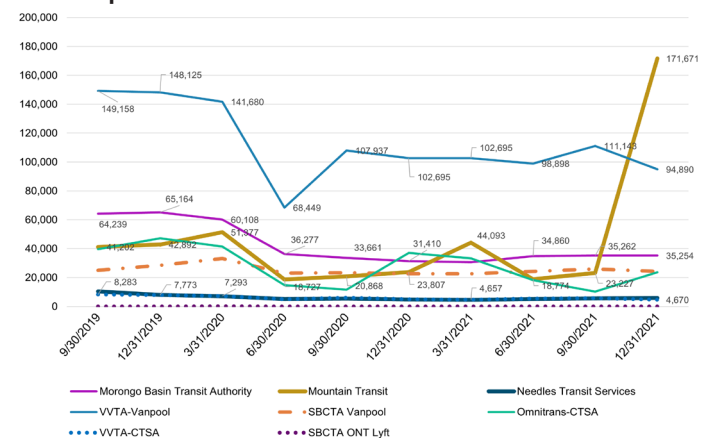
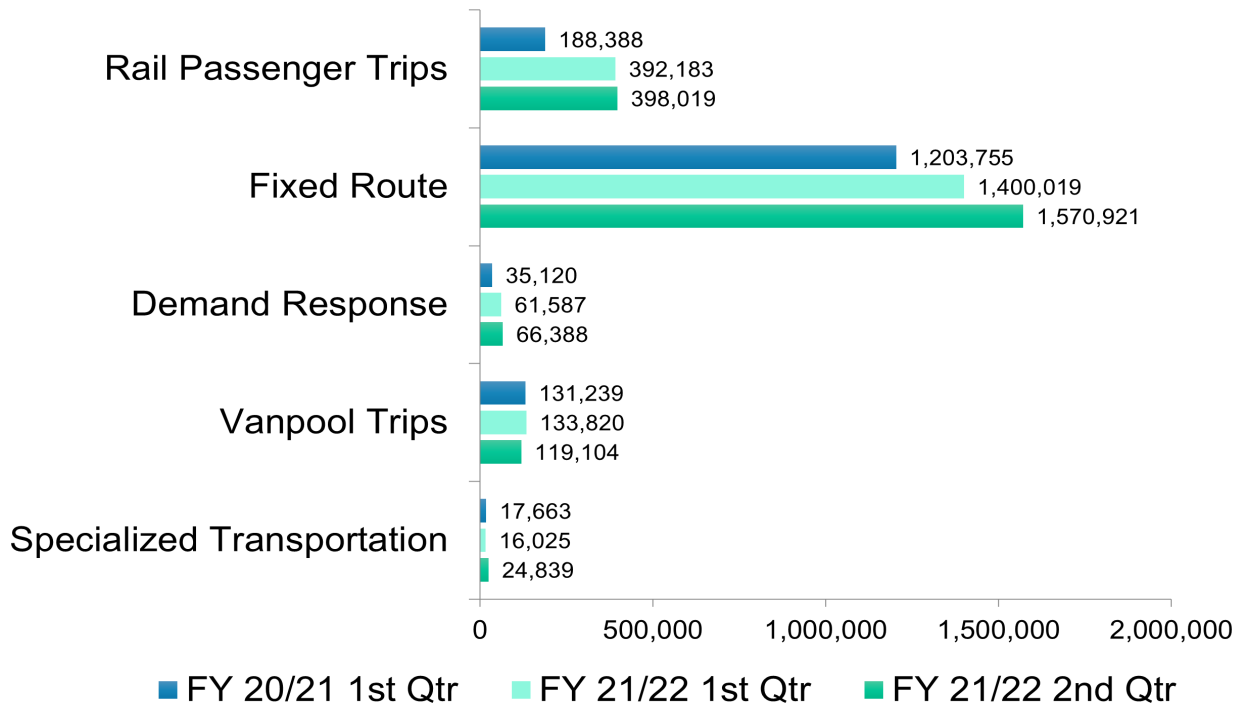


Exhibit 5, Quarterly Ridership by Mode



These varying patterns of increases are reflected in overall trips by mode (Exhibit 5). Total fixed-route trips increased to 1.57 million trips, a 12% increase between the first and second quarters in this fiscal year. Metrolink's ridership grew by 1.5% in this two-quarter comparison. Demand response trips grew 7.5%, to 66,000 overall trips provided, having declined more precipitously and grown more slowly as it rebounds. Vanpool trips, as noted, saw a slight decline to 119,000 trips, an 11% decrease. Specialized transit, also noted above, realized a substantial 55% increase as off-line programs reopened and consumers are again traveling.

Current Initiatives

Transit Equity Day

On Friday, February 4, 2022, SBCTA and all the County operators participated in Transit Equity Day (TED). Transit Equity Day is celebrated on February 4th in honor of Rosa Parks' Birthday and is a national day of action to promote public transit as a civil right and a strategy to combat climate change.

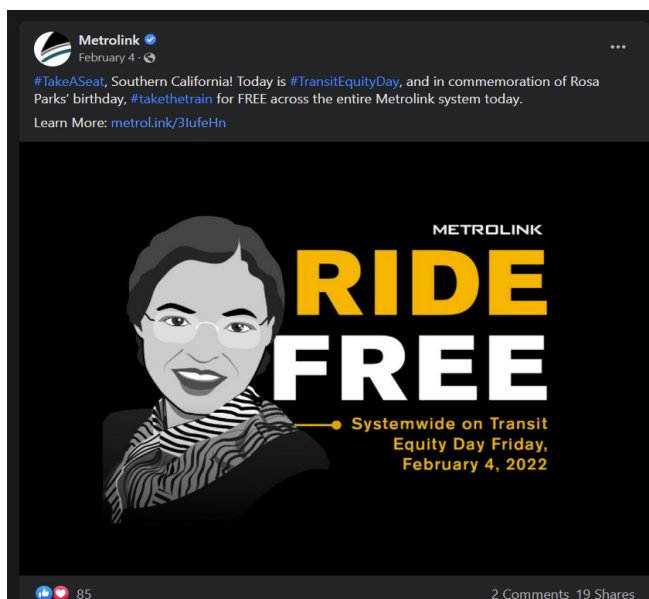
Transit promotes equity through:

- Providing affordable access to health care.
- Being a student-friendly budget option for transportation.
- Boosting the economy by giving workers better access to jobs and consumers better access to shopping and entertainment.
- Improving the environment by reducing vehicle emissions.

All County transit operators offered free fares on transit services to celebrate the day. SBCTA reimbursed operators for the TED free fares. Metrolink offered free fares system wide — across all six lines.

Through the SBCTA Multimodal Working Group, SBCTA and County operators developed marketing material to promote

Exhibit 6, TED Promotion on Metrolink's Facebook Page



TED and free fares across the County. Examples of the countywide and operator-specific materials are provided in the following pages. The event was promoted on operator websites, social media, on transit vehicles and at stations. Caltrans also joined the celebration and used its electronic signs to encourage using Metrolink for free to reduce congestion.

SBCTA and all operators were thanked for their efforts by the nonprofit California Green Academy, the administrator of the California FareFree Transit Directory.

Preliminary numbers show an increase in ridership from previous Fridays. Available figures are reported here:

METROLINK

- Overall system: 14,150 boardings — a record for boardings during the coronavirus pandemic and 66% more boardings than the previous Friday.
- Boardings doubled on the Orange County Line.
- Fifty percent increases in boardings on the Antelope Valley Line and San Bernardino Line.

OMNITRANS

Omnitrans saw 15,705 riders, a 3% increase from the average of four prior Fridays.

NEEDLES

Needles Transit Services saw increases in ridership on both fixed route and Dial-A-Ride, with a 40% increase on its fixed-routes.

Exhibit 7, Bus Cards on VVTA Bus Promoting TED



Exhibit 8, Countywide TED Flyer developed by the SBCTA Multimodal Working Group

– SPREAD THE WORD – IT'S TRANSIT EQUITY DAY!

Everyone rides free on February 4th



Every bus Every train



Everywhere in San Bernardino County













**Learn more about
Transit Equity**

powered by


San Bernardino County
Transportation Authority

SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT

Exhibit 9, TED Promotion on SBCTA's Website

Tell Everybody! February 4th is Transit Equity Day

Everyone rides for free on February 4th! Every bus, every train, everywhere in San Bernardino County.

In honor of Transit Equity Day, the San Bernardino County Transportation Authority is sponsoring free bus and train fares for everyone boarding San Bernardino County transit providers within the county.

Transit Equity Day offers a day off from paying fares for regular transit users and gives the transit-curious a no-charge chance to explore transportation options.

[More Info]

**– SPREAD THE WORD –
IT'S TRANSIT EQUITY DAY!**

**Everyone rides free
on February 4th**

**Every bus
Every train
Everywhere
in San Bernardino County**

TRANSIT EQUITY DAY
FOR CIVIL RIGHTS AND
A HEALTHY PLANET
#transitequityday

Omnitrans
METROLINK
VVTA

Metrolink Service Restoration

METROLINK

In April, Metrolink will be initiating a 91% service restoration, reinstating trains across all lines. This will occur during a regular schedule change.

Mountain Transit Service Expansion and Free Fares

MOUNTAIN TRANSIT

On October 31, 2021, Mountain Transit launched free fares in Big Bear Valley in an effort to combat major congestion and to help maintain good air quality. The following partners committed to paying fares for a two-year demonstration period: City of Big Bear Lake, Big Bear Valley Airport, Big Bear Mountain Resorts and Supervisor Dawn Rowe.

Features include:

- Mountain Transit created new routes to serve additional neighborhoods.
- Extended evening service hours until 9 p.m.
- Program cost: \$3.3 million. Ten percent is paid by partners.

- Visit Big Bear (VBB) marketing agency created a program brand and is promoting to local community and off-the-mountain guests as their contribution to the partnership.

Mountain Transit has seen significant ridership increases compared to the same time the previous year.

- Between November 2020 and 2021, ridership increased 50%.
- Between December 2020 and 2021, ridership increased by 211%.
- Between January 2021 and 2022, ridership increased by 280%.

Student Free Fare Programs

OMNITRANS FREE FARES FOR SCHOOL

Omnitrans launched free fares for K-12 students beginning on August 1, 2021. Through this pilot program, students can ride to school, after-school activities and around town to meet up with friends on safe Omnitrans buses, for free. No purchase or registration is necessary. Students can board the bus for free by showing their student ID.

K-12 students receive a 50% discount on premium OmniRide service through the Free Fares for School program: one-way trips will cost just \$2 with a student ID. Discounted OmniAccess ADA service (20% discount toward Omnitrans Access tickets) is available for prequalified students.

VVTA

VVTA now offers free rides to Options for Youth Charter School students in the Greater High Desert Area, as of February 1, 2022.

The program allows all students currently enrolled in any of the five Options for Youth locations in Victor Valley to board any fixed or county bus fare-free by simply presenting the bus operator with their current student ID.

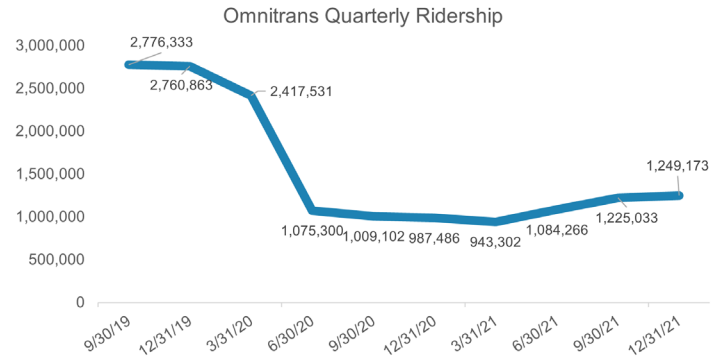
Providing High Desert students with free and equitable transportation that supports student learning is paramount to Victor Valley Transit. Students at Victor Valley College and California State University, San Bernardino also ride VVTA buses for free with a valid school ID.

SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT Public Transit Bus Operators



Commentary and Trends

Omnitrans continued to see steady ridership growth after the steep declines of the past year and a half due to COVID-19. Omnitrans saw a 2% growth this quarter over the previous quarter, with 1.25 million trips provided. Increases in revenue hours (1% up from the first quarter of FY 21/22) contributed to the ridership increase. There was a slight decrease in operating costs (1% reduction from the first quarter).



Performance¹

	1st Quarter (Jul-Aug-Sep)			2nd Quarter (Oct-Nov-Dec)	
	Prior Year FY 20/21	Prior Quarter FY 21/22	% change	Current Year FY 21/22	% change from 1st Quarter
SYSTEM Total Passenger Trips	1,009,224	1,225,033	21%	1,249,173	2%
Fixed-Route Trips	994,368	1,195,569	20%	1,220,702	2%
Demand Response Trips	14,856	29,464	98%	28,471	-3%
SYSTEM Performance					
Revenue Hours	120,263	133,971	11%	134,805	1%
Passengers per Rev Hour	8.4	9.1	9%	9.3	1%
Revenue Miles	1,642,499	1,868,519	14%	1,874,715	0%
Passengers per Rev Mile	0.61	0.66	7%	0.67	2%
Passenger Miles	5,727,524	6,440,088	-11%	6,555,133	14%
Average Trip Length (miles)	5.68	6.73	19%	4.91	-27%
OPERATIONS Expense					
Total Operating Cost	\$18,039,532	\$18,599,467	3%	\$18,456,152	-1%
Passenger Revenue	\$5,828,560	\$4,215,139	-28%	\$4,352,789	3%
Farebox Recovery Ratio Systemwide	32.3%	22.7%	-30%	23.6%	4%
Subsidy per Pass Trip Systemwide	\$12.10	\$11.74	-3%	\$11.29	-4%
Fixed-Route Cost per Trip	\$15.87	\$13.35	-16%	\$13.09	-2%
Demand Response Cost per Trip	\$152.15	\$89.66	-41%	\$86.95	-3%
FLEET Characteristics					
Vehicles in Peak Service	(Includes sbX)			(Includes sbX)	
Fixed-Route	94			98	
Demand Response	39			40	
Total Vehicles in Peak Service	133			138	
Service Area Square Mileage	463			463	
Vehicles per Square Mile	0.29			0.30	
OMNITRANS FAMILY of Services					
Bus Rapid Transit Route	Green Line/sbX			Green Line/sbX	
Express Fixed-Routes	215, 290			215, 290	
High-Frequency Routes (15 minutes)	None*			None*	
Local Fixed-Routes	20 routes			24	
Community Circulators (OmniRide)	4 routes			4 contracted fixed routes	
Microtransit	2 service areas - OmniRide			2 OmniRide routes	
Access ADA Service	Chino Hills, OmniRide Upland			Complementary paratransit	
	Complementary paratransit				

¹ Extracted from TransTrack Manager Quarterly Scorecard during March 2022.

* High frequencies reduced due to COVID-19 service reductions.

SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT Public Transit Bus Operators



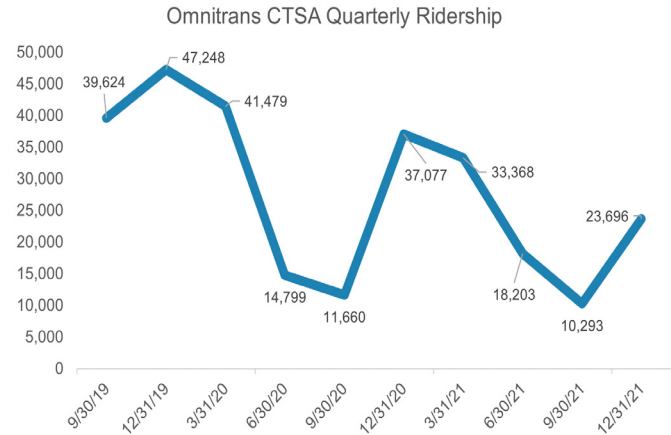
Consolidated Transportation Services Agency

Commentary and Trends

The Omnitrans CTSA continued to provide services through the Transportation Reimbursement Escort Program (TREP) and its network of specialized transportation providers. In total, the CTSA program experienced a marked increase of 130% in total trips provided in the second quarter of FY 21/22, attributed to partner programs returning to service and increased trip-making by these programs and TREP.

The most significant ridership gains in the second quarter of FY 21/22 are credited to TREP, Anthesis, Central City Lutheran, Community Senior Services and OPARC.

Of note, food and grocery home deliveries have ceased, as all program partners have returned to normal operations.



Performance

	1st Quarter (Jul-Aug-Sep)			2nd Quarter (Oct-Nov-Dec)	
	Prior Year FY 20/21	Prior Quarter FY 21/22	% change	Current Year FY 21/22	% change from 1st Quarter
TOTAL TRIPS	11,660	10,293	-12%	23,696	130.2%
TREP Mileage Reimbursement Trips	3,455	2,082	-40%	5,276	153%
Lyft/Taxi Ride Program Trips*	0	0	—	0	—
Travel Training Program*	0	0	—	0	—
Regional Mobility Partnership (RMP) Trips	8,205	8,211	0%	18,420	124%
<i>Anthesis (formerly Pomona Valley Workshop)</i>	2,179	791	-64%	4,376	453%
<i>Central City Lutheran</i>	0	0	—	518	—
<i>City of Grand Terrace</i>	0	0	—	885	—
<i>City of Redlands</i>	1,091	272	-75%	287	6%
<i>Community Senior Services</i>	4,935	1,083	-78%	3,894	260%
<i>OPARC</i>	0	733	—	2,712	270%
<i>City of Chino</i>	0	2,059	—	2,060	0%
<i>Highland Senior Center</i>	0	1,201	—	1,041	-13%
<i>Loma Linda University Adult Day Health</i>	0	1,690	—	2,376	41%
<i>West End YMCA</i>	0	382	—	271	-29%
City of Fontana					
City of Yucaipa					
Foothill AIDS Project					
Food/Grocery Deliveries through Access and RMP Partners					
			1,703		

New partner. Program launch delayed due to COVID-19 pandemic.

All programs have resumed normal transportation operations.

* This program was temporarily suspended for safety/health concerns during the COVID-19 pandemic.



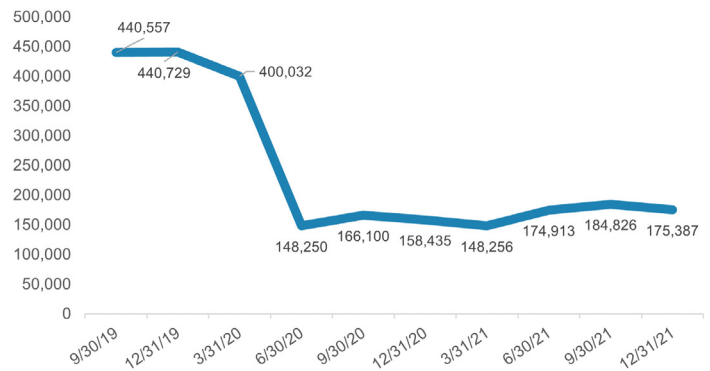
SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT Public Transit Bus Operators

Commentary and Trends

The Victor Valley Transit Authority (VVTA) saw a slight reduction in trip-making in second quarter FY 21/22 compared to the previous quarter. Total trips provided numbered 175,387, a 5% reduction overall. Demand response services did provide 10% more trips in this two-quarter comparison. While VVTA saw an increase in total operating costs — up 53% from the first quarter of FY 21/22 — passenger revenue also increased a notable 65%.

In October of 2021, VVTA reduced service on eight fixed-routes in response to challenges in rebuilding its workforce and to continue to meet the needs of its riders while it trains 19 new bus operators.

Victor Valley Transit Authority Quarterly Ridership



Performance¹

	1st Quarter (Jul-Aug-Sep)			2nd Quarter (Oct-Nov-Dec)	
	Prior Year FY 20/21	Prior Quarter FY 21/22	% change	Current Year FY 21/22	% change from 1st Quarter
SYSTEM Total Passenger Trips	169,742	184,826	9%	175,387	-5%
Fixed-Route Trips	149,086	150,882	1%	141,108	-6%
Commuter Bus Trips	7,283	8,964	23%	6,879	-23%
Demand Response Trips	13,373	24,980	87%	27,400	10%
SYSTEM Performance [excludes vanpool revenue hours & miles]					
Revenue Hours	48,171	60,811	26%	51,496	-15%
Passengers per Rev Hour	3.5	3.0	-14%	3.4	12%
Revenue Miles	857,331	1,052,997	23%	893,209	-15%
Passengers per Rev Mile	0.20	0.18	-11%	0.20	12%
OPERATIONS Expense [excludes vanpool expense & revenue]					
Total Transit Operating Cost	\$5,115,359	\$5,115,359	0%	\$7,831,018	53%
Passenger Revenue	\$255,653	\$255,653	0%	\$421,911	65%
Farebox Recovery Ratio Systemwide	5.0%	5.0%	0%	5.4%	8%
Subsidy/Pass Trip - Systemwide	\$28.63	\$26.29	-8%	\$42.24	61%
Fixed-Route Cost per Trip	\$27.08	\$27.08	0%	\$43.50	61%
Commuter Bus Cost per Trip	\$15.42	\$15.42	0%	\$33.80	119%
Demand Response Cost per Trip	\$35.70	\$35.70	0%	\$53.30	49%
FLEET Characteristics					
Vehicles in Peak Service	Including 7 Evs			Including 7 Evs	
Fixed-Route	47			38	
Commuter	6			6	
Demand Response	32			27	
Total Vehicles in Peak Service	85			71	
Service Area Square Mileage	1,082			1,082	
Vehicles per Square Mile	0.07			0.07	
VVTA FAMILY of Services					
Local Fixed/Regional Routes	21 routes			21 routes	
County Fixed-Routes	6 routes			6 routes	
Commuter Bus	NTC Commuter (Ft. Irwin), 7 routes			NTC Commuter (Ft. Irwin), 7 routes	
Intercity Routes	1 route			1 route	
Flexible Transit	ADA Direct Access			ADA Direct Access	
Vanpool Program	175 vanpools			174 vanpools	

¹ Extracted from TransTrack Manager Quarterly Scorecard during March 2022.



Consolidated Transportation Services Agency

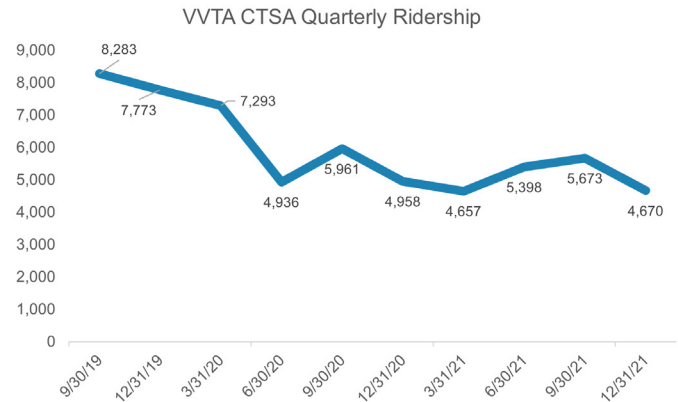
SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT Public Transit Bus Operators

Commentary and Trends

Ridership across the CTSA's programs decreased by 18% this quarter after two quarters of growth. The drop in ridership is attributed to the TRIP volunteer-driver program, some nonprofit partners' performance and fewer travel training program trips, presumably due to reduced trip-making due to COVID-19.

Notably, the Fare Media Scholarship Program saw a 50% increase.

The Needles CarShare program remains under suspension due to COVID-19 protocols.



Performance

	1st Quarter (Jul-Aug-Sep)			2nd Quarter (Oct-Nov-Dec)	
	Prior Year FY 20/21	Prior Quarter FY 21/22	% change	Current Year FY 21/22	% change from 1st Quarter
TOTAL TRIPS	5,961	5,673	-5%	4,670	-18%
TRIP Program	3,693	2,951	-20%	1,061	-64%
Nonprofit Providers	1,422	1,227	-14%	746	-39%
Foothill AIDS Project	402	243	-	238	-2%
Abundant Living Church	0	182	-	425	134%
Victor Valley Community Service Council	33	No longer in program			
Trona Community and Senior Center	155	30	-	62	107%
Church for Whosoever	30	Program suspended due to COVID			
Bonnie Baker Senior Center	14	10	-	21	110%
Travel Training Program	654	231	-65%	225	-3%
Fare Media Scholarship Program	192	1,264	558%	1,892	50%
Total CAR TRIPS	176	0	-100%		
Needles CarShare Program	Program suspended due to COVID-19.				
TOTAL MILES	83,520	82,629	-1%	78,649	-5%
TRIP Program	83,520	82,629	-1%	78,649	
TOTAL HOURS	81	58	-28%	77	33%
Transit Ambassador Program	81	58	-28%	77	33%

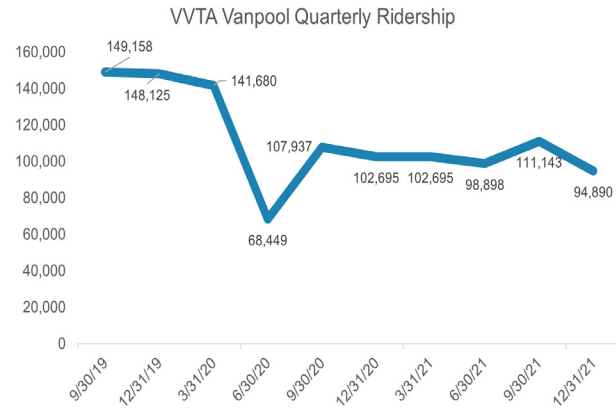


SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT Public Transit Bus Operators

Commentary and Trends

VVTA saw a growth in vanpools, up to 174, in this two-quarter comparison of first quarter FY 21/22 to second quarter.

Despite the addition of three vanpools, fewer trips were taken and fewer miles traveled in this second quarter; 94,890 trips were taken on vanpools this quarter, a 13% reduction.



Performance

	1st Quarter (Jul-Aug-Sep)			2nd Quarter (Oct-Nov-Dec)	
	Prior Year	Prior Quarter	% change	Current Year	% change from 1st
	FY 20/21	FY 21/22		FY 21/22	Quarter
Performance					
Number of Vanpools	208	171	-18%	174	2%
Revenue Miles	1,163,416	1,173,587	1%	1,090,553	-7%
Revenue Hours	15,587	23,691	52%	25,426	7%
Unlinked Passenger Trips	107,937	109,223	1%	94,890	-13%
Passenger Miles	6,017,407	4,120,534	-32%	3,653,391	-11%
Subsidies Disbursed	\$286,270	\$255,996	-11%	\$261,583	2%
Passenger Fares	\$226,141	\$184,789	-18%	\$176,502	-4%

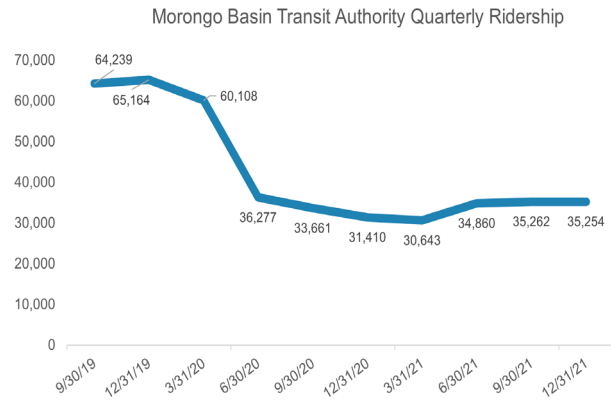
SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT Public Transit Bus Operators



Commentary and Trends

Morongo Basin Transit Authority's (MBTA) ridership continues to steadily climb from the lows seen during the height of the coronavirus pandemic. Ridership this second quarter is up to 35,254 trips, a 53% increase from the first quarter of FY 21/22. Increases were seen on all services, with the largest jump being an 87% increase in commuter bus trips provided.

While systemwide operating costs increased, costs per trip were down for both fixed route (13%) and commuter services (25%), consistent with the increases in ridership. Additionally, passenger revenue increased significantly in this two-quarter comparison, up 86% from the first quarter.



Performance¹

	1st Quarter (Jul-Aug-Sep)			2nd Quarter (Oct-Nov-Dec)	
	Prior Year FY 20/21	Prior Quarter FY 21/22	% change	Current Year FY 21/22	% change from 1st Quarter
SYSTEM Total Passenger Trips	33,661	22,970	-32%	35,254	53%
Fixed-Route Trips	29,937	19,856	-34%	30,411	53%
Commuter Bus Trips	785	857	9%	1,602	87%
Demand Response Trips	2,939	2,257	-23%	3,241	44%
SYSTEM Performance					
Revenue Hours	7,939	5,389	-32%	7,963	48%
Passengers per Rev Hour	4.2	4.3	1%	4.4	4%
Revenue Miles	157,287	106,500	-32%	153,960	45%
Passengers per Rev Mile	0.21	0.22	1%	0.23	6%
OPERATIONS Expense					
Total Operating Cost	\$916,500	\$751,718	-18%	\$1,024,752	36%
Passenger Revenue	\$37,084	\$44,131	19%	\$82,260	86%
Farebox Recovery Ratio Systemwide	4.0%	5.9%	45%	8.0%	37%
Subsidy per Pass Trip - Systemwide	\$26.13	\$30.80	18%	\$26.73	-13%
Fixed-Route Cost per Trip	\$22.25	\$27.52	24%	\$24.08	-13%
Commuter Bus Cost per Trip	\$108.61	\$82.59	-24%	\$61.92	-25%
Demand Response Cost per Trip	\$56.21	\$59.62	6%	\$59.64	0%
TREP Mileage Reimbursement Program					
TREP Clients	142	157	11%	157	0%
TREP Trips	1,604	1,810	13%	1,596	-12%
TREP Miles Reimbursed	32,325	28,607	-12%	28,725	0%
Mileage Reimbursement Cost	\$7,700	\$8,582	11%	\$8,618	0%
FLEET Characteristics					
Vehicles in Peak Service					
Fixed-Route/Commuter	9			9	
Demand Response	4			4	
Total Vehicles in Peak Service	13			13	
Service Area Square Mileage	1,300			1,300	
Vehicles per Square Mile	0.01			0.01	
MBTA FAMILY of Services					
Highway Bus		#1 Yucca Valley-Twenty-nine Palms			
Intercity Routes to Palm Springs		#12 Yucca Valley-PS, #15 MCAGCC-PS			
Other Community Routes		#3 Marine Base, #7 Yucca Valley, #21 Landers			
Ready Ride Service		In 6 communities			

¹ Extracted from TransTrack Manager Quarterly Scorecard during March 2022.

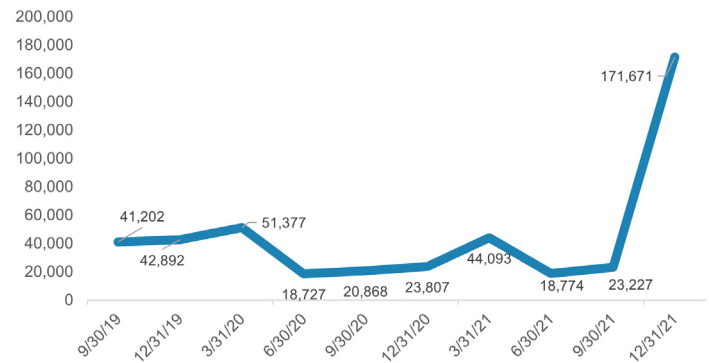
SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT Public Transit Bus Operators



Commentary and Trends

Mountain Transit's ridership increased significantly this second quarter due to a new program to provide free fares on the Big Bear Trolley. Ridership increased 639% between first and second quarter of FY 21/22. This increase is attributed primarily to fixed-route ridership as commuter service ridership dropped 24% in this two-quarter comparison. The increase in fixed-route ridership and the partnerships supporting the free fare program resulted in an increase in passenger revenue and in farebox recovery.

Mountain Transit Quarterly Ridership



Performance¹

	1st Quarter (Jul-Aug-Sep)			2nd Quarter (Oct-Nov-Dec)	
	Prior Year FY 20/21	Prior Quarter FY 21/22	% change	Current Year FY 21/22	% change from 1st Quarter
SYSTEM Total Passenger Trips	20,868	23,227	11%	171,671	639%
Fixed-Route Trips	16,312	17,736	9%	164,243	826%
Commuter Bus Trips	1,835	2,096	14%	1,603	-24%
Demand Response Trips	2,721	3,395	25%	5,825	72%
SYSTEM Performance					
Revenue Hours	7,713	7,827	1%	11,231	43%
Passengers per Rev Hour	2.7	3.0	10%	15.3	415%
Revenue Miles	125,096	126,118	1%	162,977	29%
Passengers per Rev Mile	0.17	0.18	0%	1.05	472%
OPERATIONS Expense					
Total Operating Cost	\$713,995	\$859,704	20%	\$962,969	12%
Passenger Revenue	\$41,649	\$64,408	55%	\$232,274	261%
Farebox Recovery Ratio Systemwide	5.8%	7.5%	28%	24.1%	222%
Subsidy per Pass Trip - Systemwide	\$32.22	\$34.24	6%	\$4.26	-88%
Fixed-Route Cost per Trip	\$29.24	\$29.24	0%	\$29.24	0%
Commuter Bus Cost per Trip	\$54.65	\$54.65	0%	\$60.21	10%
Demand Response Cost per Trip	\$66.73	\$66.73	0%	\$33.33	-50%
FLEET Characteristics					
Vehicles in Peak Service					
Fixed-Route	9			5	
Demand Response	4			4	
Off the Mountain	4				
Seasonal Service				10	
Airport Shuttle				1	
Trolley Vehicle				4	
Total Vehicles in Peak Service	17			24	
Service Area Square Mileage	269			269	
Vehicles per Square Mile	0.05			0.05	
MOUNTAIN TRANSIT FAMILY of Services					
Off-the-Mountain Routes -2				Rim Rt. 6; Big Bear Rt. 5	
Local Fixed-Routes -5				Rim Rts. 2, 4; Big Bear Rts. 1,3,11	
Summer Trolley -1				Lake Arrowhead-Crestline	
Seasonal Service - 1				Big Bear Route 9 (Nov-April)	
Dial-a-Ride -2				Big Bear Valley and Rim	
Airport Shuttle				Big Bear	

¹ Extracted from TransTrack Manager Quarterly Scorecard during March 2022.

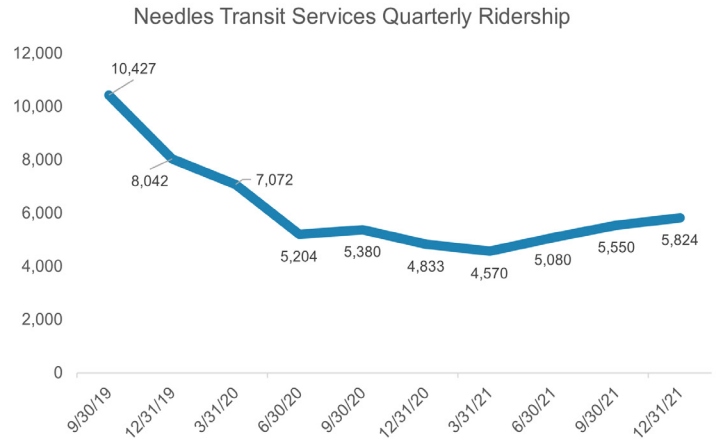


Needles Transit Services

SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT Public Transit Bus Operators

Commentary and Trends

During the second quarter of FY 21/22, Needles Transit Services experienced a 5% increase in ridership compared to the first quarter, driven by an increase of almost 8% in fixed-route trips. This second-quarter performance continues a trend of growth following the system lows during the second and third quarters of FY 20/21. This performance and an increase of 8% in passenger revenue contributed to a reduction in the systemwide operating cost of 1%.



Performance¹

	1st Quarter (Jul-Aug-Sep)			2nd Quarter (Oct-Nov-Dec)	
	Prior Year FY 20/21	Prior Quarter FY 21/22	% change	Current Year FY 21/22	% change from 1st Quarter
SYSTEM Total Passenger Trips	5,380	5,550	3%	5,824	5%
Fixed-Route Trips	4,149	4,059	-2%	4,373	8%
Demand Response Trips	1,231	1,491	21%	1,451	-3%
SYSTEM Performance					
Revenue Hours	1,345	1,220	-9%	1,186	-3%
Passengers per Rev Hour	4.0	4.5	14%	4.9	8%
Revenue Miles	16,594	15,857	-4%	15,794	0%
Passengers per Rev Mile	0.32	0.35	8%	0.37	5%
OPERATIONS Expense					
Total Operating Cost	\$130,866	\$131,340	0%	\$129,819	-1%
Passenger Revenue	\$8,926	\$11,535	29%	\$11,395	-1%
Farebox Recovery Ratio Systemwide	6.8%	8.8%	29%	8.8%	0%
Subsidy per Pass Trip - Systemwide	\$22.67	\$21.59	-5%	\$20.33	-6%
Fixed-Route Cost per Trip	\$24.44	\$26.28	8%	\$22.09	-16%
Demand Response Cost per Trip	\$23.94	\$16.55	-31%	\$15.05	-9%
FLEET Characteristics					
Vehicles in Peak Service					
Fixed-Route		1		1	
Demand Response		1		1	
Total Vehicles in Peak Service		2		2	
Service Area Square Mileage		31		31	
Vehicles per Square Mile		0.06		0.06	
City of Needles Transit Services					
Needles Area Transit					
Demand Response					

Community deviated fixed route
Local & Medical/Shopper Dial-a-Rides

¹ Extracted from TransTrack Manager Quarterly Scorecard during March 2022.

METROLINK.

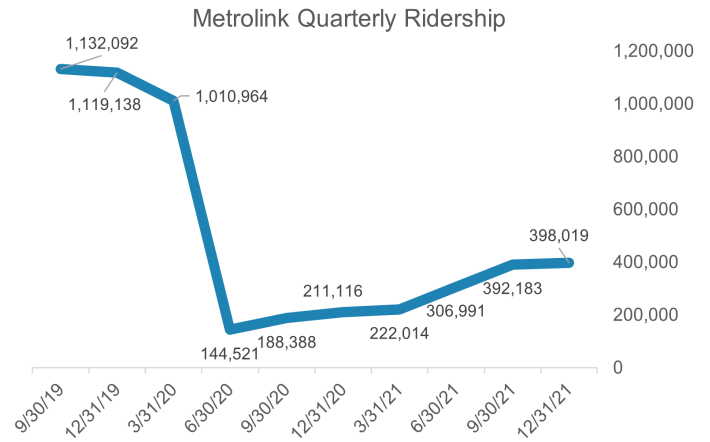


Commentary and Trends

In this two-quarter comparison, Metrolink's ridership on the San Bernardino Line grew by 4%, up to 283,009 boardings. The increase in ridership resulted in 5% more passenger miles provided compared to the first quarter of FY 21/22. The Inland Empire Orange County Line (IEOC) experienced a loss of 3%, with 3,744 fewer trips provided. This resulted in 6% fewer passenger miles traveled, for a total of 3,860,107 miles in the second quarter.

Increased boardings at San Bernardino County stations were seen on both the IEOC Line and the Riverside Line, up 10% and 9%, respectively, compared to the first quarter of FY 21/22.

Operating costs are not available for the second quarter of FY 21/22 as Metrolink conducts its reconciliation to derive line-level costs and revenue on an annual basis.



Performance¹

	1st Quarter (Jul-Aug-Sep)			2nd Quarter (Oct-Nov-Dec)	
	Prior Year FY 20/21	Prior Quarter FY 21/22	% change	Current Year FY 21/22	% change from 1st Quarter
SYSTEM Passenger Boardings by Line					
TOTAL San Bernardino Line	134,836	273,429	103%	283,009	4%
TOTAL Inland Empire Orange County (IEOC)	53,552	118,754	122%	115,010	-3%
Boardings at San Bernardino County Stations:					
San Bernardino Line	71,520	128,820	80%	128,819	0%
IEOC Line	1,747	3,681	111%	4,057	10%
Riverside Line	3,649	7,326	101%	7,974	9%
FINANCIAL - Total San Bernardino Line w/ MOW¹					
Operating Cost SB Line					
Farebox Revenue SB Line	\$4,619,225	N/A		N/A	
Farebox Recovery Ratio SB Line					
FINANCIAL - Total IEOC Line w/ MOW¹					
Operating Cost IEOC Line					
Farebox Revenue IEOC Line	\$2,008,071	N/A		N/A	
Farebox Recovery Ratio IEOC Line					
PERFORMANCE MEASURES - San Bernardino Line					
Passenger Miles	5,030,745	10,016,494	99%	10,533,932	5%
Average Passenger Trip Length	37.3	37.2	0%	37.2	0%
PERFORMANCE MEASURES - IEOC Line					
Passenger Miles	1,946,348	4,114,851	111%	3,860,107	-6%
Average Passenger Trip Length	36.3	34.9	-4%	33.6	-4%
SERVICE LEVELS					
San Bernardino Line					
# of trains per weekday WB	15	15		15	
# of trains per weekday EB	20	15		15	
# of trains per Saturday WB/EB	10	9		9	
# of trains per Sunday WB/EB	7	7		7	
IEOC Line - with stops in San Bernardino County					
# of trains per weekday WB	8	4		4	
# of trains per weekday EB	8	4		4	
# of trains per weekend WB	2	2		2	
# of trains per weekend EB	2	2		2	

¹ Metrolink conducts reconciliation on an annual, not quarterly, basis. Figures presented here are subject to change following the reconciliation process.

SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT Other Modes



cta

San Bernardino County
Transportation Authority

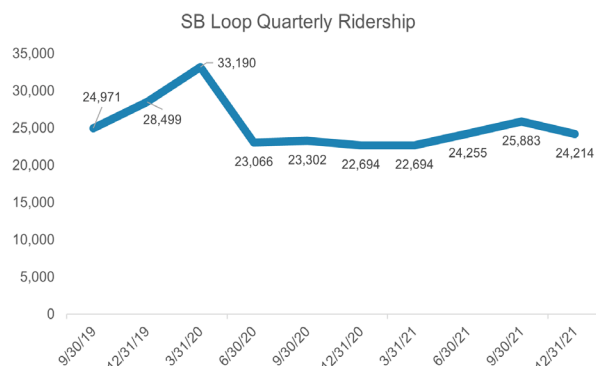


Commentary and Trends SB Loop

During the second quarter of FY 21/22, SBCTA's SB Loop vanpool program lost several vanpools. The program now has 52 vanpools, a 5% reduction from the previous quarter. The loss of vanpools contributed to fewer miles traveled (2%), a reduction in subsidies disbursed (2%) and an increase in cost per trip (5%) in this two-quarter comparison.

Performance

SB Loop	1st Quarter (Jul-Aug-Sep)			2nd Quarter (Oct-Nov-Dec)	
	Prior Year FY 20/21	Prior Quarter FY 21/22	% change	Current Year FY 21/22	% change from 1st Quarter
SYSTEM Totals					
Number of Vanpools	49	55	12%	52	-5%
Vanpool Passenger Trips	23,302	25,883	11%	24,214	-6%
SYSTEM Performance					
Passenger Miles	919,471	1,064,911	16%	1,046,803	-2%
Passengers/Rev Miles	39.5	41.1	4%	42.9	4%
OPERATIONS Expense					
Subsidies Disbursed	\$58,103	\$63,690	10%	\$62,520	-2%
Passenger Revenue	\$163,259	\$202,427	24%	\$197,652	-2%
Subsidy per Passenger Trip	\$2.49	\$2.46	-1%	\$2.58	5%
Average Cost per Passenger Trip	\$9.50	\$10.28	8%	\$10.74	5%

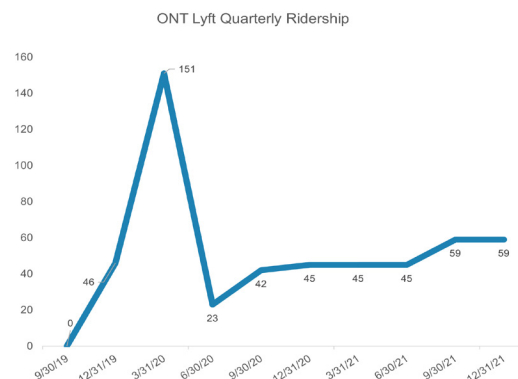


ONT Lyft

SBCTA's partnership with Lyft to provide trips between Metrolink stations and the Ontario International Airport experienced a 39% growth in ridership in the second quarter of FY 21/22. This includes a 41% increase in repeat rides and a significant increase in rides originating from the Montclair, Upland and Ontario East Metrolink stations.

This program was discontinued at the end of January 2022, so only one month of reporting will be included in the next Quarterly Report.

ONT Lyft	1st Quarter (Jul-Aug-Sep)			2nd Quarter (Oct-Nov-Dec)	
	Prior Year FY 20/21	Prior Quarter FY 21/22	% change	Current Year FY 21/22	% change from 1st Quarter
Trips					
TOTAL Rides	42	59	40%	82	39%
Total Rides Redeemed by Mobile App	40	58	45%	80	38%
Total Rides Redeemed by Call Center	2	1	-50%	2	100%
Repeat Rides	0	41	—	58	41%
Repeat Riders	0	13	—	9	-31%
Rides by Origin					
Ontario Airport	20	28	40%	30	7%
Montclair	6	20	233%	36	80%
Rancho Cucamonga	3	8	167%	7	-13%
Upland	7	1	-86%	5	400%
Ontario East	6	2	-67%	4	100%
Cancelled Rides (by Rider)	0	0	—	0	—



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Minute Action

AGENDA ITEM: 17

Date: May 4, 2022

Subject:

Update on Forest Management Plans for Cucamonga Canyon and Lytle Creek Recreation Areas

Recommendation:

Receive an update on the Forest Management Plans for Cucamonga Canyon and Lytle Creek.

Background:

On October 10, 2014, President Barack Obama created the San Gabriel Mountains National Monument. This designation followed lengthy discussions that had been taking place in Los Angeles County, among many different stakeholders, to attempt to get the federal government to designate the San Gabriel Mountains in some way to help preserve recreational opportunities, conserve habitat, and serve other public purposes.

While the San Gabriel Mountains are in both Los Angeles and San Bernardino counties, all of the dialogue, until the very end, took place only among stakeholders in Los Angeles County. When it became likely that the President was going to take action to designate the San Gabriel Mountains as a National Monument, leaders in San Bernardino County asked for the portions of the San Gabriel Mountains in San Bernardino County to be excluded. This request was to allow for our residents and stakeholder groups to understand the implications of federal designations.

The request of San Bernardino County leaders was honored and our County was essentially left out of the National Monument designation. San Bernardino County stakeholders were able to talk about the San Gabriel Mountains and weigh-in with their desires and concerns. This natural resource provides wonderful recreation and wilderness experiences as well as an important habitat. The San Gabriel Mountains also interface with urban areas and rural communities.

In July 2015, San Bernardino Council of Governments (SBCOG) entered into agreements with the U.S. Forest Service, the County of San Bernardino, and the City of Rancho Cucamonga to concurrently develop broad-scope, multi-agency, multi-jurisdictional management plans for Cucamonga Canyon and Lytle Creek that describe current/historic use and determines the vision of future and appropriate visitor management for all affected land owners that coordinate with the federal National Environmental Policy Act (NEPA) process.

The total budgeted cost to each agency for completion of the plans totaled \$189,000 and is as follows:

- \$76,334 – SBCOG
- \$36,333 – Rancho Cucamonga Fire Protection District
- \$76,333 – County of San Bernardino

The plans were completed in 2020, and the U.S. Forest Service moved forward with NEPA's review for planned site improvements associated with the Forest Management Plan for the Lytle Creek area. Cucamonga Canyon identified an interim access improvement plan with the ultimate improvements to be completed upon area development. However, in late 2021, the

Entity: San Bernardino Council of Governments

Board of Directors Agenda Item

May 4, 2022

Page 2

City of Rancho Cucamonga was able to negotiate with the property owner for acquisition of the land needed to create an access trail to the flood control basin floor. The Cucamonga Canyon Forest Management Plan is currently being updated to identify the ultimate improvement route and scope.

The actual cost to complete both plans was \$142,706. The agency partners made the decision to move the difference of \$45,960 to implement outreach plans for both recreation areas. Outreach for Lytle Creek was completed in 2021, and outreach for the Cucamonga Canyon plan will be completed upon completion of the plan update and in accordance with the completion of trail improvements.

Financial Impact:

This item has no financial impact on the Fiscal Year 2021/2022 Budget.

Reviewed By:

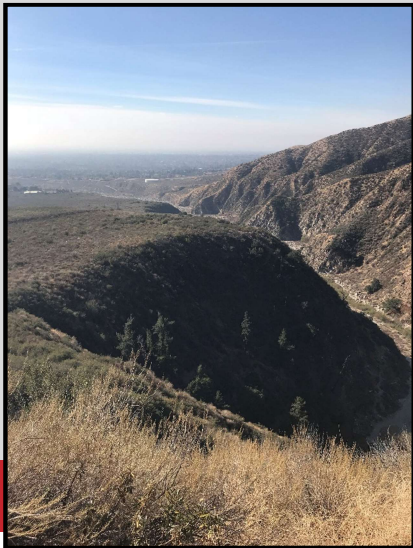
This item was received by the General Policy Committee on April 13, 2022.

Responsible Staff:

Monique Reza-Arellano, Council of Governments and Equity Programs Manager

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:



Forest Management Plans

Monique Reza-Arellano
Council of Governments and Equity
Programs Manager



cog

San Bernardino
Council of Governments

Project Begins 2015

- San Gabriel Mountains designated a National Monument in 2014.
- Local agencies required to create a Management Plan
 - Lytle Creek Recreation Area
 - Cucamonga Canyon Recreation Area
- SBCOG took lead in completion of the Management Plans in 2015.



Project Background

Agency Coordination

- SBCOG
- US Forest Service
- City of Rancho Cucamonga
- County of San Bernardino Public Works
- County 2nd District Office

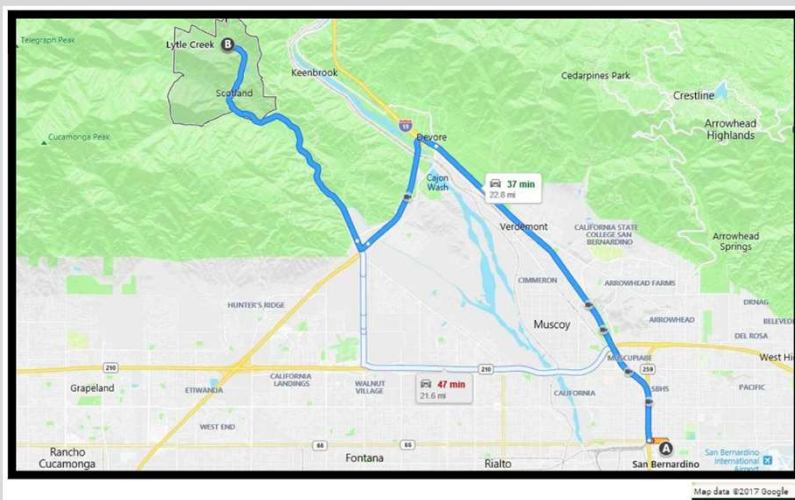


Project Agency Coordination

Lytle Creek Management Plan

Characteristics

- Unincorporated area
- Unlawful Activities
 - Trash dumping
 - Vandalism
- Community of Lytle Creek within Recreation Area

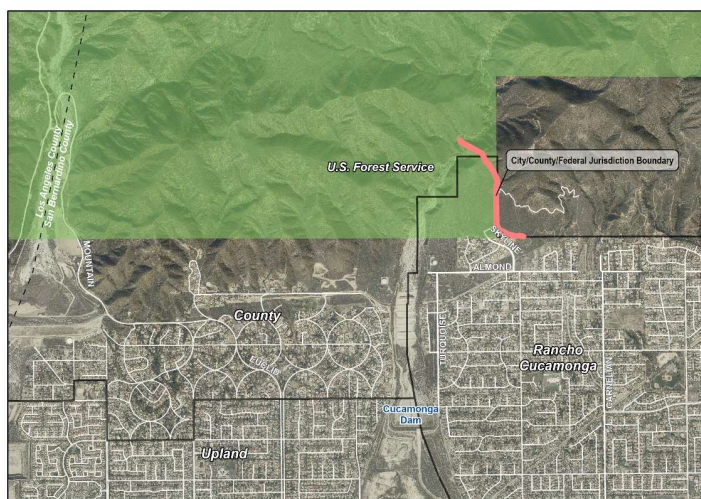


Lytle Creek Plan Area

Cucamonga Canyon Management Plan

Characteristics

- Unincorporated area
 - Flood Control Basin Access Connection
 - Mitigation Lands
- City of Rancho Cucamonga
 - Main Access Route
- Unlawful Activities
 - Area Access
 - Vandalism
 - Graffiti
- Emergency Calls for Service
 - Individuals unable to exit



Cucamonga Canyon



Cucamonga Canyon Plan Area

Stand Out Challenges for Each Site

Lytle Creek

- Access to Area for Recreation Users and Residents during peak season
- Amenities lacking
- Graffiti
- Inadequate parking
- Vehicular traffic along narrow road pose safety risk

Cucamonga Canyon

- Access to USFS lands
 - No safe public access
 - Mitigation lands trampled for make-shift access
- Safety issues and emergency calls for service prior to area closure



Plan Area Challenges

Forest Management

Lytle Creek

- Plan Complete
- USFS to implement improvements within the recreation area
- County of SB created and implemented traffic control plans during peak season weekend
- Public Outreach Done

Cucamonga Canyon

- Plan Update Underway
- City acquired property to build ultimate improvements including trailhead
- Public Outreach is forthcoming



Plan Status

Public Outreach

Lytle Creek

- Virtual Open House May 2021
 - Forest Management Plan
 - Traffic Control Coordination
 - USFS
 - County Public Works
 - Law Enforcement

Cucamonga Canyon

- Plan Update in process
 - Ultimate Improvements
 - Trail Head
 - Party Point to Flood Control Basin Floor
 - Law Enforcement
 - Parking Restrictions
- Public Outreach TBD



Plan Outreach

QUESTIONS?



Minute Action

AGENDA ITEM: 18

Date: May 4, 2022

Subject:

State Legislative Update

Recommendation:

Receive and file the April 2022 State Legislative Update.

Background:

San Bernardino County Transportation Authority (SBCTA) Legislative Affairs staff, along with representatives from state advocates, California Advisors, LLC, updated the Legislative Policy Committee on April 13, 2022, on pending legislative deadlines and negotiations regarding the state budget. Governor Gavin Newsom delivered his fourth annual State of the State address on March 8, 2022 where he highlighted rising gas prices and the need to do more to tackle the issue. As part of his January budget blueprint, Newsom proposed a pause on the gas tax inflation increase. In his address, he proposed enacting a larger tax rebate to cover the increased gas prices. In the legislative leadership's response to the State of the State, they pushed back on the idea of the "gas tax holiday" because they don't believe the pause is the right move long term for the state.

On March 23, 2022, the Governor announced a proposed \$11 billion relief package for Californians facing higher gas prices. The key provision was a \$400 direct payment per vehicle, capped at two vehicles per household which is an estimated \$9 billion in rebates to residents of the state. Additionally, he proposed \$750 million for incentive grants to transit and rail agencies to provide free transit for three months, \$600 million to pause part of the sales tax rate for diesel for one year, \$523 million to backfill the inflationary adjustment to gas and diesel excise rates, and \$500 million for projects that promote biking and walking throughout the state.

His proposal accelerates \$1.75 billion of his proposed zero-emission vehicle (ZEV) package. The Governor believes the acceleration of this money will further reduce the state's dependence on oil and save money in the long term. That money would include focusing on more ZEV passenger vehicles and building additional charging infrastructure around the state – especially in low-income communities.

The Governor's announcement indicated that he planned on beginning negotiations with leadership in the Assembly and the Senate over the coming weeks. He was hopeful that Californians could begin receiving rebate checks by July. Given the large number of rebates, it is likely that this proposal will help the state manage the Gann limit, but there is still significant negotiating that must occur.

Attachment A contains a list of legislative bills that the San Bernardino County Transportation Authority (SBCTA)/San Bernardino Associated Governments (SBCOG) have taken a position on.

Attachment B reflects bills of interest to SBCTA and SBCOG.

Financial Impact:

This item has no financial impact on the Fiscal Year 2021/2022 Budget.

Reviewed By:

This item was received by the Legislative Policy Committee on April 13, 2022.

Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority

Board of Directors Agenda Item

May 4, 2022

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Responsible Staff:

Otis Greer, Director of Legislative and Public Affairs

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

San Bernardino Council of Governments
San Bernardino County Transportation Authority

ATTACHMENT A

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY (SBCTA) / COUNCIL OF GOVERNMENTS (SBCOG)
LEGISLATIVE BILL POSITIONS - April 2022

Legislation / Author	Description	Bill Status	Position	Date Position Adopted
AB 1260 (Chen)	Exempt from the requirements of the California Environmental Quality Act (CEQA) projects by a public transit agency to construct or maintain infrastructure to charge or refuel zero-emission trains.	Held in Senate Appropriations Committee, DEAD (8/27/21)	Support / Sponsor	3/10/2021
SB 9 (Atkins)	Would require a local government to ministerially approve a housing development containing two residential units in single-family residential zones. Would also require local governments to ministerially approve urban lot splits.	Approved by the Governor. (9/16/21)	Oppose	3/10/2021
AB 1296 (Kamlager)	Would increase the number of members of the board of the South Coast Air Quality Management District to 15 members by adding 2 environmental justice appointees, one appointed by the Senate Committee on Rules and one appointed by the Speaker of the Assembly.	Failed committee deadline, DEAD (1/21/22)	Oppose	3/10/2021
SB 266 (Newman)	Provide assistance acquiring and accepting land immediately adjacent to, and that expands, Chino Hills State Park, by transferring three properties into the state park system.	Approved by the Governor. (10/09/21)	Support	4/14/2021

Attachment: Bill position matrix 4-22 (8568 : State Legislative Update)

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY (SBCTA) / COUNCIL OF GOVERNMENTS (SBCOG)
LEGISLATIVE BILL POSITIONS - April 2022

Legislation / Author	Description	Bill Status	Position	Date Position Adopted
SB 623 (Newman)	Update SB 1268 to be consistent with the Legislature's intent to protect toll road users' information from being used inappropriately while also ensuring toll agencies can operate their business without litigation.	Failed committee deadline, 2 year bill (4/30/21)	Support	4/14/2021
AB 703 (Rubio)	Remove the requirements of the Ralph M. Brown Act particular to teleconferencing and allow for teleconferencing subject to existing provisions regarding the posting of notice of an agenda and the ability of the public to observe the meeting and provide public comment.	Failed committee deadline, DEAD (1/21/22)	Support	4/14/2021
AB 744 (Rodriguez)	Allow the California Department of Transportation to relinquish approximately eight miles of State Route 83 to the City of Ontario.	Approved by the Governor. (9/22/21)	Support	4/14/2021
SB 278 (Leyva)	Establish new procedures and requirements for employees covered by the California Public Employee Retirement System (CalPERS) in cases where their pensionable benefits are erroneously calculated and reported to CalPERS by their employer.	Approved by the Governor. (9/22/27)	Work With Author	4/14/2021

Attachment: Bill position matrix 4-22 (8568 : State Legislative Update)

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY (SBCTA) / COUNCIL OF GOVERNMENTS (SBCOG)
LEGISLATIVE BILL POSITIONS - April 2022

Legislation / Author	Description	Bill Status	Position	Date Position Adopted
SB 840 (Holden)	Require the county transportation commissions in the Counties of Los Angeles and San Bernardino to jointly develop, in consultation with certain governmental agencies, a funding and implementation program for regional transit services to include service to international airports within the multicounty region.	Failed committee deadline, DEAD (1/14/22)	Oppose	4/14/2021
SB 922 (Weiner)	Removes the sunsets on the CEQA exemptions contained in SB 288 which will help to continue streamlining approvals for critical transportation projects.	Senate Committee on Appropriations (3/28/22)	Support	3/9/2022
AB 2120 (Ward)	Applies formula from the former federal Highway Bridge Replacement and Rehabilitation Program to the distribution of new bridge formula funding from the Infrastructure Investment and Jobs Act (IIJA), allocating 55% to local projects.	Assembly Appropriations Committee (3/29/22)	Support	3/9/2022

Attachment: Bill position matrix 4-22 (8568 : State Legislative Update)

ATTACHMENT B

Status Report

Wednesday, March 30, 2022

AB 682 Bloom D (Dist. 50) Planning and zoning: density bonuses: cohousing buildings.**Location:** SENATE RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Current law, commonly referred to as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development within the city or county with a density bonus and other incentives or concessions as specified, if the developer agrees to construct, among other options, specified percentages of units for moderate income, lower income, or very low income households and meets other requirements. This bill would additionally require that a density bonus be provided under these provisions to a developer who agrees to construct a housing development that is a cohousing building, as defined, that meets specified requirements and will contain either 10% of the total square footage for lower income households, as defined, or 5% of the total square footage for very low income households, as defined.

Position: Watch**AB 916 Salas D (Dist. 32) Zoning: accessory dwelling units: bedroom addition.****Location:** SENATE RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

The Planning and Zoning Law authorizes the legislative body of any county or city to adopt ordinances that regulate the use of buildings, structures, and land as between industry, business, residences, open space, and other purposes. This bill would prohibit a city or county legislative body from adopting or enforcing an ordinance requiring a public hearing as a condition of adding space for additional bedrooms or reconfiguring existing space to increase the bedroom count within an existing house, condominium, apartment, or dwelling. The bill would include findings that ensuring adequate housing is a matter of statewide concern and is not a municipal affair, and that the provision applies to all cities, including charter cities. This bill contains other related provisions and other existing laws.

Position: Watch**AB 1154 Patterson R (Dist. 23) California Environmental Quality Act: exemption: egress route projects: fire safety.****Location:** SENATE RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Would, until January 1, 2029, exempt from CEQA egress route projects undertaken by a public agency to improve emergency access to and evacuation from a subdivision without a secondary egress if the State Board of Forestry and Fire Protection has recommended the creation of a secondary access to the subdivision and certain conditions are met. The bill would require the lead agency to hold a noticed public meeting to hear and respond to public comments before determining that a project is exempt. The bill would require the lead agency, if it determines that a project is not subject to CEQA and approves or carries out that project, to file a notice of exemption with the Office of Planning and Research and with the clerk of the county in which the project will be located.

AB 1445 Levine D (Dist. 10) Planning and zoning: regional housing need allocation: climate change impacts.**Location:** SENATE RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Would, commencing January 1, 2025, require that a council of governments, a delegate subregion, or the Department of Housing and Community Development, as applicable, additionally consider among these factors emergency evacuation route capacity, wildfire risk, sea level rise, and other impacts caused by climate change.

AB 1624 Ting D (Dist. 19) Budget Act of 2022.

Location: ASSEMBLY BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Would make appropriations for the support of state government for the 2022–23 fiscal year. This bill contains other related provisions.

Position: Watch

AB 1626 Nguyen R (Dist. 72) Motor Vehicle Fuel Tax Law: limitation on adjustment.

Location: ASSEMBLY PRINT

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Existing law, the Motor Vehicle Fuel Tax Law, administered by the California Department of Tax and Fee Administration, imposes a tax upon each gallon of motor vehicle fuel removed from a refinery or terminal rack in this state, entered into this state, or sold in this state, at a specified rate per gallon. Existing law requires the department to annually adjust the tax imposed by increasing the rates based on the California Consumer Price Index, as specified. This bill would limit the above-described annual adjustment to a maximum of 2% for rate adjustments made on or after July 1, 2023. This bill contains other related provisions.

AB 1638 Kiley R (Dist. 6) Motor Vehicle Fuel Tax Law: suspension of tax.

Location: ASSEMBLY TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Would suspend the imposition of the tax on motor vehicle fuels for 6 months. The bill would direct the Controller to transfer a specified amount from the General Fund to the Motor Vehicle Fuel Account in the Transportation Tax Fund. By transferring General Fund moneys to a continuously appropriated account, this bill would make an appropriation.

AB 1679 Fong R (Dist. 34) Governor's Office of Business and Economic Development: California Business Investment Services Program: Supply Chain Senior Advisor.

Location: ASSEMBLY J., E.D. & E.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law establishes within the Governor's Office of Business and Economic Development the California Business Investment Services Program under the authority of the director to serve employers, corporate executives business owners, and site location consultants who are considering California for business investment and expansion. This bill would require the director to appoint a Supply Chain Senior Advisor within the office to be the principal advocate in the state for the interests of business and industry related to supply chain development and operation and to advise the director on legislation, administrative regulations, and other issues affecting the state's supply chain.

Position: Watch

AB 1680 Lee D (Dist. 25) Transportation: prohibition orders.

Location: ASSEMBLY PUB. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law authorizes the Sacramento Regional Transit District, the Los Angeles County Metropolitan Transportation Authority, the Fresno Area Express, and the San Francisco Bay Area Rapid Transit District (BART) to issue a prohibition order to any person who is cited 3 times within a period of 90 days for specified infractions committed in or on a vehicle, bus stop, or train or light rail station of a transit district or a property, facility, or vehicle upon which BART owes policing responsibilities, or to any person who is arrested or convicted for a misdemeanor or felony committed in or on a vehicle, bus stop, or light rail station of the transit district for acts involving violence, threats of violence, lewd or lascivious behavior, or possession for sale or sale of a controlled substance. Current law makes those prohibition orders subject to an automatic stay and prohibits a prohibition order from taking effect until the latest of 11 calendar days after delivery of the prohibition order, 11 calendar days after delivery of the results of a timely requested initial review of the prohibition order, or the date a hearing officer's decision is delivered if an administrative hearing was timely requested, as specified. This bill would instead prohibit a prohibition order from taking effect until the latest of 12, rather than 11, calendar days after delivery of the prohibition order, 12, rather than 11, calendar days after delivery of the results of a timely requested initial review of the prohibition order, or the date a hearing officer's decision is delivered if an administrative hearing was timely requested.

AB 1749 Garcia, Cristina D (Dist. 58) Community Air Protection Blueprint: community emissions reduction programs: toxic air contaminants and criteria air pollutants.

Location: ASSEMBLY APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Existing law requires the State Air Resources Board to prepare, and to update at least once every 5 years, a statewide strategy, known as the "Community Air Protection Blueprint" or "Blueprint," to reduce emissions of toxic air contaminants and criteria air pollutants in communities affected by a high cumulative exposure burden. This bill would require the state board to identify in each statewide strategy update measures to reduce criteria air pollutants and toxic air contaminants. The bill would authorize an air district that is required to adopt a community emissions reduction program to take up to one additional year to adopt the program, if the community steering committee agrees. The bill would require an air district that is required to adopt a community emissions reduction program to additionally include in its annual report a summary of updates to the program made to ensure consistency with the statewide strategy.

AB 1778 Garcia, Cristina D (Dist. 58) State transportation funding: freeway projects: poverty and pollution: Department of Transportation.

Location: ASSEMBLY TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law authorizes the Department of Transportation to do any act necessary, convenient, or proper for the construction, improvement, maintenance, or use of all highways that are under its jurisdiction, possession, or control. Current law requires the department to prepare and submit to the Governor a proposed budget, as provided. This bill would require the department to consult the California Healthy Places Index, as defined, as a condition of using state funds or personnel time to fund or permit freeway projects, as provided. The bill would require the department to analyze housing and environmental variables through the index, as provided, and would prohibit any state funds or personnel time from being used to fund or permit freeway projects in areas that fall within the zero to 50th percentile on the housing and environmental variables analyzed through the index, as provided.

Position: Watch

AB 1795 Fong R (Dist. 34) Open meetings: remote participation.

Location: ASSEMBLY G.O.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

The Bagley-Keene Open Meeting Act, requires state bodies to allow all persons to attend meetings and provide an opportunity for the public to address the state body regarding any item included in its agenda, except as specified. This bill would require state bodies, subject to existing exceptions, to provide all persons the ability to participate both in-person and remotely, as defined, in any meeting and to address the body remotely.

AB 1833 Ward D (Dist. 78) San Diego Metropolitan Transit Development Board: North County Transit District: consolidated agency: public contracting.

Location: ASSEMBLY L. GOV.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

The North County Transit District Act creates the North County Transit District with specified powers and duties related to the operation of public transit services in a different portion of the County of San Diego. The San Diego Regional Transportation Consolidation Act creates the consolidated agency, commonly known as the San Diego Association of Governments (SANDAG), through the consolidation of certain regional transportation planning, programming, and related functions in the County of San Diego from various agencies. Current law requires the board, district, and consolidated agency to follow specified procedures when contracting for certain services, the acquisition or lease of materials, supplies, or equipment, architectural, landscape architectural, engineering, environmental, or land surveying services, or construction project management services. Federal regulations define the "simplified acquisition threshold" as \$250,000, except as specified, and the "micro-purchase threshold" as \$10,000, except as specified. This bill would revise and recast the contracting procedures applicable to the board, district, and consolidated agency.

AB 1919 Holden D (Dist. 41) Youth Transit Pass Pilot Program: free youth transit passes: eligibility for state funding.

Location: ASSEMBLY TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law establishes the State Transit Assistance Program for the purpose of providing a source of state funding to eligible public transportation operators and other transportation agencies in order to support their local and regional transit operating and capital needs. Current law establishes the Low Carbon Transit Operations Program to provide operating and capital assistance for transit agencies to reduce greenhouse gas emissions and improve mobility. Existing law conditions transit funding from certain programs on achieving specified ratios of fare revenues to operating costs. This bill would require transit agencies to offer free youth transit passes to all persons 25 years of age and under with California residency, regardless of immigration status, in order to be eligible for state funding under the Mills-Deddeh Transit Development Act, the State Transit Assistance Program, or the Low Carbon Transit Operations Program. These free youth transit passes would count as full-price fares for purposes of calculating the ratio of fare revenues to operating costs.

AB 1938 Friedman D (Dist. 43) Transit and Intercity Rail Recovery Task Force.

Location: ASSEMBLY TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law provides for the funding of public transit and intercity rail, including under the Transportation Development Act. This bill would require the Secretary of Transportation, on or before July 1, 2023, to establish and convene the Transit and Intercity Rail Recovery Task Force to include representatives from the department and various local agencies, academic institutions, and nongovernmental organizations. The bill would require the task force to develop a structured, coordinated process for early engagement of all parties to develop policies to grow transit and intercity rail ridership and improve transit and intercity rail operations for users of those services.

AB 1944 Lee D (Dist. 25) Local government: open and public meetings.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Current law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Current law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health. This bill would specify that if a member of a legislative body elects to teleconference from a location that is not public, the address does not need to be identified in the notice and agenda or be accessible to the public when the legislative body has elected to allow members to participate via teleconferencing.

AB 2039 Rivas, Luz D (Dist. 39) Los Angeles County Metropolitan Transportation Authority: job order contracting: pilot program.

Location: ASSEMBLY L. GOV.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

The Local Agency Public Construction Act sets forth procedures that a local agency is required to follow when procuring certain services or work. Current law also sets forth specific public contracting requirements for certain transit districts. Current law authorizes certain local agencies to engage in job order contracting, as prescribed. This bill would establish a pilot program to authorize the Los Angeles County Metropolitan Transportation Authority to use job order contracting as a procurement method. The bill would impose a \$25,000,000 cap on awards under a single job order contract and a \$5,000,000 cap on any single job order. The bill would limit the term of such contracts to a maximum of 24 months, with extensions as prescribed.

AB 2057 Carrillo D (Dist. 51) Transportation Agency: goods movement data.

Location: ASSEMBLY TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Would require the Transportation Agency to collect and consolidate specified data related to goods movement in the transportation supply chain and would require the agency to make this data publicly available on its internet website. The bill would require all maritime ports to collect specified data and statistics from trucking companies and provide the data to the agency. To the extent this bill would impose additional duties on local agencies operating a maritime port, the bill would impose a state-mandated local program.

AB 2120 Ward D (Dist. 78) Transportation finance: federal funding: bridges.

Location: ASSEMBLY APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Under current law, the purpose of the Bridge Reconstruction and Replacement Act is to implement the federal Special Bridge Replacement Program in California. The act authorizes boards of supervisors, city councils, and the Department of Transportation to do all things necessary and proper to secure federal aid under that federal program. The act authorizes the department to allocate to counties and cities federal funds received for approved bridge reconstruction or replacement projects in accordance with procedures promulgated by the Director of Transportation, as specified. Current law requires the California Transportation Commission, in allocating funds, and the department, in expending funds, for bridge replacement projects, to follow federal design standards, except as specified. This bill would instead provide that the purpose of the act is to implement the federal Highway Infrastructure Program. The bill would authorize the above-described entities to do all things necessary and proper to secure federal funds instead under the federal Highway Infrastructure Program.

Position: Support**AB 2192 Ramos D (Dist. 40) Automated license plate recognition systems: information sharing.****Location: ASSEMBLY TRANS.**

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law authorizes the Department of the California Highway Patrol to retain license plate data captured by license plate reader technology for not more than 60 days unless the data is being used as evidence or for the investigation of felonies, and to share that data with law enforcement agencies for specified purposes. With regard to information from automated license plate recognition (ALPR) systems, current law requires an ALPR operator and an ALPR end-user, as those terms are defined, to implement a usage and privacy policy, as specified, and maintain reasonable security procedures and practices. This bill would additionally prohibit a public agency from selling, sharing, or transferring ALPR information to a law enforcement agency of the federal government or another state, unless the ALPR information is being sold, shared, or transferred to locate a vehicle or person reasonably suspected of being involved in the commission of a public offense, and only as otherwise permitted by law.

Position: Watch**AB 2237 Friedman D (Dist. 43) Transportation planning: regional transportation improvement plan: sustainable communities strategies: climate goals.****Location: ASSEMBLY NAT. RES.**

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law requires certain transportation planning agencies to prepare and adopt regional transportation plans directed at achieving a coordinated and balanced regional transportation system. Current law requires each regional transportation plan to also include a sustainable communities strategy prepared by each metropolitan planning organization. Current law requires the Strategic Growth Council, by January 31, 2022, to submit a report to the relevant policy and fiscal committees of the Legislature that includes, among other things, an overview of those sustainable communities strategies, an assessment of how implementation of those sustainable communities strategies will influence the configuration of the statewide integrated multimodal transportation system, and a review of the potential impacts and opportunities for coordination of specified funding programs, including the Affordable Housing and Sustainable Communities Program. This bill would require the council, in consultation with the State Air Resources Board, the Department of Housing and Community Development, and the Transportation Agency, to convene a task force to review the roles and responsibilities of metropolitan planning organizations and to define “sustainable community.”

AB 2254 Muratsuchi D (Dist. 66) State highways: Route 107: relinquishment.**Location: ASSEMBLY TRANS.**

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law requires the California Transportation Commission to relinquish to local agencies state highway portion that have been deleted from the state highway system by legislative enactment, and authorizes relinquishment in certain other cases. This bill would authorize the commission to relinquish to the City of Redondo Beach the portion of State Route 107 within the city limits and prescribe conditions that apply upon relinquishment.

AB 2344 Friedman D (Dist. 43) Wildlife connectivity: transportation projects.**Location: ASSEMBLY W.P. & W.**

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Would require the Department of Fish and Wildlife to investigate, study, and identify those areas in the state that are

essential to wildlife movement and habitat connectivity and that are threatened by specified factors. The bill require DFW, in coordination with Caltrans, to establish a wildlife connectivity action plan on or before January 1, 2024, and to update the plan at least once every 5 years thereafter. The bill would require the plan to include, among other things, maps that identify the locations of certain areas, including connectivity areas and natural landscape areas, as defined.

AB 2347 Carrillo D (Dist. 51) Streets and highways: liability for property damage.

Location: ASSEMBLY PRINT

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Current law makes a person who willfully or negligently damages a street or highway, or its appurtenances, including, but not limited to, guardrails, signs, traffic signals, snow poles, and similar facilities, liable for the reasonable cost of the repair or replacement thereof. This bill would make technical, nonsubstantive changes to that provision.

AB 2438 Friedman D (Dist. 43) Transportation funding: alignment with state plans and greenhouse gas emissions reduction standards.

Location: ASSEMBLY APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Current law provides for the funding of projects on the state highway system and other transportation improvements, including under the state transportation improvement program, the state highway operation and protection program, the Solutions for Congested Corridors Program, the Trade Corridor Enhancement Program, and the program within the Road Maintenance and Rehabilitation Program commonly known as the Local Partnership Program. This bill would require the agencies that administer those programs to revise the guidelines or plans applicable to those programs to ensure that projects included in the applicable program align with the California Transportation Plan, the Climate Action Plan for Transportation Infrastructure adopted by the Transportation Agency, and specified greenhouse gas emissions reduction standards.

Position: Watch

AB 2441 Kalra D (Dist. 27) Public employment: local public transit agencies: new technologies.

Location: ASSEMBLY P.E. & R.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Current law creates various transit districts and prescribes requirements applicable to their labor relations, including those that address the recognition and certification of exclusive employee representatives, unit determinations, and procedures for meeting and conferring on matter subject to collective bargaining. This bill would prescribe requirements for public transit employers in connection with the introduction of new technologies for public transit services that introduce new products, services, or type of operation, as specified, or that eliminate jobs or job functions of the workforce to which they apply. The bill would require a public transit employer to provide notice, as specified, to the applicable exclusive employee representative of its intention to begin any procurement process or a plan to acquire or deploy to new technologies for public transit services, as described above, not less than 12 months before commencing the process, plan, or deployment.

AB 2449 Rubio, Blanca D (Dist. 48) Open meetings: local agencies: teleconferences.

Location: ASSEMBLY L. GOV.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Current law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with

specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect or in other situations related to public health. This bill would authorize a local agency to use teleconferencing without complying with those specified teleconferencing requirements if at least a quorum of the members of the legislative body participates in person from a singular location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. The bill would impose prescribed requirements for this exception relating to notice, agendas, the means and manner of access, and procedures for disruptions. The bill would require the legislative body to implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with federal law.

AB 2514 Dahle, Megan R (Dist. 1) Road Maintenance and Rehabilitation Account: apportionment of funds: underserved rural communities.

Location: ASSEMBLY TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Current law continuously appropriates \$200,000,000 annually from the State-Local Partnership Program Account for allocation by the California Transportation Commission for a program commonly known as the Local Partnership Program to local or regional transportation agencies that have sought and received voter approval of taxes or that have imposed certain fees, which taxes or fees are dedicated solely for road maintenance and rehabilitation and other transportation improvement projects. Current law requires the commission, in cooperation with the Department of Transportation, transportation planning agencies, county transportation commissions, and other local agencies, to develop guidelines for the allocation of those moneys. This bill would provide for the allocation by the commission under the Local Partnership Program to underserved rural communities, as defined, regardless of whether they have sought and received voter approval of taxes or that have imposed certain fees, which taxes or fees are dedicated solely for road maintenance and rehabilitation and other transportation improvement projects.

Position: Watch

AB 2542 Rubio, Blanca D (Dist. 48) Tolls: exemption for privately owned emergency ambulances.

Location: ASSEMBLY TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Current law prohibits a person from operating a privately owned emergency ambulance unless licensed by the Department of the California Highway Patrol. This bill would generally modify the exemption to apply to the use of toll facility, as defined, and would expand the exemption, dispute resolution procedures, and agreement provisions to include a privately owned emergency ambulance licensed by the Department of the California Highway Patrol. The bill would also make technical changes to these provisions.

AB 2562 Bennett D (Dist. 37) Clean Transportation Program: hydrogen-fueling stations.

Location: ASSEMBLY APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Current law creates the Alternative and Renewable Fuel and Vehicle Technology Fund, to be administered by the State Energy Resources Conservation and Development Commission, and requires the moneys in the fund, upon appropriation by the Legislature, to be expended by the commission to implement the program. Current law requires the commission, until January 1, 2024, to allocate \$20,000,000 annually to fund a specified number of publicly available hydrogen-fueling stations identified by the State Air Resources Board, not to exceed 20% of the moneys appropriated by the Legislature from the Alternative and Renewable Fuel and Vehicle Technology Fund, until there are at least 100 publicly available hydrogen-fueling stations in operation in the state. Under current law, these allocations are subject to all of the requirements applicable to allocations from the Clean Transportation

Program. This bill would require the commission, if it awards funding to hydrogen-fueling station projects under the program, to provide preference to those projects that are located at a port and are publicly accessible, are co-located at a fueling station for medium- and heavy-duty trucks, or are located along a specified corridor or on the state's portion of the National Highway Freight Network.

AB 2594 Ting D (Dist. 19) Vehicle registration and toll charges.

Location: ASSEMBLY TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Would require the Department of Motor Vehicles, at the time a person notifies the department of a change of residence or mailing address for purposes of their driver's license, to inform the person that they may also need to change their address for purposes of their vehicle registration, and would require the department to provide instructions on how to update vehicle registration information.

AB 2647 Levine D (Dist. 10) Local government: open meetings.

Location: ASSEMBLY L. GOV.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

The Ralph M. Brown Act requires the meetings of the legislative body of a local agency to be conducted openly and publicly, with specified exceptions. Current law makes agendas of public meetings and other writings distributed to the members of the governing board disclosable public records, with certain exceptions. Current law requires a local agency to make those writings distributed to the members of the governing board available for public inspection at a public office or location that the agency designates. This bill would instead require a local agency to make those writings distributed to the members of the governing board available for public inspection at a public office or location that the agency designates or post the writings on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

AB 2719 Fong R (Dist. 34) California Environmental Quality Act: exemptions: highway safety improvement projects.

Location: ASSEMBLY NAT. RES.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

CEQA includes exemptions from its environmental review requirements for numerous categories of projects, including, among others, emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway under specified circumstances. This bill would further exempt from the requirements of CEQA highway safety improvement projects, as defined, undertaken by the Department of Transportation or a local agency.

AB 2731 Ting D (Dist. 19) Schoolbuses: zero-emission vehicles.

Location: ASSEMBLY ED.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Would require, by January 1, 2035, 100% of all newly purchased, contracted, or operated schoolbuses of a school district, county office of education, or charter school to be zero-emission vehicles. To the extent this requirement imposes additional duties on local educational agencies in connection with federally required pupil transportation services that go beyond the requirements in federal law, the bill would impose a state-mandated local program.

AB 2788 Mathis R (Dist. 26) Public records.

Location: ASSEMBLY JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	18.b
	1st House				2nd House								

The California Public Records Act requires state and local agencies to make their records available for public inspection, except as provided. Current law declares that public records are open to inspection during the office hours of the state or local agency and every person has a right to inspect any public record, except as specified. Current law requires each agency, upon a request for a copy of records, within 10 days from receipt of the request to determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and to promptly notify the person making the request of the determination and the reasons therefor. This bill would extend that 10-day deadline to 10 business days.

ACA 1 Aguiar-Curry D (Dist. 4) Local government financing: affordable housing and public infrastructure voter approval.

Location: ASSEMBLY L. GOV.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions. This measure would create an additional exception to the 1% limit that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition includes specified accountability requirements.

Position: Watch

ACA 5 Voepel R (Dist. 71) Motor vehicles: fuel taxes, sales and use taxes, and fees: expenditure restrictions.

Location: ASSEMBLY TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

The California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes. These restrictions do not apply to revenues from taxes or fees imposed under the Sales and Use Tax Law or the Vehicle License Fee Law. This measure would explicitly restrict the expenditure of all interest earned and other increment derived from the investment of those tax revenues and any proceeds from the lease or sale of real property acquired using those tax revenues only for the purposes described above.

ACR 140 O'Donnell D (Dist. 70) Freight transportation: supply chain.

Location: ASSEMBLY PRINT

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Would declare and recognize that the state is currently suffering a supply chain crisis. The measure would urge the state's public agencies, departments, and local governments to provide all due and proper assistance to carriers, cargo owners, public seaports, terminals, workers, and facilities to facilitate the essential service of delivering goods to Californians.

SB 149 Committee on Budget and Fiscal Review Budget Act of 2022.

Location: ASSEMBLY BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Attachment: Bill Report 3-30-22 (8568 : State Legislative Update)

Position: Watch**SB 542 Limón D (Dist. 19) Sales and use taxes: exemption: medium- or heavy-duty zero-emission trucks.****Location: ASSEMBLY DESK**

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current sales and use tax laws impose taxes on retailers measured by gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, measured by sales price. The Sales and Use Tax Law provides various exemptions from those taxes. This bill would provide an exemption from those taxes with respect to the sale in this state of, and the storage, use, or other consumption in this state of, a qualified motor vehicle. The bill would define "qualified motor vehicle" as a specified zero-emission truck. The bill would disallow the exemption for sales or uses made on or after January 1, 2025, if the purchaser also received other specified benefits.

SB 852 Dodd D (Dist. 3) Climate resilience districts: formation: funding mechanisms.**Location: SENATE GOV. & F.**

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law authorizes certain local agencies to form a community revitalization authority (authority) within a community revitalization and investment area, as defined, to carry out provisions of the Community Redevelopment Law in that area for purposes related to, among other things, infrastructure, affordable housing, and economic revitalization. Current law provides for the financing of these activities by, among other things, the issuance of bonds serviced by property tax increment revenues, and requires the authority to adopt a community revitalization and investment plan for the community revitalization and investment area that includes elements describing and governing revitalization activities. This bill would authorize a city, county, city and county, special district, or a combination of any of those entities to form a climate resilience district for the purposes of raising and allocating funding for eligible projects and the operating expenses of eligible projects. The bill would define "eligible project" to mean projects that address sea level rise, extreme heat, extreme cold, the risk of wildfire, drought, and the risk of flooding, as specified.

Position: Watch**SB 873 Newman D (Dist. 29) California Transportation Commission: state transportation improvement program: capital outlay support.****Location: SENATE TRANS.**

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law requires the California Transportation Commission to biennially adopt a state transportation improvement program that lists all capital improvement projects that are expected to receive an allocation of state transportation funds, as specified. Current law characterizes the state transportation improvement program as a resource management document to assist the state and local entities to plan and implement transportation improvements and to use available resources in a cost-effective manner. Current law requires the program to specify the allocation or expenditure amount and the allocation or expenditure year for certain project components, as specified. This bill would require the commission to make an allocation of capital outlay support resources by project phase, including preconstruction, for each project in the program. The bill would require the commission to develop guidelines, in consultation with the Department of Transportation, to implement these allocation procedures.

SB 886 Wiener D (Dist. 11) California Environmental Quality Act: exemption: public universities: university housing development projects.

Location: SENATE E.Q.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Would exempt from CEQA a university housing development project, as defined, carried out by a public university, as defined, on real property owned by the public university if the project meets certain requirements and the project is not located, in whole or in part, on certain sites, including a site that is within a special flood hazard area subject to inundation by a 1% annual chance flood or within a regulatory floodway as determined by the Federal Emergency Management Agency, as provided. The bill, with respect to a site that is within a special flood hazard area subject to inundation by a 1% annual chance flood or within a regulatory floodway, would prohibit a local government from denying an application on the basis that a public university did not comply with any additional permit requirement, standard, or action adopted by that local government applicable to the site if the public university is able to satisfy any applicable federal qualifying criteria in order to demonstrate that the site meets these criteria and is otherwise eligible to be exempt from CEQA pursuant to the above requirements.

Position: Watch

SB 922 [Wiener D \(Dist. 11\)](#) **California Environmental Quality Act: exemptions: transportation-related projects.**

Location: SENATE APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

The California Environmental Quality Act (CEQA), until January 1, 2030, exempts from its requirements bicycle transportation plans for an urbanized area for restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and related signage for bicycles, pedestrians, and vehicles under certain conditions. This bill would extend the above exemption indefinitely. The bill would also repeal the requirement that the bicycle transportation plan is for an urbanized area and would extend the exemption to an active transportation plan or pedestrian plan, or to a feasibility and planning study for active transportation, bicycle facilities, or pedestrian facilities.

Position: Support

SB 942 [Newman D \(Dist. 29\)](#) **Low Carbon Transit Operations Program: free or reduced fare transit program.**

Location: SENATE APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law continuously appropriates specified portions of the annual proceeds in the Greenhouse Gas Reduction Fund to various programs, including 5% for the Low Carbon Transit Operations Program, which is administered by the Department of Transportation and provides operating and capital assistance for transit agencies to reduce greenhouse gas emissions and improve mobility. Current law requires each of those transit agencies to demonstrate that each expenditure of program moneys allocated to the transit agency reduces the emissions of greenhouse gases and does not supplant another source of funds, to use those moneys to provide transit operating or capital assistance, to use at least 50% of those moneys to benefit disadvantaged communities, and to submit specified information to the department before seeking a disbursement of those program moneys, as specified. This bill would authorize a transit agency that uses program moneys to fund a free or reduced fare transit program and that demonstrates compliance with the above-described requirements in its initial program application to continue to use those moneys to maintain that program on an ongoing basis without demonstrating continued compliance with those requirements.

SB 959 [Portantino D \(Dist. 25\)](#) **Surplus residential property: City of South Pasadena.**

Location: SENATE TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	C	18.b
	1st House				2nd House								

Under current law, a state agency disposing of surplus residential property in the City of South Pasadena is required to first offer the property to former owners and present occupants, as specified, and then to specified present tenants at fair market value. This bill would require a surplus residential property that is located within the City of South Pasadena and that is offered for sale to a present occupant or present tenant of the property, as specified, to be offered at a price based on the appraisal of the property in 2016, if certain conditions apply. The bill would require an offer made or accepted prior to January 1, 2022, that is not in compliance with the bill to be corrected so the price complies with the bill's requirements. The bill would make an offer based on the 2016 appraisal, as required by the bill, only valid until December 31, 2024.

SB 1049 Dodd D (Dist. 3) Transportation Resilience Program.

Location: SENATE APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Would establish the Transportation Resilience Program in the Department of Transportation, to be funded in the annual Budget Act from 15% of the available federal National Highway Performance Program funds and 100% of the available federal Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation program funds. The bill would provide for funds to be allocated by the California Transportation Commission for climate adaptation planning and resilience improvements, as defined, that address or mitigate the risk of recurring damage to, or closures of, the state highway system, other federal-aid roads, public transit facilities, and other surface transportation assets from extreme weather events, sea level rise, or other climate change-fueled natural hazards. The bill would establish specified eligibility criteria for projects to receive funding under the program and would require the commission to prioritize projects that meet certain criteria.

SB 1100 Cortese D (Dist. 15) Open meetings: orderly conduct.

Location: SENATE JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law authorizes the members of the legislative body conducting the meeting to order the meeting room cleared and continue in session, as prescribed, if a group or groups have willfully interrupted the orderly conduct of a meeting and order cannot be restored by the removal of individuals who are willfully interrupting the meeting. This bill would authorize the presiding member of the legislative body conducting a meeting to remove an individual for willfully interrupting the meeting. The bill, except as provided, would require removal to be preceded by a warning by the presiding member of the legislative body that the individual is disrupting the proceedings, a request that the individual curtail their disruptive behavior or be subject to removal, and a reasonable opportunity to cease the disruptive behavior. The bill would similarly require a warning, a request that the individual curtail their disruptive behavior or be subject to removal, and a reasonable opportunity to cease the disruptive behavior before clearing a meeting room for willful interruptions by a group or groups. The bill would define "willfully interrupting" to mean intentionally engaging in behavior during a meeting of a legislative body that substantially impairs or renders infeasible the orderly conduct of the meeting in accordance with law and applicable rules, as specified.

SB 1104 Gonzalez D (Dist. 33) Governor's Office of Business and Economic Development: Office of Freight.

Location: SENATE TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Would establish the Office of Freight within GO-Biz. The bill would require the office to serve as the coordinating entity to steer the growth, competitiveness, and sustainability for freight and ports across the state and to promote

and assess the continued economic vitality and sustainability of the freight sector. The bill would require the coordination with specified state agencies, to prepare an assessment of statewide economic growth, competitiveness, prosperity, resiliency, and sustainability for the state's ports and freight sector. The bill would require the office to submit the assessment to the Legislature on or before December 31, 2024, and an updated assessment at least once every 5 years thereafter. The bill would require the Transportation Agency to incorporate the findings of the assessment into the state freight plan, as specified.

SB 1121 Gonzalez D (Dist. 33) State and local transportation system: needs assessment.

Location: SENATE TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Would require the California Transportation Commission to prepare a needs assessment of the cost to operate, maintain, and provide for the necessary future growth of the state and local transportation system for the next 10 years, as provided. As part of the needs assessment, the bill would require the commission to forecast the expected revenue, including federal, state, and local revenues, to pay for the cost identified in the needs assessment, any shortfall in revenue to cover the cost, and recommendations on how any shortfall should be addressed. The bill would require the commission to submit the needs assessment to the Legislature on or before January 1, 2024, and biennially thereafter.

SB 1156 Grove R (Dist. 16) Motor Vehicle Fuel Tax: Diesel Fuel Tax: inflation adjustment.

Location: SENATE GOV. & F.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Current law, the Motor Vehicle Fuel Tax Law and Diesel Fuel Tax Law, impose a tax upon each gallon of motor vehicle fuel or diesel fuel removed from a refinery or terminal rack in this state, entered into this state, or sold in this state, at a specified rate per gallon. Current law annually adjusts the rates of the taxes imposed by those laws based on inflation. This bill would remove the requirement for future inflation adjustments of those taxes. This bill contains other related provisions.

SB 1201 Melendez R (Dist. 28) Clean California Local Grant Program of 2021: Clean California State Beautification Program of 2021: homeless encampments.

Location: SENATE TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Under current law, the Department of Transportation administers the Clean California Local Grant Program of 2021 to provide funding for grants to specified local entities for purposes of beautifying and cleaning up local streets and roads, tribal lands, parks, pathways, transit centers, and other public spaces, and administers the Clean California State Beautification Program of 2021 to provide funding for purposes of beautifying and cleaning up state highways. This bill would authorize local governments to use funding received under those programs to clean up homeless encampments on or around highway rights-of-way, within one mile of the freeway or flood channels under and surrounding the highways.

SB 1410 Caballero D (Dist. 12) California Environmental Quality Act: transportation impacts.

Location: SENATE E.Q.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

CEQA requires the Office of Planning and Research to prepare and develop proposed guidelines for the implementation of CEQA by public agencies and requires the Secretary of the Natural Resources Agency to certify and adopt those guidelines. CEQA requires the office to prepare, develop, and transmit to the secretary for

certification and adoption proposed revisions to the guidelines establishing criteria for determining the significance of transportation impacts of projects within transit priority areas, as defined, that promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. Existing law requires the office to recommend potential metrics to measure transportation impacts, as specified. CEQA authorizes the office to adopt guidelines establishing alternative metrics to the metrics used for traffic levels of service for transportation impacts outside transit priority areas. This bill instead would require the criteria for determining the significance of transportation impacts of projects within transit priority areas to only promote the reduction of greenhouse gas emissions. The bill would retain the metric for traffic levels of service for projects outside transit priority areas, and require the potential metrics described above to only apply to projects within transit priority areas.

Position: Watch

SCA 2 **Allen D (Dist. 26) Public housing projects.**

Location: ASSEMBLY DESK

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

The California Constitution prohibits the development, construction, or acquisition of a low-rent housing project, as defined, in any manner by any state public body until a majority of the qualified electors of the city, town, or county in which the development, construction, or acquisition of the low-rent housing project is proposed approve the project by voting in favor at an election, as specified. This measure would repeal these provisions.

SCA 4 **Wilk R (Dist. 21) Legislature: 2-year budget.**

Location: SENATE BUDGET & F.R.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House					2nd House							

Would limit the Legislature, in the first year of the regular session, to considering or acting upon only the Budget Bill and related bills, and up to 5 bills introduced by each of the standing committees of the Legislature, as specified. The measure would require the Governor to submit to the Legislature a budget for the ensuing 2 fiscal years within the first 10 days of the first calendar year of the biennium of the legislative session, and would require the Legislature to adopt by June 15 of the first calendar year of the biennium of the legislative session a Budget Bill that appropriates funds to support state government for the next 2-year fiscal period commencing on July 1. The measure, in the second year of the regular session, would limit the Legislature to considering or acting upon only legislation other than the Budget Bill and related bills. The Legislature, by a 2/3 vote of each house, would be authorized, however, to amend an enacted Budget Bill and related bills in both calendar years of the biennium.

Total Measures: 55

Total Tracking Forms: 55

Minute Action

AGENDA ITEM: 19

Date: May 4, 2022

Subject:

Federal Legislative Update

Recommendation:

Receive and file the April 2022 Federal Legislative Update.

Background:

San Bernardino County Transportation Authority (SBCTA) Legislative Affairs staff, along with representatives from federal advocates, Potomac Partners D.C., LLC, updated the Legislative Policy Committee on April 13, 2022.

Fiscal Year 2022 Appropriations Process

After months of negotiations, Congress passed, and the President signed on March 15, 2022, an omnibus spending package for Fiscal Year (FY) 2022. The \$1.5 trillion package includes all 12 annual appropriations bills. The bill provides parity for defense and non-defense increases in spending. In total, the 12 annual bills provide \$730 billion in nondefense funding, a \$46 billion (6.7%) increase over FY 2021, and \$782 billion in defense funding, a \$42 billion (5.6%) increase over FY 2021.

Fiscal Year 2023 Budget

On March 28, 2022, the White House released the President's FY 2023 budget request to Congress. The release of the President's budget is the first step in the annual appropriations process, outlining the Administration's goals, priorities, and economic outlook. The FY 2023 proposed budget is \$5.8 trillion with \$1.6 trillion in discretionary spending, including \$142 billion for the Department of Transportation.

The FY 2023 Department of Transportation Summary can be found in Attachment A.

American Public Transportation Association Conference

Legislative and Public Affairs staff attended the American Public Transportation Association Legislative Conference in Washington D.C., March 13-15, 2022. U.S. Secretary of Transportation Pete Buttigieg, Federal Transit Administrator Nuria Fernandez and Federal Railroad Administrator Amit Bose were among the key federal officials who attended the conference. Staff also met with congressional staff, as well as House Transportation Committee Chairman Peter DeFazio. Staff was able to discuss key San Bernardino County Transportation Authority (SBCTA) projects such as the zero-emission multiple unit rail vehicles and the tunnel connection from Ontario International Airport to Metrolink with the federal stakeholders.

Financial Impact:

This item has no financial impact on the Fiscal Year 2021/2022 Budget.

Reviewed By:

This item was received by the Legislative Policy Committee on April 13, 2022.

Responsible Staff:

Otis Greer, Director of Legislative and Public Affairs

Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority

Board of Directors Agenda Item
May 4, 2022
Page 2

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

San Bernardino Council of Governments
San Bernardino County Transportation Authority

BUDGET HIGHLIGHTS

2023

SECRETARY OF TRANSPORTATION
PETE BUTTIGIEG



U.S. Department
of Transportation

EXECUTIVE SUMMARY

The enactment of the Bipartisan Infrastructure Law (BIL) provides a unique, historic opportunity to conceive of a new vision for our transportation infrastructure and to deliver upon those promises to the American people. The Department of Transportation's FY 2023 Budget Request of **\$105 billion** will advance safety, modernize our Nation's infrastructure to meet the challenges of the future, and address long standing backlogs in the state of good repair of our Nation's most critical transportation assets. With the inclusion of the additional \$37 billion in guaranteed advance appropriations provided under BIL, the Department's total budget for FY 2023 will be **\$142 billion**. Collectively, these funds will increase access to safe, clean, and reliable transportation; create jobs across the country; and strengthen our economy.

Highlights of our Budget Request include:

- **\$18.6 billion** for the **Federal Aviation Administration (FAA)**, including:
 - › **\$536.3 million** to improve the physical condition of the FAA facilities that house the workforce and technology at the heart of the FAA's air traffic control facilities.
 - › **\$1 billion** to operationalize NextGen, thus delivering the benefits of these innovations to the users of the Nation's airspace.
 - › **\$11.9 billion** for Operations to promote aviation safety and efficiency, including **\$96 million** for 13 proposals that will equip the FAA to meet the

challenges of tomorrow. These proposals include **\$17.5 million** to address Aircraft Certification reform legislation, **\$11.4 million** to strengthen Aviation Safety Oversight, **\$24.9 million** to protect the FAA's most critical infrastructure against the increasing risk of undetected cyber-attacks, and **\$13.3 million** for Enterprise Information Management, and **\$28.9 million** to address several initiatives in the areas of commercial space and new entrants, climate, and equity.

- › The **Bipartisan Infrastructure Law also provides \$5 billion** in advance appropriations, which when coupled with the FY 2023 President's Budget represents a **\$23.6 billion** commitment.
- **\$59.5 billion** for the **Federal Highway Administration**, including:
 - › **\$29 billion** for the National Highway Performance Program, **\$14.1 billion** for Surface Transportation Block Grants, and **\$1.7 billion** for the Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) program.
 - › The **Bipartisan Infrastructure Law also provides \$9.5 billion** in advanced appropriations, which when combined with the FY 2023 President's Budget will result in a total of **\$68.9 billion**.
- **\$16.9 billion** for **Transit**, including:
 - › **\$2.9 billion for Capital Investment Grants (CIG)**, plus \$1.6 billion in advance appropriations

under the BIL, will provide a significant investment in the construction of major capital projects and new and expanded transit service to many local communities.

› **\$200 million for Transit Infrastructure**

Grants – to support the Zero Emission System Transformation Planning Program, Climate Resilience and Adaptation Grants, and Integrated Smart Mobility Pilot Grants.

› The **Bipartisan Infrastructure Law also**

provides \$4.3 billion in advance appropriations, which when added to the FY 2023 President's Budget represents a **\$21.1 billion** investment.

• **\$4.7 billion for Rail**, including:

› **\$3 billion for Amtrak**, which represents an historic level of investment that, when combined with \$4.4 billion in supplemental funding provided by BIL, will reverse decades of underinvestment in intercity passenger rail and address Amtrak's backlog of state-of-good-repair projects.

› **\$245 million** for the newly authorized **Railroad**

Crossing Elimination program, which will provide funding to tackle complex grade separation projects that studies have shown can have pronounced effects on improving transportation safety.

› The **Bipartisan Infrastructure Law also**

provides \$13.2 billion in advance appropriations, which when added to the FY 2023 President's Budget represents a **\$17.9 billion** investment.

• **\$1.3 billion for the National Highway Traffic Safety Administration (NHTSA)**, including:

› **\$45.1 million** for **Rulemaking** programs and activities, including **\$27.5 million** for the **Corporate Average Fuel Economy (CAFE)** program. This funding level will support establishment of the next

phase of CAFE standards for light vehicles and maximum fuel efficiency standards for medium- and heavy-duty trucks and represents meaningful progress toward achieving the Administration's Climate Agenda.

› The **Bipartisan Infrastructure Law also**

provides \$322 million in advance appropriations, which when combined with the FY 2023 President's Budget represents a **\$1.59 billion** investment.

• **\$339 million for the Pipeline and Hazardous Materials Safety Administration**, including:

› **\$187.8 million for Pipeline Safety**, to develop pipeline safety standards, encourage the use of safety management systems, conduct safety checkups, investigate pipeline incidents, and conduct research to inform safety regulation and policy, especially as it relates to cleaner fuels that support the environment. PHMSA is addressing and implementing the 36 mandates called for in the PIPES Act (Act) of 2020. The request funds 35 additional inspection and enforcement staff and 8 regulatory experts called for in the Act.

› The **Bipartisan Infrastructure Law**

also provides \$200 million in advanced appropriations, which when combined with the FY 2023 President's Budget, represents a **\$539 million** investment.

• **\$906.7 million for the Maritime Administration**, including:

› **\$99.7 million** for the **United States Merchant Marine Academy** to fund academic operating expenses, implement measures such as the Every Mariner Builds a Respectful Culture (EMBARC) program to help prevent sexual assault and

sexual harassment, and support routine and unplanned emergency facility maintenance and repair needs of the Academy's aging buildings and infrastructure. This funding will support continued efforts to address recommendations provided by the National Academy of Public Administration in their recent report, *Organizational Assessment of the U.S. Merchant Marine Academy: A Path Forward*.

› **\$230 million for Port Infrastructure**

Development Program (PIDP) for grants to improve port infrastructure and facilities, and to stimulate economic growth in and around ports, while also improving safety, addressing climate change and equity, and strengthening resiliency.

› The **Bipartisan Infrastructure Law also provides \$450 million** in advance appropriations, which when coupled with the FY 2023 President's Budget represents a **\$1.4 billion** commitment.

- **\$38.5 million for the Great Lakes St. Lawrence Seaway Development Corporation (GLS)**, for priority investments related to safety, waterway and lock operations, and necessary infrastructure to support commercial trade on the St. Lawrence Seaway.

- **\$1.5 billion** for the **Rebuilding American Infrastructure with Sustainability and Equity (RAISE)** discretionary grants and the new **National Infrastructure Project Assistance (Mega) Grant** program, which provide a unique opportunity to invest in the Nation's surface transportation infrastructure, including roads and highways, public transportation facilities, freight and passenger rail, and port infrastructure.

- The Bipartisan Infrastructure Law also provides **\$2.5 billion** for these programs.

- Strategies to Increase **Safety**, including programs that will help the Department reach the ambitious goals outlined in the National Roadway Safety Strategy (NRSS):

› **\$3 billion** for FHWA's **Highway Safety**

Improvement Program (HSIP), which seeks to reduce the number of lives lost on our Nation's highways, bridges, and roads. The HSIP is one of the most important Federal programs for transportation agencies in their efforts to protect all road users. New guidance released by FHWA ensures that funds are used strategically to make travel safer, including protecting people outside of vehicles, such as people walking, biking, or using mobility assistive devices.

› **\$506 million** for FMCSA's **Motor Carrier Safety**

Grants (MCSG). The BIL provides an additional **\$125 million** in advance appropriations, for total anticipated budgetary resources of **\$631 million**. This represents an ongoing investment into commercial motor vehicle safety through the consistent nationwide application and enforcement of commercial motor vehicles (CMV) and commercial driver's license laws. These grants to State and local partners help train and equip more than 12,000 enforcement officers to increase CMV safety oversight nationwide through inspections, traffic enforcement, audits, investigations, and technology investments.

› **\$49.8 million** for **NHTSA's Vehicle Safety**

Research, to study vehicle improvements and other technological advances that can better protect people in a crash and reduce the likelihood of crashes. This includes \$18.1 million for **Advanced Driver Assistance Systems (ADAS)** including \$3.1 million for **Heavy Vehicle**

Safety Technologies programs that support testing and deployment of safety technologies for passenger vehicles, large trucks, and buses, as well as \$11.8 million for **Automated Driving Systems (ADS)** research that facilitates innovation and development of new tests, tools, and procedures to properly evaluate the safety of new technologies surrounding highly and fully automated vehicles.

- Initiatives to promote **Equity**, including:
 - › **\$110.7 million** for **Thriving Communities**, which will provide technical assistance and capacity building to help disadvantaged communities advance transformative, equitable and climate-friendly infrastructure projects. The program will foster equitable economic growth, reduce transportation cost-burden, improved public health and mobility, and increase access to economic opportunity. This program aims to provide in-depth, hands-on technical assistance resulting in at least one community-led infrastructure project per State and territory.
 - › **\$350 million** for the **Rural Surface Transportation Grant** Program, which will award competitive grants to improve and expand the surface transportation infrastructure in rural areas, increasing connectivity, improving safety, and improving quality of life.
 - › **\$20 million** for **Equity initiatives in the Office of the Secretary**, including funds to launch the Secretary's Transportation Equity Advisory Committee and further the ambitious Diversity, Equity, Inclusion, and Accessibility Strategy; develop a National Equity Accelerator, which will provide hands-on support to underserved and overburdened communities accessing DOT

funds; and efforts to improve data collection and develop outcome measures, including completion of a National Transit Map to improve information on transit access, and system quality.

- Programs to address **Climate Change**, including:
 - › Efforts to reduce greenhouse gas emissions on our Nation's highways, such as **\$1 billion** for the new **National Electric Vehicle Infrastructure Formula Program** to help States create a network of convenient, affordable, and reliable electric vehicle charging stations; **\$400 million** for the **Charging and Fueling Infrastructure Grants Program** that will award competitive grants to further increase electric vehicle charging access in locations throughout the country, including in rural and underserved communities; and **\$1.3 billion** for the **Carbon Reduction Program**, which will provide formula grants to States to reduce transportation emissions.
 - › **\$200 million for Transit Infrastructure Grants**, of which **\$100 million** will support the **Climate Resilience and Adaptation Program** to fund competitive grants to improve the resilience of transit assets to climate-related hazards.
 - › **\$74 million** for FAA's **NextGen Environmental Research**, which will support efforts to develop new aircraft and engine technologies, and advance sustainable aviation fuels, and **\$12.4 million** for **Alternative Fuels Research** to support replacement of leaded aviation gasoline with a high-octane, safe unleaded alternative that reduces the impact of aviation operations on climate change and air quality.
 - › **\$108.1 million** for the **Office of the Inspector General**, to support independent oversight of DOT's programs and operations.

Minute Action

AGENDA ITEM: 20

Date: May 4, 2022

Subject:

Bill Recommendation

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

Approve a support position on Senate Bill 942 by Senator Josh Newman regarding use of Low Carbon Transit Operations Program funds for free or reduced-fare transit programs on an on-going basis.

Background:

Senate Bill 942 (Newman) – Use of Low Carbon Transit Operations Program funds

Bill Status: Passed Senate Committee on Transportation (Y – 16 / N – 0)

Passed Senate Committee on Environmental Quality (Y – 6 / N – 0)

Referred to Senate Committee on Appropriations

Summary

The Low Carbon Transit Operations Program (LCTOP) provides operating and capital assistance for transit agencies to improve mobility while reducing greenhouse gas (GHG) emissions. This program receives funding from the state's Greenhouse Gas Reduction Fund (GGRF), established under California's landmark Cap-and-Trade Program. LCTOP funds are allocated annually to individual transit agencies based on farebox revenues and population. Approved projects eligible for LCTOP funds generally support new or expanded bus or rail services, including the initial use of such funds for reduced or free transit fare programs.

Current statutes and regulations governing LCTOP create barriers that preclude the use of LCTOP funds for long-term funding. Under the terms of the current guidelines articulated in the statute, a transit agency can only use LCTOP funds once, as part of the launch of a local program. The current guidelines do not afford a transit agency the ability to utilize these same funds on an ongoing basis for the continuation of a free or reduced-fare program that would otherwise meet the criteria governing the program's stringent requirements. This has the net consequence of undermining the likelihood of otherwise well-designed LCTOP plans achieving their goals as envisioned in the chartering legislation.

Even as transit agencies throughout California have been striving to develop and implement free and reduced transit fare programs, the lack of funding to maintain programs on a long-term basis has stymied those efforts.

Senate Bill 942 (SB 942)

SB 942 will allow transit agencies to access LCTOP funds to subsidize free or reduced-fare programs continuously. The bill will ensure that a transit agency can use LCTOP for free or reduced-fare programs. Further, if an LCTOP-funded pilot meets the program's requirements in its initial application, the transit agency will not be required to demonstrate such requirements in subsequent years, thereby exempting a transit agency from duplicative reporting requirements.

Additionally, SB 942 will create additional flexibility for transit agencies that qualify for LCTOP funds by allowing monies to be used to maintain such programs on an ongoing basis without any

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prescribed time limit. This bill will provide multiple simultaneous benefits of expanding mass transit utilization by creating lifelong riders, reducing congestion on our streets and roads, and offering an avenue for economic improvement to families who have been substantially negatively impacted by the effects of the pandemic over the past two years.

Staff Recommendation

Legislative Affairs staff recommends that SBCTA take a support position on SB 942. Per the SBCTA 2021-2022 State Legislative Platform, the agency supports efforts to “Ensure appropriate funding for a growing bus and rail system in Southern California with equitable distribution of funds and flexibility in the administration of the programs”, as well as to “Promote increased state transit operations funding as vital to enable continuation of transit system capital investment and expansion of transit services.”

SB 942 bill text can be found in Attachment A.

Financial Impact:

This item has no financial impact on the Fiscal Year 2021/2022 Budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the Legislative Policy Committee on April 13, 2022.

Responsible Staff:

Otis Greer, Director of Legislative and Public Affairs

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

ATTACHMENT A**CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION****SENATE BILL****NO. 942****Introduced by Senator Newman**

February 08, 2022

An act to amend Section 75230 of the Public Resources Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 942, as introduced, Newman. Low Carbon Transit Operations Program: free or reduced fare transit program.

Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board as part of a market-based compliance mechanism to be deposited into the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law continuously appropriates specified portions of the annual proceeds in the fund to various programs, including 5% for the Low Carbon Transit Operations Program, which is administered by the Department of Transportation and provides operating and capital assistance for transit agencies to reduce greenhouse gas emissions and improve mobility. Existing law requires each of those transit agencies to demonstrate that each expenditure of program moneys allocated to the transit agency reduces the emissions of greenhouse gases and does not supplant another source of funds, to use those moneys to provide transit operating or capital assistance, to use at least 50% of those moneys to benefit disadvantaged communities, and to submit specified information to the department before seeking a disbursement of those program moneys, as specified.

This bill would authorize a transit agency that uses program moneys to fund a free or reduced fare transit program and that demonstrates compliance with the above-described requirements in its initial program application to continue to use those moneys to maintain that program on an ongoing basis without demonstrating continued compliance with those requirements.

Existing law authorizes a transit agency that has used program moneys for certain authorized operational assistance purposes in a previous fiscal year to use those moneys to continue the same service or program in any subsequent fiscal year if the agency can demonstrate that reductions in emissions of greenhouse gases can be realized.

This bill would exempt transit agencies using program moneys for the continuation of a free or reduced fare transit program from the above-described provision and authorize those transit agencies to continue to use those moneys for that purpose without any restriction to length of time.

Because this bill would expand the number of transit agencies eligible to receive an allocation of the funds continuously appropriated pursuant to the program, the bill would make an appropriation.

Digest Key

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

Bill Text**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:****SECTION 1.** Section 75230 of the Public Resources Code is amended to read:

75230. (a) The Low Carbon Transit Operations Program is hereby created to provide operating and capital assistance for transit agencies to reduce *the emissions of* greenhouse ~~gas emissions~~ *gases* and improve mobility, with a priority on serving disadvantaged communities.

(b) Funding for the program is continuously appropriated pursuant to Section 39719 of the Health and Safety Code from the Greenhouse Gas Reduction Fund established pursuant to Section 16428.8 of the Government Code.

Attachment: Senate Bill 942 (8569 : Bill Position Recommendations)

(c) Except as provided in subdivision ~~(v); (w)~~, funding shall be allocated by the Controller on a formula basis consistent with the requirements of this part and with Section 39719 of the Health and Safety Code, upon a determination by the Department of Transportation that the expenditures proposed by a recipient transit agency meet the requirements of this part and guidelines developed pursuant to this section, and that the amount of funding requested is currently available.

(d) A recipient transit agency shall demonstrate that each expenditure of program moneys allocated to the agency reduces ~~the emissions of greenhouse gas emissions; gases.~~

(e) A recipient transit agency shall demonstrate that each expenditure of program moneys does not supplant another source of funds.

(f) Moneys for the program shall be expended to provide transit operating or capital assistance that meets any of the following:

(1) Expenditures that directly enhance or expand transit service by supporting new or expanded bus or rail services, new or expanded water-borne transit, or expanded intermodal transit facilities, and may include equipment acquisition, fueling, and maintenance, and other costs to operate those services or facilities.

(2) Operational expenditures that increase transit mode share.

(3) Expenditures related to the purchase of zero-emission buses, including electric buses, and the installation of the necessary equipment and infrastructure to operate and support these zero-emission buses.

(g) (1) For recipient transit agencies whose service areas include disadvantaged communities, as identified pursuant to Section 39711 of the Health and Safety Code, at least 50 percent of the total moneys received pursuant to this chapter shall be expended on projects or services that meet the requirements of subdivisions (d), (e), and (f) and benefit the disadvantaged communities, as identified consistent with the guidance developed by the State Air Resources Board pursuant to Section 39715 of the Health and Safety Code.

(2) The requirement of paragraph (1) is waived if the recipient transit agencies expend the funding provided pursuant to this section on any of the following:

(A) New or expanded transit service that connects with transit service serving disadvantaged communities, as identified in Section 39711 of, or in low-income communities, as defined in paragraph (2) of subdivision (d) of Section 39713 of, the Health and Safety Code.

(B) Transit fare subsidies and network and fare integration technology improvements, including, but not limited to, discounted or free student transit passes.

(C) The purchase of zero-emission transit buses and supporting infrastructure.

(3) Expenditures made pursuant to paragraph (2) shall be deemed to have met all applicable requirements established pursuant to Section 39713 of the Health and Safety Code.

(4) This section does not require a recipient transit agency to provide individual rider data to the Department of Transportation or the State Air Resources Board.

(h) The Department of Transportation, in coordination with the State Air Resources Board, shall develop guidelines that describe the methodologies that recipient transit agencies shall use to demonstrate that proposed expenditures will meet the criteria in subdivisions (d), (e), (f), and (g) and establish the reporting requirements for documenting ongoing compliance with those criteria.

(i) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development of guidelines for the program pursuant to this section.

(j) A recipient transit agency shall submit the following information to the Department of Transportation before seeking a disbursement of funds pursuant to this part:

(1) A list of proposed expense types for anticipated funding levels.

(2) The documentation required by the guidelines developed pursuant to this section to demonstrate compliance with subdivisions (d), (e), (f), and (g).

(k) For capital projects, the recipient transit agency shall also do all of the following:

(1) Specify the phases of work for which the agency is seeking an allocation of moneys from the program.

(2) Identify the sources and timing of all moneys required to undertake and complete any phase of a project for which the recipient agency is seeking an allocation of moneys from the program.

(3) Describe intended sources and timing of funding to complete any subsequent phases of the project, through construction or procurement.

(l) A recipient transit agency that has used program moneys for any type of operational assistance allowed by subdivision (f) in a previous fiscal year may use program moneys to continue the same service or program in any subsequent fiscal year if the agency can demonstrate that reductions in *the emissions of greenhouse-gas-emissions gases* can be realized.

(m) A recipient transit agency that uses program moneys to fund a free or reduced fare transit program that demonstrates compliance with subdivisions (d), (e), (f), and (g) in the initial application, may continue to use program moneys to maintain that program on an ongoing basis without demonstrating continued compliance with those subdivisions, or having to submit further documentation pursuant to subdivision (j). Transit agencies using program moneys for the continuation of a free or reduced fare transit program shall not be subject to the provisions outlined in subdivision (l) and may continue to use program moneys for such purpose without any restriction to length of time.

~~(m)~~

(n) Before authorizing the disbursement of funds, the Department of Transportation, in coordination with the State Air Resources Board, shall determine the eligibility, in whole or in part, of the proposed list of expense types, based on the documentation provided by the recipient transit agency to ensure ongoing compliance with the guidelines developed pursuant to this section.

~~(n)~~

(o) The Department of Transportation shall notify the Controller of approved expenditures for each recipient transit agency, and the amount of the allocation for each agency determined to be available at that time of approval.

~~(o)~~

(p) A recipient transit agency that does not submit an expenditure for funding in a particular fiscal year may retain its funding share, and may accumulate and use that funding share in a subsequent fiscal year for a larger expenditure, including operating assistance. The recipient transit agency must first specify the number of fiscal years that it intends to retain its funding share and the expenditure for which the agency intends to use these moneys. A recipient transit agency may only retain its funding share for a maximum of four fiscal years.

~~(p)~~

(q) A recipient transit agency may, in any particular fiscal year, loan or transfer its funding share to another recipient transit agency within the same region for any identified eligible expenditure under the program, including operating assistance, in accordance with procedures incorporated by the Department of Transportation in the guidelines developed pursuant to this section, which procedures shall be consistent with the requirement in subdivision (g).

~~(q)~~

(r) A recipient transit agency may apply to the Department of Transportation to reassign any savings of surplus moneys allocated under this section to the agency for an expenditure that has been completed to another eligible expenditure under the program, including operating assistance. A recipient transit agency may also apply to the Department of Transportation to reassign to another eligible expenditure any moneys from the program previously allocated to the agency for an expenditure that the agency has determined is no longer a priority for the use of those moneys.

~~(r)~~

(s) The recipient transit agency shall provide annual reports to the Department of Transportation, in the format and manner prescribed by the department, consistent with the internal administrative procedures for the use of the fund proceeds developed by the State Air Resources Board.

~~(s)~~

(t) The Department of Transportation and recipient transit agencies shall comply with the guidelines developed by the State Air Resources Board pursuant to Section 39715 of the Health and Safety Code to ensure that the requirements of Section 39713 of the Health and Safety Code are met to maximize the benefits to disadvantaged communities, as described in Section 39711 of the Health and Safety Code.

~~(t)~~

(u) A recipient transit agency shall comply with all applicable legal requirements, including the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)), and civil rights and environmental justice obligations under state and federal law. This section does not expand or extend the applicability of those laws to recipient transit agencies.

(t)

(v) The audit of public transportation operator finances already required under the ~~Transportation Development Mills-Alquist-Deddeh~~ Act (Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code) pursuant to Section 99245 of ~~that code~~ *the Public Utilities Code* shall be expanded to include verification of receipt and appropriate expenditure of moneys from the program. Each recipient transit agency receiving moneys from the program in a fiscal year for which an audit is conducted shall transmit a copy of the audit to the Department of Transportation, and the department shall make the audits available to the Legislature and the Controller for review on request.

(v)

(w) Notwithstanding subdivision (c), the Controller shall allocate funding pursuant to this section for the 2019–20 to 2022–23, inclusive, fiscal years to recipient transit agencies pursuant to the individual operator ratios described in Section 99314.10 of the Public Utilities Code.

Minute Action

AGENDA ITEM: 21

Date: May 4, 2022

Subject:

Hearing to Consider Resolutions of Necessity for Property Interests for the West Valley Connector Project

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

A. Conduct public hearings to consider condemnation of interests in real property described more particularly in each of the Resolutions of Necessity described below (referred to below collectively as the “Subject Property Interests”), which are required for the West Valley Connector Project.

B. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-102 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by RFA Montclair, LP, a California limited partnership (Assessor’s Parcel Number (APN 1012-071-03). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

C. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-104 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by 1401 Holt Investments, LLC, a California limited liability company (APN 1011-111-05). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

D. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-106 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Ronald A. Hendrickson & Susan C. Hendrickson, Trustees UTD November 5, 2007, FBO Ronald A. Hendrickson & Susan C. Hendrickson; William K. Harden & Judith L. Harden; Gary Harden; Michael Harden (APN 1011-121-13). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

E. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-109 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Sylverio Malagon, a single man, as his sole and separate property (APN 1010-552-14 & 15). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

F. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-111 authorizing and directing General Counsel, or her designees, to prepare,

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commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Gregory L. Johnson & Thea M. Johnson, Co-Trustees of The Johnson Family Trust Established June 9, 2011 (APN 1011-111-21). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

G. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-112 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Frank J. Cuccia & Susan K. Cuccia, Co-Trustees of the Frank J. Cuccia Family Trust, Dated May 22, 1989 (APN 1010-543-01, 02 & 03). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

H. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-113 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by HBL Family, LLC, a California limited liability company (APN 1010-611-12). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

I. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-119 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Linda L. Robinson, Trustee of the Linda L. Robinson Living Trust dated February 11, 1992 (APN 1010-543-09). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

J. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-122 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by 14255 Ellsworth Street, LLC, a California limited liability company (APN 8323-025-025). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

K. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-123 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Fountain of Love Christian Center, Inc., a California non-profit corporation (APN 8326-024-041). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

L. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-060 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Elias Properties, LLC, a California limited liability company (APN 1048-523-16). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

M. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-135 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Ron J. Goodin, Trustee of The R.J. Goodin Family Trust under Trust Instrument dated September 30, 1988 (APN 0110-111-06, 07 & 08). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

N. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-146 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Thomas G. Matlock & Judith L. Matlock, Co-Trustees of The Matlock Living Trust - 1997, dated April 2, 1997 (APN 0110-111-01). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

O. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-152 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Amazing Grace Clothing, LLC, a Texas limited liability company (APN 0110-061-01). The Resolution must be approved by at least a two-thirds vote of the Board of Directors.

Background:

The San Bernardino County Transportation Authority (SBCTA), in cooperation with Omnitrans, and the cities of Montclair, Ontario, Pomona, Rancho Cucamonga, and Fontana, proposes to construct the West Valley Connector Project (“WVC Project”). The WVC Project is a 100% zero-emission Bus Rapid Transit (“BRT”) system. It is the first stage of the San Bernardino County Zero-Emission Bus Initiative and second BRT route in San Bernardino County. The WVC Project is a proposed 35-mile-long transit improvement project that would connect the cities of Montclair, Ontario, Pomona, Rancho Cucamonga and Fontana. The WVC Project includes up to 60 station platforms at 33 locations/major intersections and associated improvements. A new operations and maintenance facility for light maintenance activities would be constructed. The WVC Project would be constructed in two phases including Phase I/Milliken Alignment, from the Pomona Regional Transit Center to Victoria Gardens in Rancho Cucamonga, and Phase II/Haven Alignment, from Ontario International Airport (ONT) to Kaiser Permanente Medical Center in Fontana. Phase I is scheduled for operation in early 2025. Construction of Phase II/Haven Alignment is scheduled to occur after the completion of Phase I when funding is available. Stations would be “rapid bus” style stations designed for fast boarding.

Phase 1 of the WVC Project is 19 miles and will upgrade a portion of existing Route 61 which runs along Holt Boulevard, adding approximately 3.5 miles as center running, dedicated bus-only lanes. There will be 21 stations in Phase 1 that will provide a much-improved transit connection to ONT and help build transit connectivity by linking ONT, two Metrolink lines (San Bernardino and Riverside) and multiple major activity centers along the route including Ontario Mills and Victoria Gardens. Headways will be 10 minutes in the peak commute period and 15 minutes off-peak, providing a high level of service to the community.

The WVC involves use of local, state, and federal funding, including funds administered by the Federal Transit Administration (FTA). Based on the multiple funding sources, the environmental documentation was prepared jointly in compliance with both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). SBCTA was the lead agency under CEQA and FTA was the lead agency under NEPA.

In May 2020, the SBCTA Board of Directors (Board) adopted Resolution No. 20-046, making findings necessary to approve the Mitigation Monitoring and Reporting Program, adopting a Statement of Overriding Considerations, and approving and certifying the Final Environmental Impact Report (EIR) in compliance with CEQA for the WVC Project. Subsequently, on May 12, 2020, FTA approved the Findings of No Significant Impact (FONSI) in accordance with NEPA, which concluded the Environmental Clearance of the WVC Project. In adopting Resolution No. 20-046, the Board found that Alternative B, which was designated as the preferred alternative, would better meet the purpose of the WVC Project and need than Alternative A. The Board emphasized that the City of Ontario commissioned a Holt Boulevard Mobility and Streetscape Strategic Plan that is consistent with the proposed improvements included with Alternative B. Accordingly, the Board rejected Alternative A.

The Board further found that the benefits of the WVC Project outweigh the unavoidable environmental impacts. The Board emphasized that the WVC Project (under the approved Alternative B alternative) has significant benefits, including improved travel time and the speed and reliability of bus transit based on the proposed exclusive bus-only lanes with five center-running stations in Ontario. The WVC Project is consistent with several regional and local land-use plans, including helping to achieve the goals of Southern California Association of Governments' (SCAG) Regional Comprehensive Plan and Regional Transportation Plan/Sustainable Communities Strategy, SBCTA's Long-Range Transit Plan for San Bernardino Valley, goals related to improving transit opportunities in the General Plans of the cities of Montclair, Ontario, Pomona, Rancho Cucamonga, and Fontana and the counties of Los Angeles and San Bernardino, and the Specific Plans, Community Plans, and Master Plans along the project corridor. Resolution No. 20-046 highlighted that the City of Ontario's Holt Boulevard Mobility and Streetscape Strategic Plan specifically reflects the WVC Project with exclusive bus-only lanes on Holt Boulevard. In addition, the WVC Project would facilitate future transit-oriented developments and mixed-use developments along the project corridor to revitalize the WVC Project area. The WVC Project is supported by Caltrans, Districts 7 and 8, and the cities along the WVC Project corridor, including Montclair, Ontario, Pomona, Rancho Cucamonga, and Fontana. Further, the Board found that the WVC Project would have economic benefits for the area, revitalize adjacent land uses along the corridor, and improve sidewalks and parkways associated with land acquisition for the widened right-of-way.

In January 2021, the Board authorized SBCTA staff and its consultants to proceed with the acquisition activities, including appraisals, appraisal reviews, negotiations, relocation assistance, property management, environmental site assessments, and building demolition in support of the right-of-way acquisition needs for the WVC Project.

The Board further authorized staff to proceed with the acquisition of the required property or property rights necessary for the WVC Project from identified property owners, including relocation assistance, demolition of existing structures, property management, disposal of excess property, and environmental testing and remediation. The Board also authorized the San Bernardino County Transportation Authority

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Director of Transit and Rail Programs (Director) to add or remove parcels from the list of properties as the Director determines from time to time are necessary for the WVC Project, provided said parcels are environmentally cleared.

The WVC Project requires that SBCTA acquire the necessary property interests expeditiously to ensure that construction can be completed within the proposed timeline to ensure that there are no costly delays or impacts to funding. Throughout the environmental and preliminary engineering process, SBCTA has made extensive efforts to plan the WVC Project in a way that minimizes the impacts of the WVC Project on properties in the WVC Project area. These efforts include minimizing impacts to parcels from which SBCTA requires certain property interests and maintaining ingress and egress from the adjacent street to the impacted properties during construction of the WVC Project. Although most of the proposed improvements are anticipated to be constructed within the existing right of way, SBCTA will require certain property interests to accommodate the WVC Project.

SBCTA's acquisition agents continue to negotiate in good faith, on behalf of SBCTA, with the owners of properties impacted by the WVC Project. Based on the timing of the WVC Project, however, it is necessary for SBCTA to consider the adoption of resolutions of necessity at this time to acquire the property interests necessary for the WVC Project and obtain possession of said property interests in time to ensure that the WVC Project is operational by early 2025.

SBCTA has complied with applicable law and requirements for the acquisition of property for public use by eminent domain. In accordance with Code of Civil Procedure Section 1245.235, SBCTA mailed to the owners of the Subject Property Interests a Notice of Hearing regarding the intent of SBCTA to adopt a Resolution of Necessity for acquisition by eminent domain of the respective Subject Property Interests. The Code of Civil Procedure Section 1245.235 notice of hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as the owner or owners of the property of which the respective Subject Property Owners are a part. Further, in accordance with Code of Civil Procedure Section 1245.235, SBCTA also mailed a Notice of Hearing regarding the intent of SBCTA to adopt a Resolution of Necessity for acquisition by eminent domain of the respective Subject Property Interests to the Cities of Ontario, Pomona, Rancho Cucamonga and Montclair as required by Public Utilities Code Section 130220.5(c).

The purpose of this Agenda item is for the Board to consider the information and evidence to support the findings required for the adoption of the Resolutions of Necessity to authorize the acquisition by eminent domain of the Subject Property Interests described in this report. Although the adoption of the Resolutions of Necessity is recommended for the Subject Property Interests in order to maintain the WVC Project schedule and avoid delays, SBCTA's acquisition agents will continue to negotiate with the property owners in an effort to acquire the Subject Property Interests needed through a voluntary purchase and avoid litigation in the eminent domain process.

The owners of the subject properties are:

- RFA Montclair, LP, a California limited partnership
- 1401 Holt Investments, LLC, a California limited liability company

San Bernardino County Transportation Authority

- Ronald A. Hendrickson & Susan C. Hendrickson, Trustees UTD November 5, 2007, FBO Ronald A. Hendrickson & Susan C. Hendrickson; William K. Harden & Judith L. Harden; Gary Harden; Michael Harden
- Sylverio Malagon, a single man, as his sole and separate property
- Gregory L. Johnson & Thea M. Johnson, Co-Trustees of The Johnson Family Trust Established June 9, 2011
- Frank J. Cuccia & Susan K. Cuccia, Co-Trustees of the Frank J. Cuccia Family Trust, Dated May 22, 1989
- HBL Family, LLC, a California limited liability company
- Linda L. Robinson, Trustee of the Linda L. Robinson Living Trust dated February 11, 1992
- 14255 Ellsworth Street, LLC, a California limited liability company
- Fountain of Love Christian Center, Inc., a California non-profit corporation
- Elias Properties, LLC, a California limited liability company
- Ron J. Goodin, Trustee of The R.J. Goodin Family Trust under Trust Instrument dated September 30, 1988
- Thomas G. Matlock & Judith L. Matlock, Co-Trustees of The Matlock Living Trust - 1997, dated April 2, 1997
- Amazing Grace Clothing, LLC, a Texas limited liability company

Support for Adoption of Resolutions of Necessity

SBCTA is authorized to acquire property by eminent domain pursuant to the California Public Utilities Code Sections 130220.5 and 130809(b)(4). SBCTA is also authorized to acquire property for public use by eminent domain pursuant to Section 19 of Article 1 of the California Constitution, California Code of Civil Procedure Section 1230.010 et seq. (Eminent Domain Law), including but not limited to Sections 1240.010, 1240.020, 1240.110, 1240.120, 1240.320, 1240.330, 1240.510, 1240.610, 1240.650 and by other provisions of law. Acquisition of the property interests by eminent domain will allow SBCTA to obtain legal rights to the properties needed for the WVC Project in cases where a negotiated sale cannot be reached. Adoption of a Resolution of Necessity authorizes SBCTA to file an eminent domain proceeding for the acquisition by eminent domain of the property interests described in each Resolution of Necessity. It is necessary to obtain authorization to commence eminent domain proceedings at this time because it can take several months to obtain possession of the Subject Property Interests needed for the WVC Project. SBCTA needs to obtain prejudgment possession in time to ensure that the WVC Project is operational by early 2025.

To adopt the subject Resolutions of Necessity, SBCTA must make the four findings discussed below for each of the property interests needed for the WVC Project in accordance with Code of Civil Procedure Sections 1240.030 and 1245.230. The issue of the amount of just compensation for each of the property interests is not addressed by these Resolutions of Necessity and is not an issue before the Board at the hearing. The four necessary findings are:

1. *The public interest and necessity require the WVC Project;*
2. *The WVC Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;*
3. *The Subject Property Interests sought to be acquired are necessary for the WVC Project; and*
4. *The offer required by Government Code Section 7267.2 has been made to the owner or owners of record.*

The four required findings are supported by the evidence set forth below.

1. The public interest and necessity require the WVC Project.

The WVC Project, as planned and designed, will be a 100% zero-emission BRT system, the first stage of the San Bernardino County Zero Emission Bus Initiative and second BRT route in San Bernardino County. The WVC Project is a proposed 35-mile-long transit improvement project that would connect the cities of Montclair, Ontario, Pomona, Rancho Cucamonga and Fontana. The WVC Project includes up to 60 station platforms at 33 locations/major intersections and associated improvements. The WVC Project will also construct a new operations and maintenance facility for light maintenance activities. The WVC Project will be constructed in two phases, including Phase I/Milliken Alignment, from the Pomona Regional Transit Center to Victoria Gardens in Rancho Cucamonga and Phase II/Haven Alignment, from ONT to Kaiser Permanente Medical Center in Fontana. Phase I is scheduled for operation in early 2025. Construction of Phase II/Haven Alignment is scheduled to occur after the completion of Phase I when funding is available. Stations would be “rapid bus” style stations designed for fast boarding.

Phase 1 of the WVC Project is 19 miles and will upgrade a portion of existing Route 61 which runs along Holt Boulevard, adding approximately 3.5 miles as center running, dedicated bus-only lanes. There will be 21 stations in Phase 1 that will provide a much-improved transit connection to ONT and help build transit connectivity by linking ONT, two Metrolink lines (San Bernardino and Riverside) and multiple major activity centers along the route including Ontario Mills and Victoria Gardens. Headways will be 10 minutes in the peak commute period and 15 minutes off-peak, providing a high level of service to the community. The WVC Project traverses an urban corridor, and BRT stations have been located to create a comfortable, efficient transit place that fits into the community fabric. The WVC Project is in the public interest and necessity because it will create an efficient alternative to the use of personal vehicles thereby reducing the overall emissions into the environment.

The WVC is also in the public interest and necessity because it will improve travel time and the speed and reliability of bus transit based on the proposed exclusive bus-only lanes with five center-running stations in Ontario. The WVC Project is consistent with several regional and San Bernardino County Transportation Authority

local land-use plans, including helping to achieve the goals of SCAG's Regional Comprehensive Plan and Regional Transportation Plan/Sustainable Communities Strategy, SBCTA's Long-Range Transit Plan for San Bernardino Valley, goals related to improving transit opportunities in the General Plans of the cities of Montclair, Ontario, Pomona, Rancho Cucamonga, and Fontana and the counties of Los Angeles and San Bernardino, and the Specific Plans, Community Plans, and Master Plans along the project corridor. Resolution No. 20-046 highlighted that the City of Ontario's Holt Boulevard Mobility and Streetscape Strategic Plan specifically reflects the WVC Project with exclusive bus-only lanes on Holt Boulevard. In addition, the WVC Project will facilitate future transit-oriented developments and mixed-use developments along the project corridor to revitalize the WVC Project area. The WVC Project is also in the public interest and necessity because it will result in economic benefits for the area, revitalize adjacent land uses along the corridor, and improve sidewalks and parkways associated with land acquisition for the widened right-of-way.

2. The WVC Project is planned and located in the manner that will be most compatible with the greatest public good and least private injury.

The purpose of the WVC Project is to improve corridor mobility and transit efficiency in the western San Bernardino Valley from the city of Pomona, in Los Angeles County, to the city of Fontana, in San Bernardino County, with an enhanced, state-of-the-art BRT system (i.e., a system that includes off-board fare vending, all-door boarding, Transit Signal Priority (TSP) optimized operating plans, and stations that consist of branded shelter/canopy, security cameras, benches, lighting, and variable message signs). The WVC Project seeks to address the growing traffic congestion and travel demands of the nearly one million people that would be added to Los Angeles and San Bernardino County by 2040 as set forth in SCAG's 2016 Regional Transportation Plan/Sustainable Communities Strategy growth forecast. Improved rapid transit along the project corridor would help Omnitrans and SBCTA achieve the long-range goals to cost effectively enhance lifeline mobility and accessibility, improve transit operations, increase ridership, support economic growth and redevelopment, conserve nonrenewable resources, and improve corridor safety.

The WVC Project, is planned and designed to improve transit service by better accommodating existing high bus ridership. It is also planned and designed to improve ridership by providing a viable and competitive transit alternative to the automobile and improve efficiency of transit service delivery while lowering Omnitrans' operating costs per rider. Further, the WVC Project supports local and regional planning goals to organize development along transit corridors and around transit stations. Current and future population and employment conditions establish a need for higher-quality transit service. The WVC Project corridor is primarily an inter-city route that serves densely populated neighborhoods with a high percentage of transit patrons that are minority, low-income, and/or transit dependent. The WVC Project corridor includes a current high level of employment and several key activity centers. Regionally, the Inland Empire leads the six-county southern California region in growth. Current and future transportation conditions establish a need for an improved transit system. The current standard bus service has several deficiencies that do not make transit an attractive alternative to the automobile, particularly in terms of corridor travel time. Current and future travel demand is expected to accompany the projected growth in population and employment, further increasing the need for an improved transit system. Finally, transit-related opportunities exist in the WVC Project area. Current transit access to employment and intermodal centers is considered inadequate to meet

current and future needs. High-quality, reliable rapid transit service is needed to deliver riders to these multiple destinations; the WVC Project would provide such a service. The WVC Project alignment passes through potential redevelopment and transit-oriented development areas and would help foster their potential for development.

The WVC Project will affect approximately 241 parcels, and will require several business and residential relocations. SBCTA held several meetings and considered alternatives to the current Alternative B design that the Board selected as the preferred alternative based on the benefits to the WVC Project corridor. The WVC Project was planned and designed in a manner to accomplish the greatest public good and cause the least private injury. SBCTA and its acquisition agents have had numerous communications with the owners of the properties impacted by the WVC Project and will work with all owners of impacted parcels to minimize the impact of the WVC Project on the subject properties and to assist those persons and businesses displaced by the WVC Project to receive applicable relocation assistance and benefits.

3. Each of the Subject Property Interests SBCTA seeks to acquire is necessary for the WVC Project.

SBCTA seeks to construct the WVC Project, as planned and designed, to improve bus efficiency and reduce carbon emissions over a 19-mile segment. The WVC Project requires the acquisition of additional right-of-way for the proposed bus way. Phase 1 of the WVC Project is 19 miles and will upgrade a portion of existing Route 61 which runs along Holt Boulevard, adding approximately 3.5 miles as center running, dedicated bus-only lanes. There will be 21 stations in Phase 1 that will provide a much-improved transit connection to ONT and help build transit connectivity by linking ONT, two Metrolink lines (San Bernardino and Riverside) and multiple major activity centers along the route including Ontario Mills and Victoria Gardens. Headways will be 10 minutes in the peak commute period and 15 minutes off-peak, providing a high level of service to the community. The WVC Project traverses an urban corridor, and BRT stations have been identified to create a comfortable, efficient transit place that fits into the community fabric. The WVC Project will create an efficient alternative to the use of personal vehicles thereby reducing the overall emissions into the environment.

Although SBCTA is constructing portions of the WVC Project within existing right-of-way, the WVC Project requires acquisition of the Subject Property Interests listed below and cannot be constructed without the acquisition of said Subject Property Interests:

- RFA Montclair, LP, a California limited partnership: A permanent roadway easement and a temporary construction easement are needed for construction of the WVC Project improvements.
- 1401 Holt Investments, LLC, a California limited liability company: A temporary construction easement is needed for construction of the WVC Project improvements.
- Ronald A. Hendrickson & Susan C. Hendrickson, Trustees UTD November 5, 2007, FBO Ronald A. Hendrickson & Susan C. Hendrickson; William K. Harden & Judith L. Harden; Gary Harden; Michael Harden:

A temporary construction easement is needed for construction of the WVC Project improvements.

- Silverio Malagon, a single man, as his sole & separate property: A permanent roadway easement and a temporary construction easement are needed for construction of the WVC Project improvements.
- Gregory L. Johnson & Thea M. Johnson, Co-Trustees of The Johnson Family Trust Established June 9, 2011: A temporary construction easement is needed for construction of the WVC Project improvements.
- Frank J. Cuccia & Susan K. Cuccia, Co-Trustees of the Frank J. Cuccia Family Trust, Dated May 22, 1989: A temporary construction easement is needed for construction of the WVC Project improvements.
- HBL Family, LLC, a California limited liability company: A permanent roadway easement and a temporary construction easement are needed for construction of the WVC Project improvements.
- Linda L. Robinson, Trustee of the Linda L. Robinson Living Trust dated February 11, 1992: A temporary construction easement is needed for construction of the WVC Project improvements.
- 14255 Ellsworth Street, LLC, a California limited liability company: A permanent roadway easement and a temporary construction easement are needed for construction of the WVC Project improvements.
- Fountain of Love Christian Center, Inc., a California non-profit corporation: A permanent roadway easement and a temporary construction easement are needed for construction of the WVC Project improvements.
- Elias Properties, LLC, a California limited liability company: A permanent roadway easement and a temporary construction easement are needed for construction of the WVC Project improvements.
- Ron J. Goodin, Trustee of The R.J. Goodin Family Trust under Trust Instrument dated September 30, 1988: Three permanent roadway easements and three temporary construction easements are needed for construction of the WVC Project improvements.
- Thomas G. Matlock & Judith L. Matlock, Co-Trustees of The Matlock Living Trust - 1997, dated April 2, 1997: A permanent roadway easement and a temporary construction easement are needed for construction of the WVC Project improvements.
- Amazing Grace Clothing, LLC, a Texas limited liability company: A permanent roadway easement and a temporary construction easement are needed for construction of the WVC Project improvements.

A number of parcels have constructed improvements that encroach within the public right-of-way. SBCTA is compensating the property owners for any improvements affected by the WVC Project, even in those cases where said improvements encroach in the public right-of-way.

As stated above, the public use for which SBCTA seeks to acquire the Subject Property Interests, namely street widening for bus related purposes to improve corridor mobility and transit efficiency with an enhanced, state-of-the-art BRT system, and all uses necessary or convenient thereto, will not unreasonably interfere with or impair the continuance of the public use to which any easement holders may have appropriated the area (Code of Civil Procedure Section 1240.510). Further, the WVC Project may require the relocation of several utilities to the proposed new right-of-way area. The public use for which SBCTA seeks to acquire the Subject Property Interests, namely street widening for bus related purposes to improve corridor mobility and transit efficiency with an enhanced, state-of-the-art BRT system, and all uses necessary or convenient thereto is a more necessary public use within the meaning of Code of Civil Procedure Section 1240.650 than the uses to which public utility easement holders have appropriated any utility easements located in the Subject Property Interests that are affected by the WVC Project. Accordingly, SBCTA is authorized to acquire the Subject Property Interests pursuant to Code of Civil Procedure Sections 1240.510, 1240.610, and 1240.650.

Pursuant to Code of Civil Procedure Sections 1240.510 and 1240.610, to the extent that any of the Subject Property Interests are already devoted to a public use, the use proposed by this WVC Project is a more necessary public use than the use to which the Subject Property Interests, or any portion thereof, are already devoted, or, in the alternative, are a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the Subject Property Interests, or any portion thereof, are already devoted.

In addition, to the extent the Subject Property Interests, or portions thereof, are currently devoted to or held for some public use, SBCTA intends to acquire substitute property pursuant to Code of Civil Procedure Sections 1240.320 and 1240.330. The requirements of said Sections have been satisfied and the acquisition of said substitute property is necessary for the WVC Project. The substitute property may be conveyed by SBCTA to the owner(s) of the property interests needed for the WVC Project.

4. Offers required by Section 7267.2 of the Government Code have been made to the owner or owners of record.

SBCTA, pursuant to Government Code Section 7260 *et seq.*, obtained a fair market value appraisal of the Subject Property Interests, set just compensation in accordance with the fair market value and extended a written offer to the owners of record of the Subject Property Interests. As detailed above, the SBCTA extended to the owner of record of the Subject Property Interest, a written offer pursuant to Government Code Section 7267.2 to acquire the Subject Property Interests for a public use, namely public road widening and related purposes, and all uses necessary or convenient thereto. Specifically, SBCTA extended a written offer to the following record owners of the Subject Property interests:

- SBCTA extended a written offer to RFA Montclair, LP, a California limited partnership to purchase an approximate 188 square foot permanent easement and

impacted site improvements, as well as an approximate 406 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 4535 Holt Boulevard, Montclair, and identified as San Bernardino County Tax Assessor's Parcel Number 1012-071-03.

- SBCTA extended a written offer to 1401 Holt Investments, LLC, a California limited liability company to purchase an approximate 1,208 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 1401 W. Holt Boulevard, Ontario, and identified as San Bernardino County Tax Assessor's Parcel Number 1011-111-05.
- SBCTA extended a written offer to Ronald A. Hendrickson & Susan C. Hendrickson, Trustees UTD November 5, 2007, FBO Ronald A. Hendrickson & Susan C. Hendrickson; William K. Harden & Judith L. Harden; Gary Harden; Michael Harden to purchase an approximate 3,037 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 1235-1237 W. Holt Boulevard, Ontario, and identified as San Bernardino County Tax Assessor's Parcel Number 1011-121-13.
- SBCTA extended a written offer to Sylverio Malagon, a single man, as his sole and separate property, to purchase an approximate 128 square foot permanent easement and impacted site improvements, as well as an approximate 1,035 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 1542 W. Holt Boulevard, Ontario, and identified as San Bernardino County Tax Assessor's Parcel Number 1010-552-14 & 15.
- SBCTA extended a written offer to Gregory L. Johnson & Thea M. Johnson, Co-Trustees of The Johnson Family Trust Established June 9, 2011 to purchase an approximate 638 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 1511 W. Holt Boulevard, Ontario, and identified as San Bernardino County Tax Assessor's Parcel Number 1011-111-21.

- SBCTA extended a written offer to Frank J. Cuccia & Susan K. Cuccia, Co-Trustees of the Frank J. Cuccia Family Trust, Dated May 22, 1989, to purchase an approximate 3,263 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 1206 W. Holt Boulevard, Ontario, and identified as San Bernardino County Tax Assessor's Parcel Numbers 1010-543-01, 02 & 03.
- SBCTA extended a written offer to HBL Family, LLC, a California limited liability company to purchase an approximate 418 square foot permanent easement and impacted site improvements, as well as an approximate 456 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 5280 E. Holt Boulevard, Montclair, and identified as San Bernardino County Tax Assessor's Parcel Number 1010-611-12.
- SBCTA extended a written offer to Linda L. Robinson, Trustee of the Linda L. Robinson Living Trust dated February 11, 1992 to purchase an approximate 822 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 1322 W. Holt Boulevard, Ontario, and identified as San Bernardino County Tax Assessor's Parcel Number 1010-543-09.
- SBCTA extended a written offer to 14255 Ellsworth Street, LLC, a California limited liability company, to purchase an approximate 28 square foot permanent easement and impacted site improvements, as well as an approximate 370 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 1575 E. Holt Avenue, Pomona, and identified as Los Angeles County Tax Assessor's Parcel Number 8323-025-025.
- SBCTA extended a written offer to Fountain of Love Christian Center, Inc., a California non-profit corporation, to purchase an approximate 143 square foot permanent easement and impacted site improvements, as well as an approximate 616 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at E. Holt Avenue, Pomona, and identified as Los Angeles County Tax Assessor's Parcel Number 8326-024-041.

- SBCTA extended a written offer to Elias Properties, LLC, a California limited liability company, to purchase an approximate 274 square foot permanent easement and impacted site improvements, as well as an approximate 509 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 545 E. Holt Boulevard, Ontario, and identified as San Bernardino County Tax Assessor's Parcel Number 1048-523-16.
- SBCTA extended a written offer to Ron J. Goodin, Trustee of The R.J. Goodin Family Trust Under Trust Instrument dated September 30, 1988, to purchase an approximate 1,036 square foot permanent easement and impacted site improvements from APN 0110-111-06, an approximate 600 square foot permanent easement and impacted site improvements from APN 0110-111-07, and an approximate 277 square foot permanent easement and impacted site improvements from APN 0110-111-08, as well as an approximate 2,482 square foot temporary construction easement with a term of twenty-four months from APN 0110-111-06, an approximate 1,274 square foot temporary construction easement with a term of twenty-four months from APN 0110-111-07, and an approximate 968 square foot temporary construction easement with a twenty-four month term from APN 0110-111-08, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 1628-1670 E. Holt Boulevard, Ontario, and identified as San Bernardino County Tax Assessor's Parcel Numbers 0110-111-06, 07 & 08.
- SBCTA extended a written offer to Thomas G. Matlock & Judith L. Matlock, Co-Trustees of The Matlock Living Trust - 1997, dated April 2, 1997, to purchase an approximate 1 square foot permanent easement and impacted site improvements, as well as an approximate 1,980 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property located at 1614 E. Holt Boulevard, Ontario, and identified as San Bernardino County Tax Assessor's Parcel Number 0110-111-01.
- SBCTA extended a written offer to Amazing Grace Clothing, LLC, a Texas limited liability company, to purchase an approximate 1,321 square foot permanent easement and impacted site improvements, as well as an approximate 722 square foot temporary construction easement with a term of twenty-four months, over portions of the real property for public road widening and related purposes, and all uses necessary or convenient thereto in connection with the construction and future maintenance of the WVC Project, from the real property

located at 1373 E. Holt Boulevard, Ontario, and identified as San Bernardino County Tax Assessor's Parcel Number 0110-061-01.

Incorporation of Above-Referenced Documents:

The following documents on file with the SBCTA's Clerk's Office, which are referenced in this report, are incorporated herein by this reference:

- Resolutions of Necessity
- SBCTA Resolution No. 20-046
- Offer letter to the record owners of the Subject Property Interests
- Notice pursuant to Code of Civil Procedure Section 1245.235 to the record owners of the Subject Property Interests
- Notice pursuant to Code of Civil Procedure Section 1245.235 to the Cities of Montclair, Ontario, Pomona, and Rancho Cucamonga as required by Public Utilities Code Section 130220.5(c)
- Project plans
- Environmental Documents relating to the WVC Project

Financial Impact:

This item is consistent with the Fiscal Year 2021/2022 Budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the Transit Committee on April 14, 2022. SBCTA General Counsel has reviewed this item and the draft resolutions.

Responsible Staff:

Ramie Dawit, Transit and Rail Consultant - WSP

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

Attachment A

PowerPoint Presentation
and
Letters Submitted for the Public Hearing

4/25/2022

WEST VALLEY CONNECTOR PROJECT

RESOLUTIONS OF NECESSITY FOR PROJECT RIGHT-OF-WAY

Presenter: Ramie Dawit
SBCTA Right-of-Way Manager

Board of Directors
May 4, 2022



cta

San Bernardino County
Transportation Authority

SBCTA IS REQUESTED TO MAKE THE FOLLOWING FINDINGS:

1. The public interest and necessity require the proposed project
2. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury
3. The real property to be acquired is necessary for the project
4. The offer of just compensation has been made to the property owner

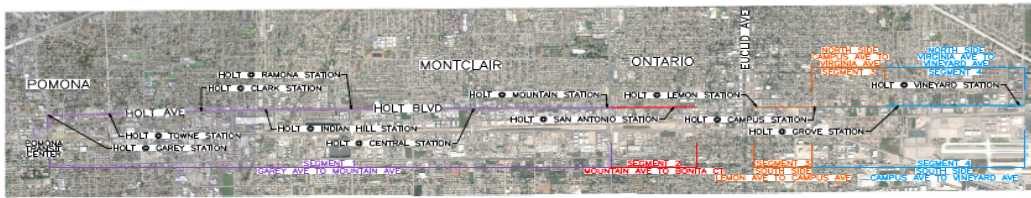


SBCTA Request

Attachment: RONs Board PPT PDF (8554 : Hearing to Consider RON for Property Interests for the WVC Project)

4/25/2022

- Connect the Pomona, Montclair, Ontario, and Rancho Cucamonga communities with improved bus service with 10-minute headways during peak hour and 15-minute headways off peak hour and with stops at the Pomona Transit Center, Ontario International Airport, Ontario Mills, Rancho Cucamonga Metrolink Station, and Victoria Gardens
- Construct 21 bus stations serving the 19-mile-long route between the Pomona Transit Center in Pomona and Victoria Gardens in Rancho Cucamonga
- Widen approximately 3.5 miles of Holt Boulevard in Ontario to accommodate dedicated bus lanes and five center-running bus stations
- Introduce transit signal priority at intersections to improve bus service
- Provide enhanced amenities for passengers at stations including bike racks and improved wayfinding signage
- Install pantograph charging to allow for use of sustainable electric bus fleet
- Construct continuous sidewalk along both sides of Holt Boulevard through the City of Ontario to improve pedestrian accessibility



**WEST VALLEY CONNECTOR
PROJECT**
INFORMATION ONLY DO NOT RECORD



West Valley Connector Project

OWNER: RFA MONTCLAIR, LP

PROJECT AREA



LEGEND

- | | |
|---|--|
| — SELECTED PARCEL(S) | — PERMANENT EASEMENT AREA |
| — EXISTING RIGHT OF WAY | — TEMPORARY CONSTRUCTION EASEMENT AREA |
| — TEMPORARY CONSTRUCTION EASEMENT (TCE) | |
| — PROPOSED RIGHT OF WAY | |

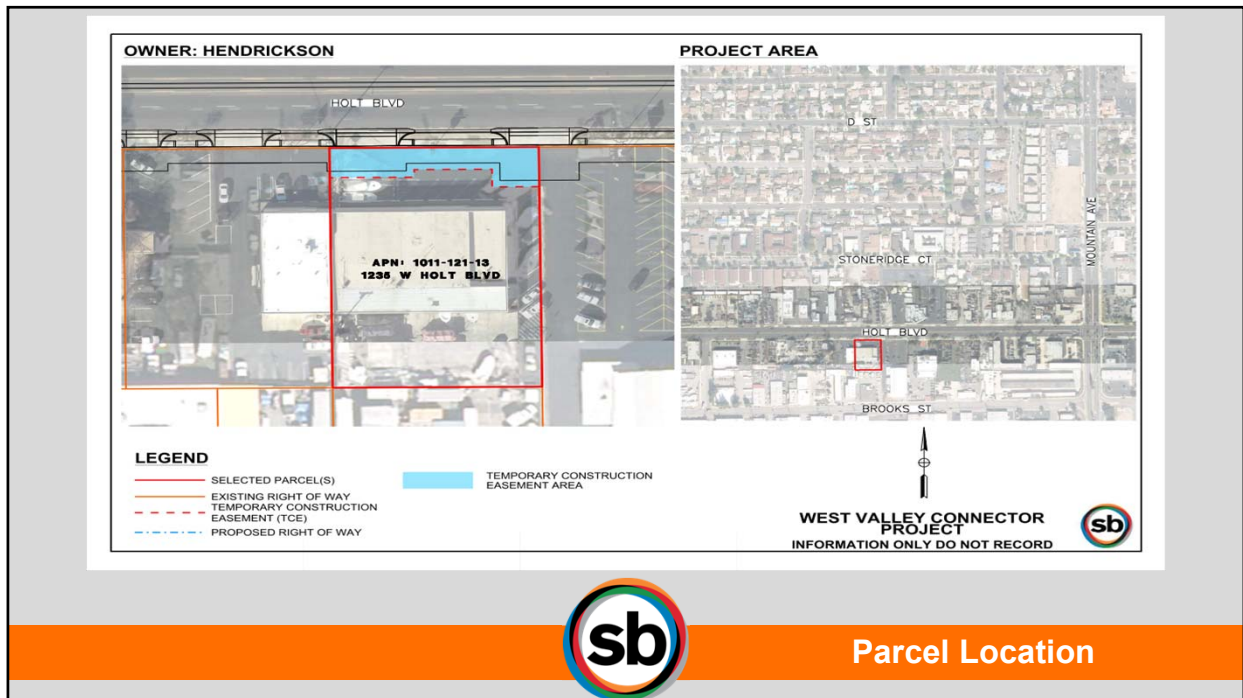
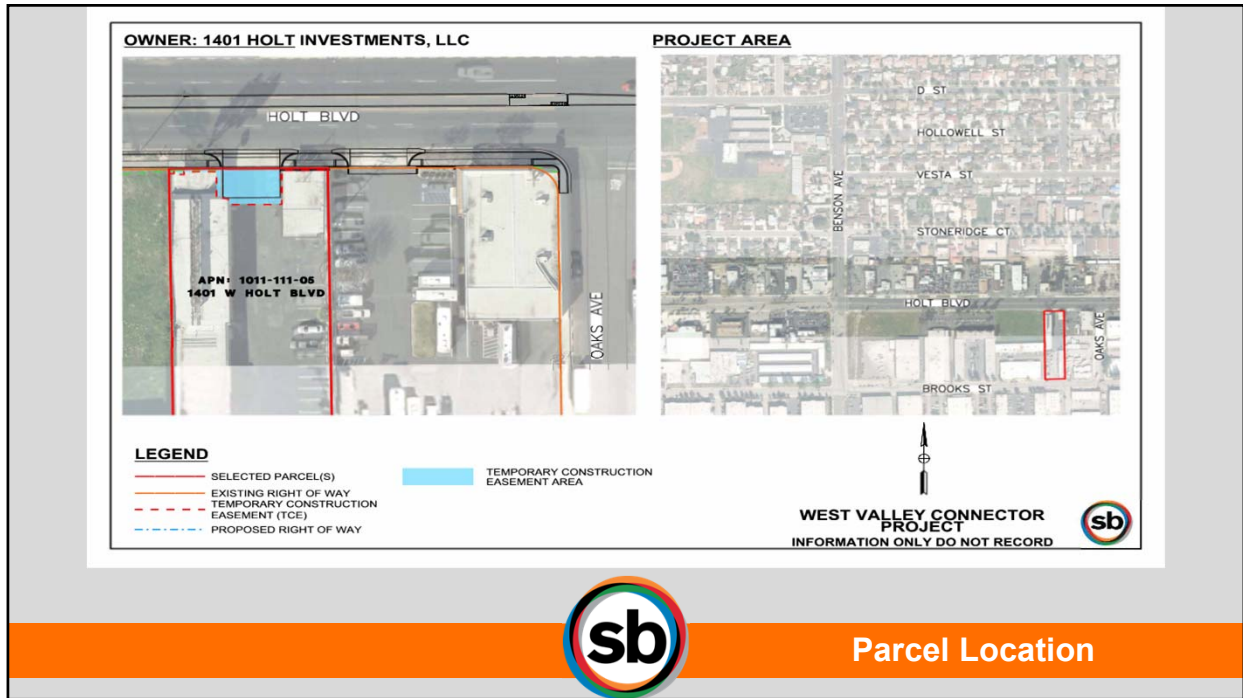
**WEST VALLEY CONNECTOR
PROJECT**
INFORMATION ONLY DO NOT RECORD



Parcel Location

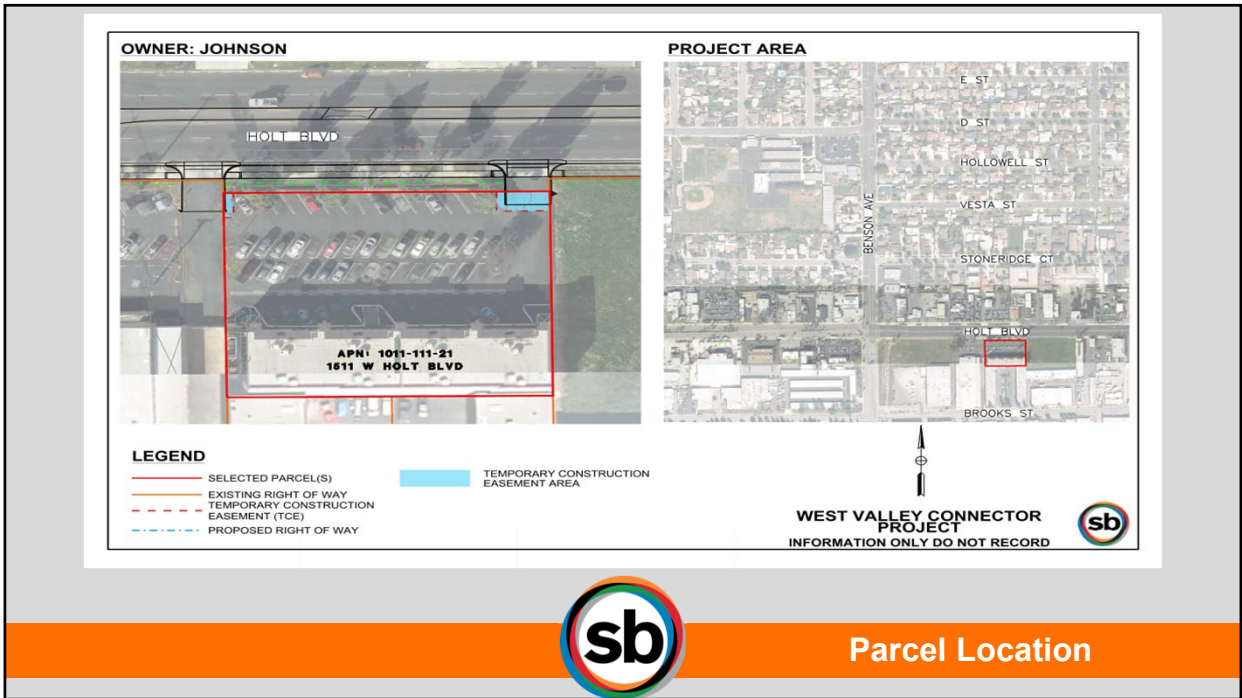
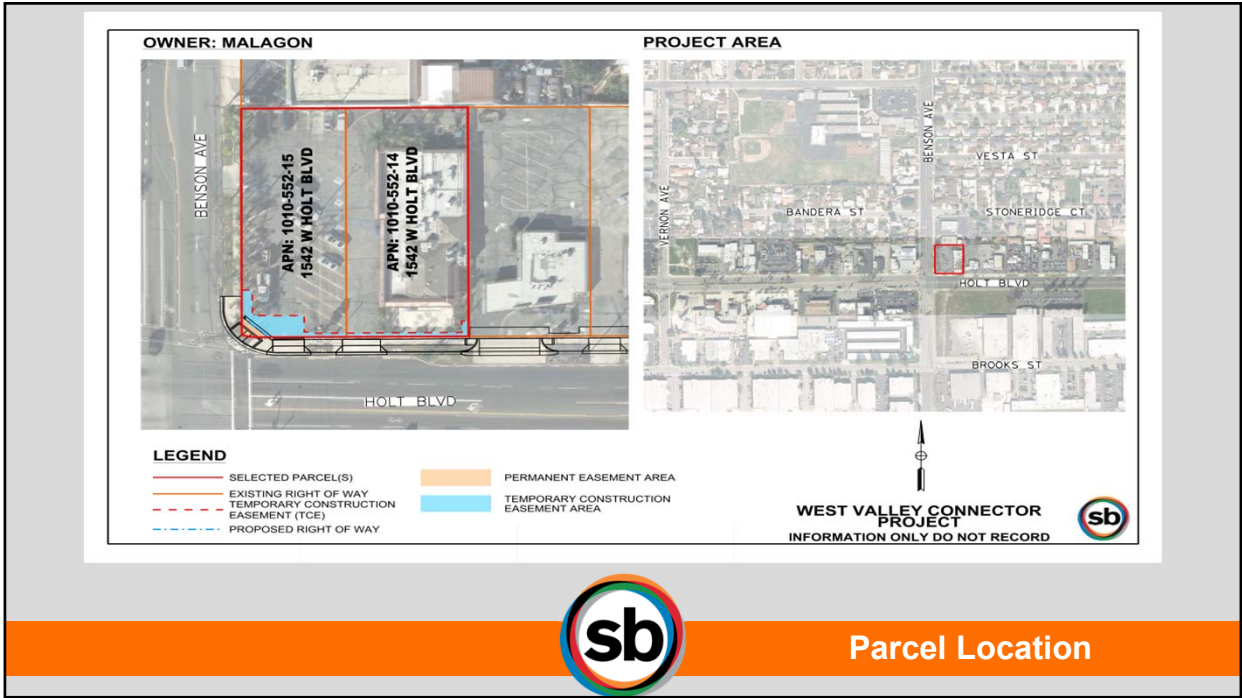
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4/25/2022

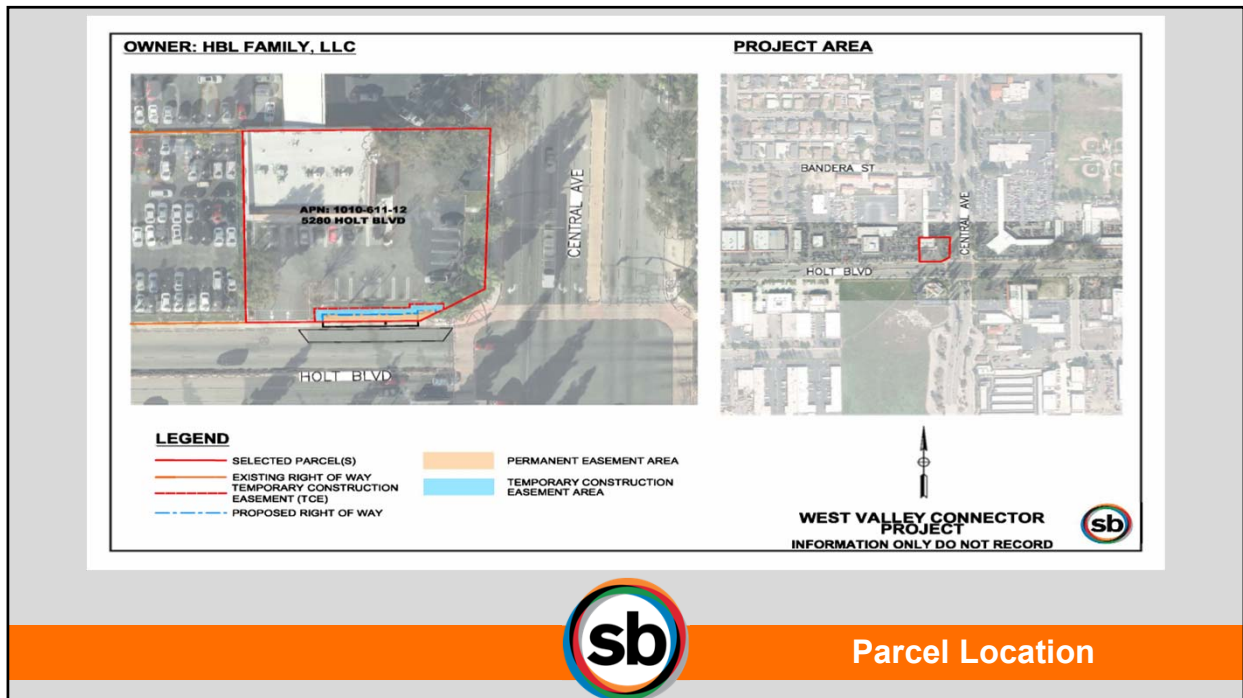
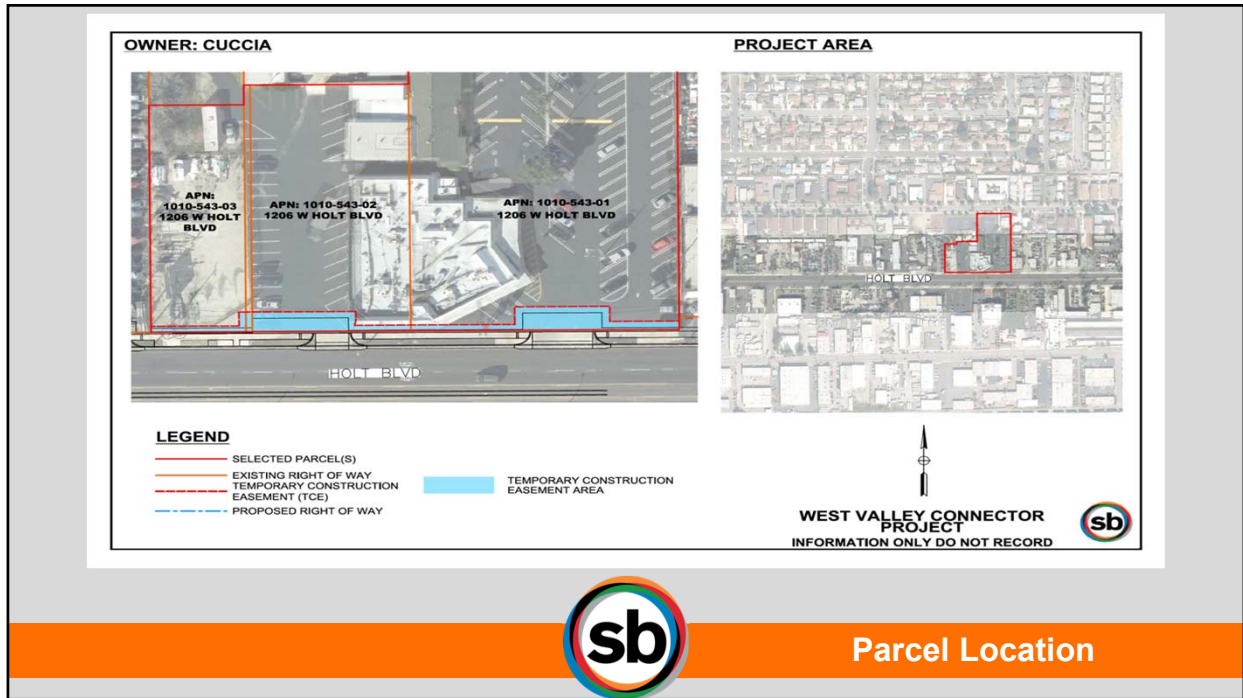


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4/25/2022

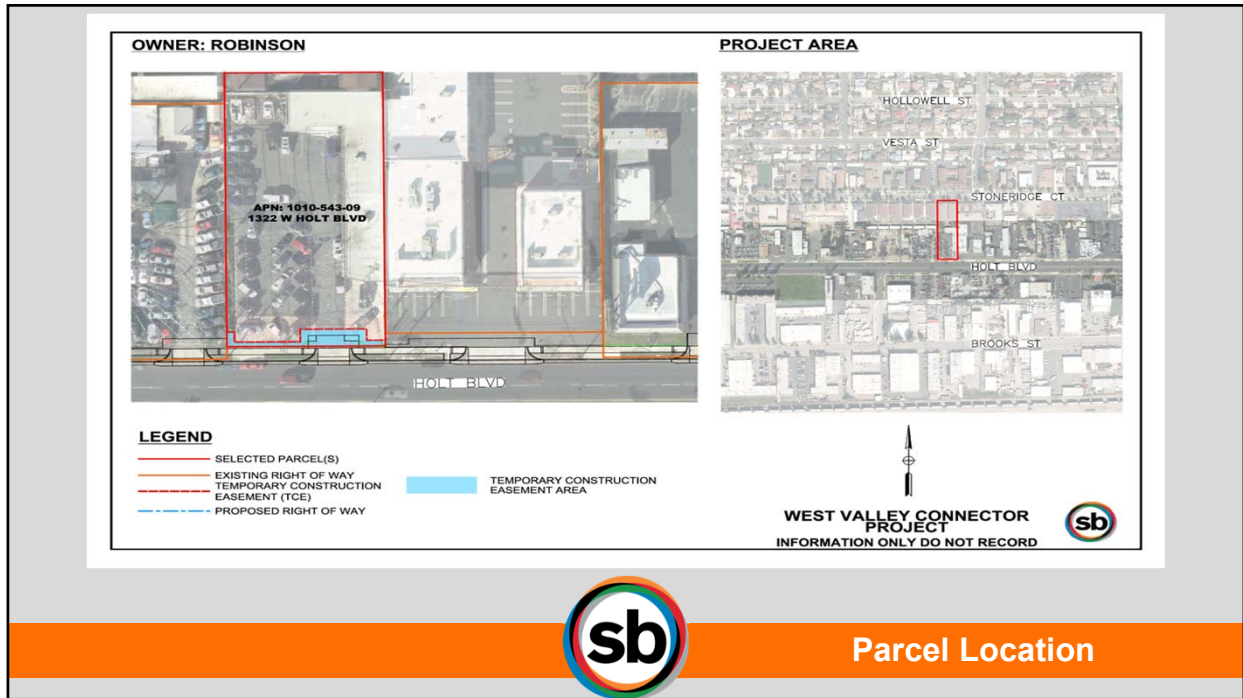


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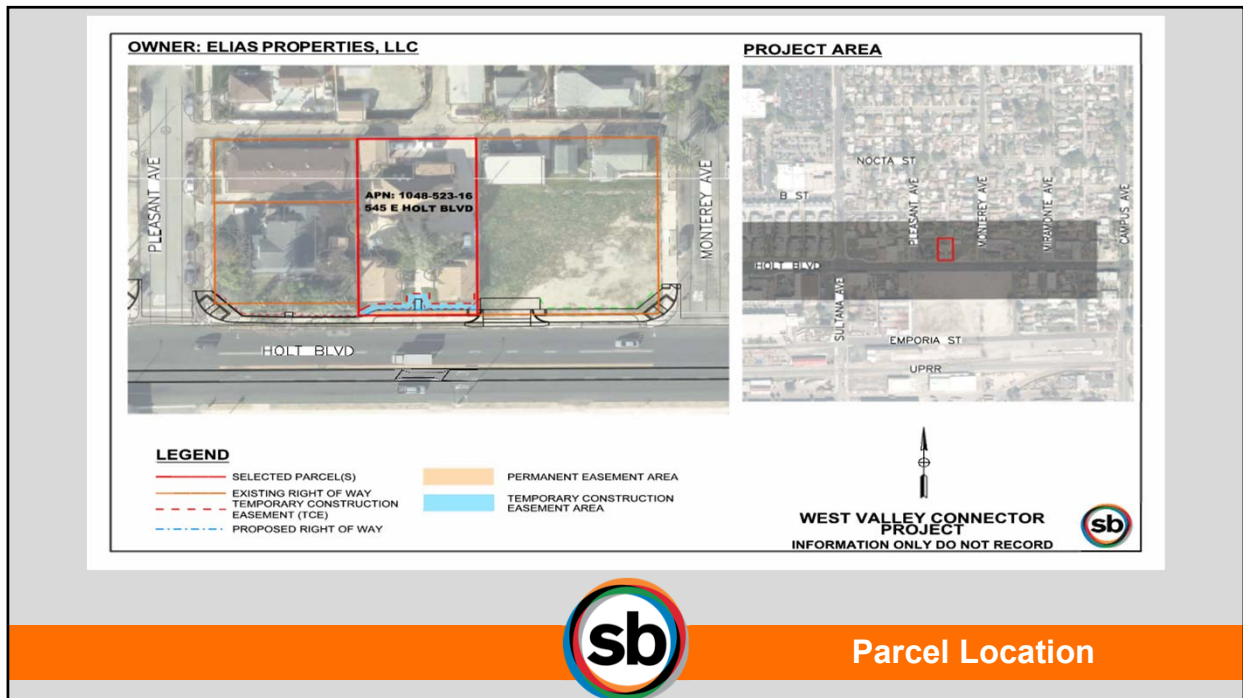
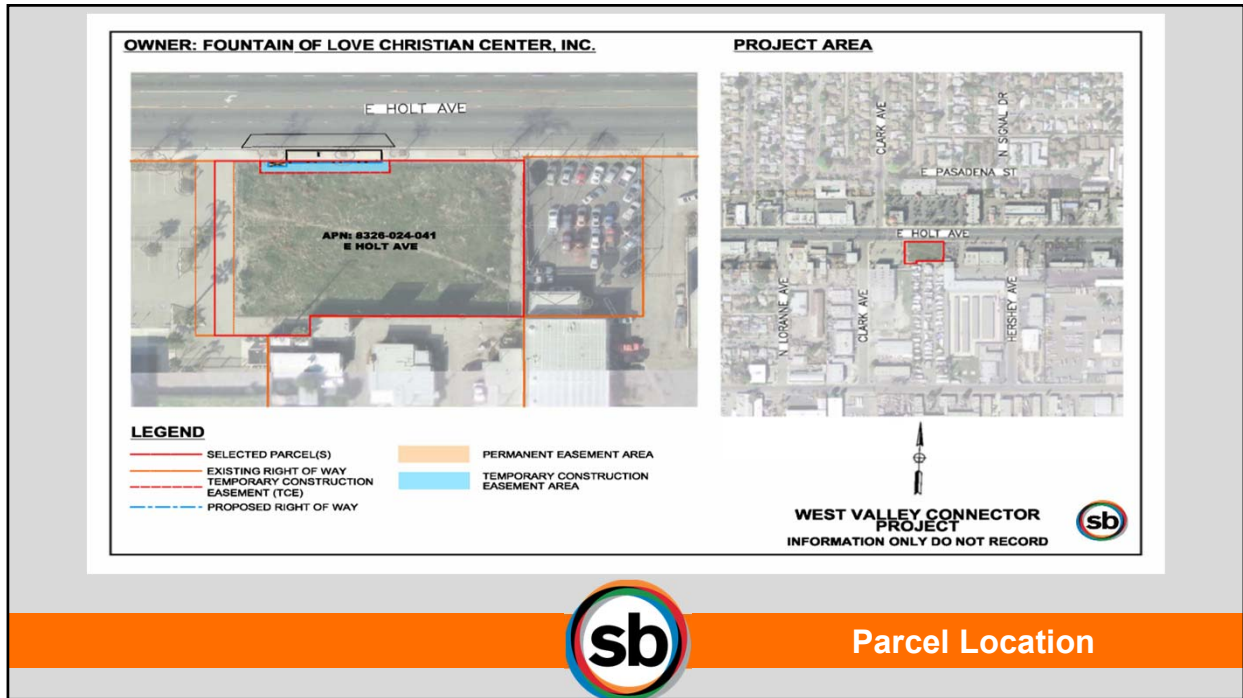


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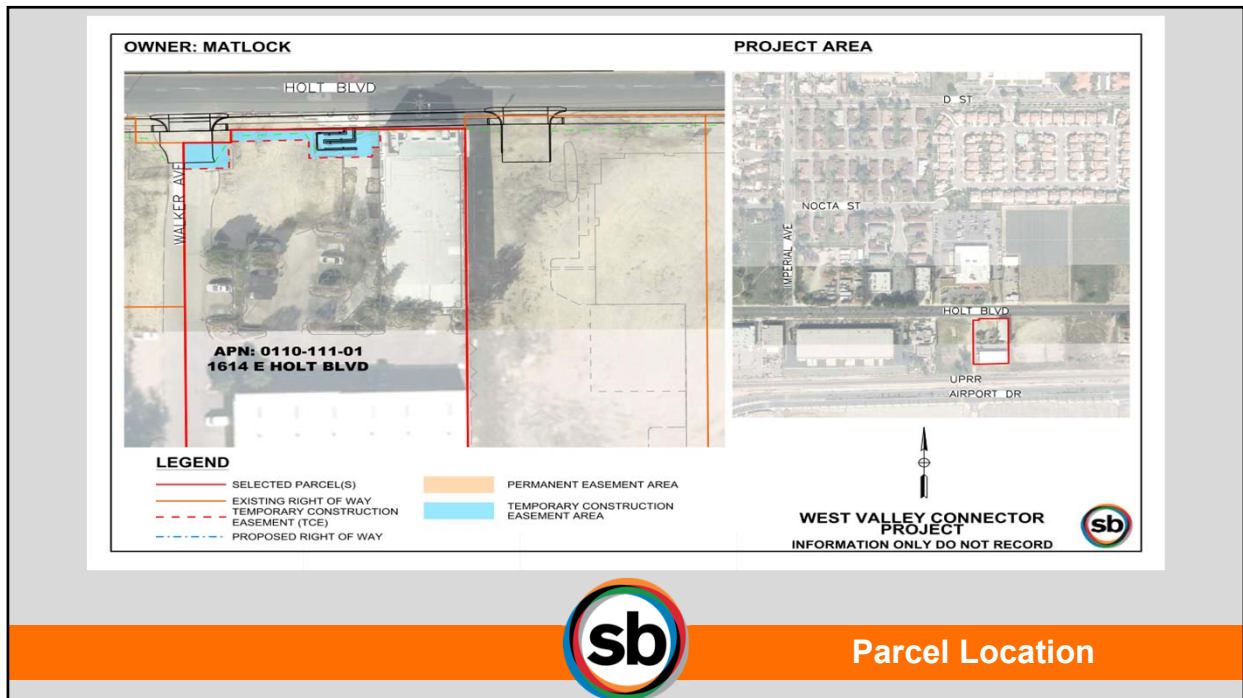
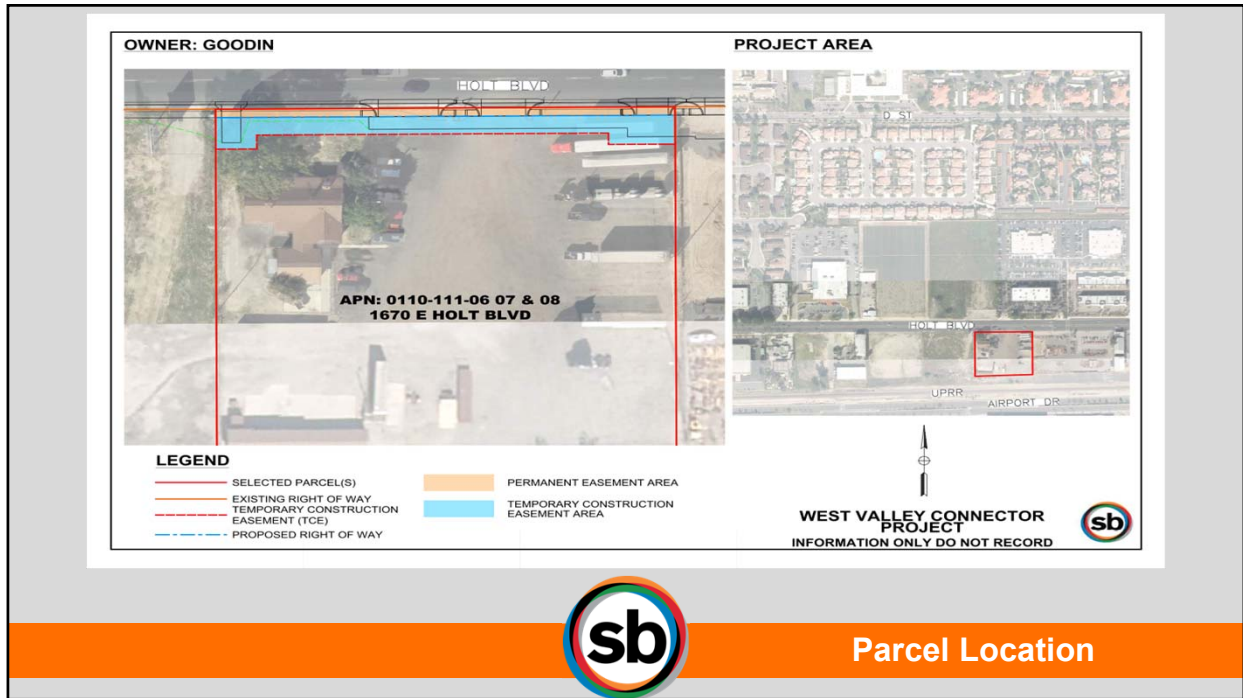
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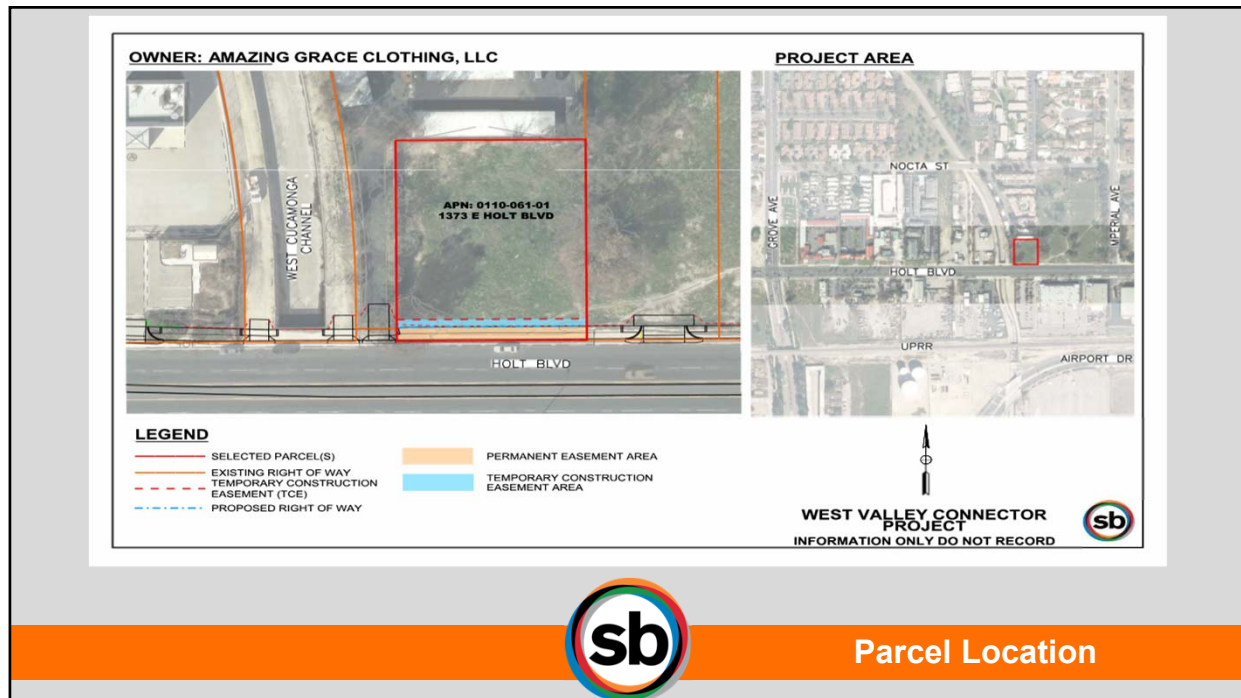
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4/25/2022



4/25/2022



No.	Ownership	Date of First Contact	Mailing	In Person Meetings	Phone Contacts	E-Mails	Attorney Contacts	Unsuccessful Contacts*	Total
B.	RFA Montclair, LP	10/20/21	3	0	3	5	0	3	14
C.	1401 Holt Investments, LLC	12/1/21	3	0	4	5	0	1	13
D.	Henderickson	1/4/21	2	1	7	1	2	2	15
E.	Malagon	N/A	3	0	0	0	0	12 In person (2) Phone (10)	15
F.	Johnson	N/A	3	0	0	0	0	10 In person (2) Phone (7) Email (1)	13
G.	Cuccia	9/22/21	3	2	5	0	0	8	18
H.	HBL Family, LLC	1/19/22	3	0	3	2	0	7	15
I.	Robinson	12/13/21	3	0	4	0	0	5	12
J.	14255 Ellsworth Street, LLC	12/1/21	3	0	4	0	0	5	12
K.	Fountain of Love Christian Center, Inc.	12/15/21	3	0	7	2	0	3	15
L.	Elias Properties, LLC	12/20/21	2	0	2	15	0	17	36
M.	Goodin Family Trust	2/10/22	8	0	2	2	2	21	35
N.	Matlock	11/8/21	3	0	8	11	0	3	25
O.	Amazing Grace Clothing, LLC	3/1/22	2	0	3	6	0	4	15

*Property visit, phone call and/or email with no response

sb

Communication Summary

4/25/2022

Item	Ownership	Offer Date
B.	RFA Montclair, LP	11/3/21
C.	1401 Holt Investments, LLC	10/27/21
D.	Henderickson	10/26/21
E.	Malagon	10/29/21
F.	Johnson	10/27/21
G.	Cuccia	11/15/21
H.	HBL Family, LLC	11/18/21
I.	Robinson	12/7/21
J.	14255 Ellsworth Street, LLC	12/2/21
K.	Fountain of Love Christian Center, Inc.	10/22/21
L.	Elias Properties, LLC	10/5/21
M.	Goodin Family Trust	11/4/21
N.	Matlock	10/28/21
O.	Amazing Grace Clothing, LLC	1/18/22



Offer of Just Compensation

**SBCTA ADOPT A RESOLUTION OF NECESSITY
BASED ON THE FOLLOWING FINDINGS:**

1. The public interest and necessity require the proposed project
2. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury
3. The real property to be acquired is necessary for the project
4. The offer of just compensation has been made to the property owner



Staff Recommendation

Attachment: RONs Board PPT PDF (8554 : Hearing to Consider RON for Property Interests for the WVC Project)

4/25/2022

THANK YOU



SANDLER AND ROSEN, LLP

14724 VENTURA BLVD., SUITE 1005
 SHERMAN OAKS, CALIFORNIA 91403
 TEL (310) 277-4411
 FAX (310) 277-5954

CRAIG C. BIRKER
 (310) 277-4411 EXT.305
 E-MAIL cbirker@sandlerandrosen.com

April 26, 2022

VIA FEDERAL EXPRESS AND EMAIL

San Bernardino County Transportation Authority
 1170 W. 3rd Street, 2nd Floor
 San Bernardino, California 92410-1715
 Attention: Marleana Roman, Clerk of the Board
 clerkoftheboard@gosbcta.com

Re: 1401 Holt Investments, LLC-SBCTA West Valley
Connector-Notice of Scheduling of Hearing re: Resolution of
Necessity

Dear Ms. Roman:

This law firm represents 1401 Holt Investments, LLC ("Owner"), the owner of the property located at 1401 W. Holt Boulevard in Ontario. Our client received a letter dated April 15, 2022 and Notice Pursuant to Code of Civil Procedure Section 1245.235 from SBCTA regarding a hearing to be held on May 4, 2022 concerning the acquisition of a temporary easement over Owner's property.

This letter contains Owner's written objections and comments regarding the proposed temporary construction easement. Please file this letter with the SBCTA Board of Directors, so that Owner's objections and comments can be considered at the May 4th hearing. Owner does not intend to appear at the hearing.

As background, on December 7, 2021, the undersigned had a conference call with Roy Guinaldo, Senior Project Manager of SBCTA and Farrin Harris of OPC Services regarding the San Bernardino bus lane project that affects Owner's property.

Although the Grant of Temporary Construction Easement states that it is for a 24-month term, Mr. Guinaldo and Mr. Harris told me that Owner's property will not be used as a staging area and no construction will be done on Owner's property except for "tying in" the driveway, curb and sidewalk to the new bus lane. They further advised me that the demolition of the driveway and sidewalk will be done over a

San Bernardino County Transportation Authority
April 26, 2022
Page 2

short timeframe (2-3 days) and the reconstruction will be done overnight during non-business hours. When the demolition and construction are being done, they will only close off half of the driveway width. At all other times, Owner's tenants will have use of the full driveway. I advised them that there should be a limit on the amount of time that the fence and gate are down. The fence and gate should be taken down immediately before starting construction, so that it can be re-built soon after construction is completed. None of these assurances and limitations were set forth in the Grant of Temporary Construction Easement.

Mr. Guinaldo and Mr. Harris told me that the Transportation Authority had agreed to similar restrictions on easements with other property owners. They agreed to send me revised language for the Grant of Temporary Construction Easement covering all of the matters we discussed, as well as the provisions that were agreed to with other property owners. However, to date the matters agreed to in our conference call have not been adequately addressed.

Owner's comments and objections are set forth below.

SBCTA requires the fence and security gate at the entrance to Owner's property to be removed during construction, which could cause security problems for Owner's tenants. Attached is a photo of the entrance to Owner's property on Holt Boulevard. In our conference call, I was assured that no work would actually be performed on Owner's property, which is where the fence and gate are located. I have asked SBCTA for an explanation as to why it is necessary for the fence and gate to be removed, but none has been provided.

Instead, SBCTA has sent Owner a 20+ page Agreement for Purchase and Sale and Joint Escrow Instructions for the acquisition of the temporary construction easement. By email on February 2, 2022, I advised Addiel Flores of OPC Services of Owner's objections to certain provisions of the Agreement, including the following:

1. The lengthy purchase agreement should not be necessary for a temporary construction easement. If the taking included Owner's fee interest, such an agreement might be appropriate.

San Bernardino County Transportation Authority
April 26, 2022
Page 3

2. The Owner is not willing to make any representations or warranties to SBCTA, or to indemnify SBCTA or waive and release any claims it may have against SBCTA. None of these would be required if the easement were acquired in an eminent domain proceeding.

3. The Owner will not obtain any consents from its tenants.

4. Since this is not a fee simple taking, it should not be necessary for SBCTA to conduct testing on Owner's property.

5. Owner is not willing to obtain a partial release from its lender. This should not be necessary for a temporary easement.

6. SBCTA should not have the right to enter the property to complete utility connections (paragraph 8.3.2 of the agreement).

7. In paragraph 8.4 the Owner is indemnifying SBCTA against broker's commissions caused by actions by SBCTA, which is obviously unacceptable.

8. In paragraph 8.6, SBCTA has the right to extend the escrow period for an indefinite time, which would also increase the term of the temporary construction easement. The easement should have specific commencement and termination dates. Likewise, the Grant of Temporary Construction Easement has an indefinite commencement date, which effectively ties up Owner's property for an indefinite period of time.

9. Owner has not agreed to the amount of consideration proposed by SBCTA. Owner reserves its right to claim additional compensation when it has a better understanding of the scope of the easement SBCTA is requesting and potential interference with the use of the property by Owner and its tenants.

10. SBCTA should reimburse Owner for its attorneys' fees incurred in this matter, in addition to the compensation for the taking of the easement.

By email of April 5, 2022, Addiel Flores advised me that a SBCTA attorney was supposed to contact me to work to get this matter resolved, but I have not heard from any SBCTA attorneys to date.

San Bernardino County Transportation Authority
April 26, 2022
Page 4

If you or the SBCTA Board of Directors have any questions,
please do not hesitate to contact me.

Very truly yours,



CRAIG C. BIRKER
of SANDLER AND ROSEN, LLP

CCB/

cc: Ramie Dawit, Right of Way Manager, Via email
rdawit@gosbcta.com

cc: Addiel Flores Via email

Attachment: Objection Letters (8554 : Hearing to Consider RON for Property Interests for the WVC Project)

Untitled Map

Write a description for your map.

21.c

Legend

1401 W Holt Blvd



Attachment: Objection Letters (8554 : Hearing to Consider RON for Property Interests for the WVC

Google Earth

© 2022 Google

5.26 ft

Packet Pg. 417

Minute Action

AGENDA ITEM: 22

Date: May 4, 2022

Subject:

Update on the Freeway Service Patrol Program and 2021 Freeway Service Patrol Driver Recognition Awards

Recommendation:

Receive information pertaining to the Freeway Service Patrol (FSP) Program in San Bernardino County and acknowledge the 2021 FSP Driver Awards.

Background:

The San Bernardino County Transportation Authority (SBCTA) began its Freeway Service Patrol (FSP) Program in Fiscal Year (FY) 2005/2006. FSP consists of a fleet of tow trucks that travel on selected San Bernardino County freeways during peak periods of congestion to assist motorists with their disabled vehicles. The designated segment of highway that the tow trucks patrol up and down is referred to as a “Beat.” Over the years, the FSP program has demonstrated many benefits to the motoring public by reducing the amount of time a motorist is in an unsafe condition, reducing traffic congestion, as well as decreasing fuel consumption, vehicle emissions, and secondary incidents. SBCTA began FSP operations in January 2006, and now has nine (9) separate Beats in operation covering more than 95 centerline miles. The services are provided Monday through Friday in two separate shifts to accommodate peak traffic hours: One from 5:30 a.m. to 9:00 a.m. and the other from 2:00 p.m. to 7:00 p.m. On Fridays, the afternoon shift starts at 12:00 p.m. FSP also operates in select areas on Saturdays and Sundays from 10:00 a.m. to 6:00 p.m. The weekday service areas are as follows:

- Beat 5: State Route 60 (SR-60) Reservoir Street (Los Angeles County Line) to Milliken Avenue
- Beat 9: Interstate 10 (I-10) Indian Hill (Los Angeles County Line) to Haven Avenue
- Beat 10: Interstate 10 (I-10) Haven Avenue to Sierra Avenue
- Beat 11: Interstate 10 (I-10) Sierra Avenue to Waterman Avenue
- Beat 14: Interstate 215 (I-215) Center Street (Riverside County Line) to Devore Road
- Beat 23: Interstate 15 (I-15) Jurupa Street (Riverside County Line) to Sierra Avenue
- Beat 27: Interstate 15 (I-15) Sierra Avenue to Oak Hill Road
- Beat 29: Interstate 10 (I-10) Waterman Avenue to Yucaipa Boulevard
- Beat 31: State Route 210 (SR-210) from Los Angeles County line to Citrus Avenue

Since the program’s inception, the FSP Program has assisted more than 728,000 motorists on San Bernardino County highways. The assists include services such as a flat tire change, a battery jump start, providing a gallon of gas, and performing driver safety checks, which is when a FSP Driver will check on a vehicle that is parked alongside the freeway to see if the motorist, if available, is in need of assistance and provides information on the FSP program. FSP Tow Drivers can also help a motorist when they have accidentally locked their keys in the car while stopped along the freeway.

Entity: San Bernardino County Transportation Authority

Board of Directors Agenda Item

May 4, 2022

Page 2

In the 2021 calendar year, San Bernardino County FSP Tow Drivers assisted more than 85,000 stranded motorists. Please see the chart below for assists by type:

Assist Type	2021 count
ABANDONED	5,804
ACCIDENT	9,020
IN LANE DEBRIS REMOVAL	3,019
ELECTRICAL PROBLEM	1,291
FLAT TIRE	9,063
DRIVER SAFETY CHECK	40,874
LOCKED OUT	18
MECHANICAL PROBLEM	9,910
OUT OF GAS	3,579
OVERHEATED	2,879
VEHICLE FIRE	56
Total	85,513

In addition, SBCTA has provided construction FSP services in construction zones outside of FSP Beat areas or outside of the normal service hours. In 2021, construction FSP assisted with the SR-60 SWARM Project and the I-10 Express Lanes Phase I Project. These efforts were coordinated by SBCTA, California Department of Transportation (Caltrans), and California Highway Patrol (CHP).

The FSP Program has received almost 1,200 survey comments from motorists that have been assisted by our FSP Drivers. Overall, 99.5% rated their experience as excellent or good.

For the past ten (10) years, SBCTA has recognized outstanding drivers for their excellence in providing assistance to the motoring public. This year the FSP Program recognized; one (1) Top Driver, two (2) Drivers of Excellence, one (1) People's Choice Award and one (1) Rookie of the Year.

Top Driver and Driver of Excellence awards are based on the following criteria:

1. The driver must perform a minimum of 1,200 assists in the prior calendar year.
2. The driver must not have any "write-ups" during the period (occurs when a driver does not follow FSP procedures).
3. The driver must not have more than one "late arrival" when starting their "Beat".
4. The driver's accuracy rating when entering assist data into the data device must be high.
5. The driver received numerous compliments from the motorists they assisted.

People's Choice Award criteria:

1. The driver must perform a minimum of 1,200 assists in the prior calendar year.
2. The driver must not have any "write-ups" during the period (occurs when a driver does not follow FSP procedures).
3. The driver must not have no more than one "late arrival" when starting their "Beat".
4. The driver received the highest number of positive customer surveys within the calendar year.

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Page 3

Rookie of the Year criteria:

1. The driver has less than one year of service, but can be in their 4th quarter of the prior calendar year.
2. The driver must not have any “write-ups” during the period (occurs when a driver does not follow FSP procedures).
3. Ranks the highest among all Rookie statistics.
4. Performed excellent service in his/her first year as an FSP driver.

The following drivers were recognized at the March 17th and March 22nd FSP quarterly drivers meeting by SBCTA FSP program management, CHP, and their peers for their outstanding efforts, high-level of professionalism, and the excellent customer service they provided to stranded motorists along San Bernardino County freeways:

• **Top Driver – Cesar Rendon of Carpe Carma LLC, DBA Pomona Valley Towing in Pomona.** Cesar has been with the San Bernardino FSP Program for twelve (12) years and assisted 4,319 motorists during the 2021 calendar year.

• **Driver of Excellence – German Fajardo of Royal Coaches Auto Body & Towing in Azusa.** German has been with the San Bernardino FSP Program for five (5) years and assisted 4,252 motorists during the 2021 calendar year.

• **Driver of Excellence – Carlos Castillo of Royal Coaches Auto Body & Towing in Azusa.** Carlos has been with the San Bernardino FSP Program for eleven (11) years and assisted 1,619 motorists during the 2021 calendar year.

• **People’s Choice Award – Robert Stutz of Pepe’s Inc. DBA Pepe’s Towing Service in Colton.** Robert has been with the San Bernardino FSP Program for three (3) years and assisted 4,532 motorists during the 2021 calendar year.

• **Rookie of the Year – Timothy Chilikoff of Royal Coaches Auto Body & Towing in Azusa.** Timothy has been with the San Bernardino FSP Program for one (1) year and assisted 4,031 motorists during the 2021 calendar year.

These drivers are scheduled to be introduced at the May 2022 Board of Directors meeting to be recognized for their outstanding efforts, high-level of professionalism, and the excellent customer service they provided to stranded motorists along San Bernardino County freeways.

Financial Impact:

This item has no financial impact on the Fiscal Year 2021/2022 Budget. The San Bernardino County FSP Program receives an annual allocation from the State of California to implement FSP services, which is matched 20% by local revenues.

Reviewed By:

This item was received by the General Policy Committee on April 13, 2022.

Responsible Staff:

Kelly Lynn, Chief of Air Quality & Mobility Programs

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

Minute Action

AGENDA ITEM: 23

Date: May 4, 2022

Subject:

Fiscal Year 2021/2022 SCRRA Arrow Service Operations Subsidy

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

Approve a Fiscal Year 2021/2022 operating allocation of \$5,643,000 to the Southern California Regional Rail Authority for the Arrow service pre-revenue operations, to be paid with Measure I Valley Fund-Metrolink/Rail Service.

Background:

Pre-revenue and commission activities have commenced for the Arrow service and the Southern California Regional Rail Authority (SCRRA) is incurring operations costs. On March 3, 2021, the San Bernardino County Transportation Authority (SBCTA) Board of Directors allocated \$3,025,000 to SCRRA to fund costs associated with commissioning and pre-revenue operations. The costs identified included crews, maintenance, and supervision of the multiple unit positive train control testing program, operation of the Arrow Maintenance Facility, information technology software, radio, and support staff. The support was estimated at \$3,025,000 and was anticipated to cover all operating costs up to July 1, 2021. The Fiscal Year (FY) 2020/2021 operations allocation lasted longer than expected, however the need for a supplemental operations subsidy has been identified in advance of FY 2022/2023. The additional allocation recommended for approval is \$5,643,000 and is needed to support pre-revenue service activities as we transition the project from a construction project to an operational railroad. The amount is funded with Measure I Valley Metrolink/Rail Service funds previously programmed for Arrow operations, and there is sufficient funding included in the SBCTA FY 2021/2022 Budget.

Table 1

Construction of Estimate for Oversight and Testing FY21 & FY22		
<u>FY21 Expenses</u>		
FY21 Actual Operating Expenditures =		\$570,532
<u>FY22 Expenses</u>		
FY22 Actual Expenditures through 3/31/22 =	\$693,829	
Estimated Expenditures 4/1/22 - 6/30/22 =	\$3,192,926	
(1/4 of total annual of 12,771,704)		
Marketing	\$245,000	
Positive Train Control (PTC) Simulator	\$250,000	
Arrow Maintenance Facility Equipment	\$806,575	
Maintenance of Way Equipment	\$471,000	
DMU Train Testing Support	\$556,500	
Mobilization - Herzog Train Service	\$927,031	
Mobilization - Alstom	<u>\$954,411</u>	
Total FY22 Estimated Operating Expenditures		<u>\$8,097,272</u>

Entity: San Bernardino County Transportation Authority

Board of Directors Agenda Item

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Total Estimate for FY21 & FY22 Operating Expenses	<u>\$8,667,804</u>
Amount Adopted by SBCTA Board (FY21)=	\$3,025,000
Estimated Additional Funding Requirement (Rounded)	\$5,643,000

This subsidy, and the activities it funds, are separate from what is covered in our project specific Redlands Passenger Rail Project cooperative agreement with SCRRA, Cooperative Agreement No. 17-1001587.

Financial Impact:

This item has no financial impact on the Fiscal Year 2021/2022 Budget.

Reviewed By:

This item has not received prior policy committee or technical advisory committee review.

Responsible Staff:

Victor Lopez, Dep. Director of Transit & Rail - Capital Delivery

Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

Minute Action

AGENDA ITEM: 24

Date: May 4, 2022

Subject:

Amendment No. 2 to Contract No. 20-1002324 with Royal Coaches Auto Body & Towing for Construction Freeway Service Patrol

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

Approve Amendment No. 2 to Contract No. 20-1002324 with Royal Coaches Auto Body & Towing to increase the contract amount by \$488,284, which is fully funded by the California Department of Transportation (Caltrans) Cooperative Agreement No. 20-1002356 (08A3133), for a revised not-to-exceed amount of \$2,788,357, to provide weekday Construction Freeway Service Patrol (CFSP) support services for the Caltrans Victorville Oak Hill Road to Bear Valley Road Project No. 0815000244.

Background:

The San Bernardino County Transportation Authority (SBCTA) is responsible for implementing Freeway Service Patrol (FSP) within San Bernardino County. SBCTA's FSP Program began full-time operations in January 2006. FSP is a roving team of tow trucks that travel on selected San Bernardino County freeways during peak commute hours to assist motorists with car trouble. The goal of the FSP Program is to keep freeway traffic moving, reduce the chance of secondary accidents, and make the freeways safer and less congested. At times, construction projects require removal of shoulder areas, which can create unsafe road conditions for motorists, often times Construction Freeway Service Patrol (CFSP) is asked to be of service and is funded through the project to provide on and off-peak coverage where normal state-funded FSP would not operate.

The FSP Program currently operates on the following nine (9) Beats covering approximately ninety-five (95) centerline miles:

- Beat 5: State Route 60 (SR-60) Reservoir Street (Los Angeles County line) to Milliken Avenue
- Beat 9: Interstate 10 (I-10) from Indian Hill Boulevard (Los Angeles County line) to Haven Avenue
- Beat 10: Interstate 10 (I-10) from Haven Avenue to Sierra Avenue
- Beat 11: Interstate 10 (I-10) from Sierra Avenue to Waterman Avenue
- Beat 14: Interstate 215 (I-215) from Center Street to Devore Road
- Beat 23: Interstate 15 (I-15) Jurupa Street (Riverside County line) to Sierra Avenue
- Beat 27: Interstate 15 (I-15) Sierra Avenue to Oak Hill Road
- Beat 29: Interstate 10 (I-10) Waterman Avenue to Yucaipa Boulevard
- Beat 31: State Route 210 (SR-210) from the Los Angeles County line to Citrus Avenue

Each SBCTA tow operator agreement contains a clause regarding the CFSP services. The goal of CFSP is to assist in construction zones outside of regular FSP hours or locations. The work is provided as "Extra Work" due to the uncertainty of the hours or changes in construction.

SBCTA and California Department of Transportation (Caltrans) entered into Cooperative Agreement No. 20-1002356, which was approved by the SBCTA Board of Directors (Board) in April 2020 to provide CFSP services in areas where FSP may not be available or, when the hours

Entity: San Bernardino County Transportation Authority

of coverage needed are outside the normal hours of operation. Each instance of Caltrans CFSP support is generated through a task order.

Caltrans has requested that SBCTA provide CFSP support services related to construction activity along the I-15 in the Victorville area (between Oak Hill Road and Bear Valley Road). This is a Caltrans slab replacement project that will take approximately three years to complete. Shoulders have been greatly reduced and call boxes are scheduled to be temporarily removed due to the shoulder reduction. Therefore, Caltrans is requesting FSP construction support activity through Cooperative Agreement No. 20-1002356.

SBCTA staff coordinated with tow operators that have the appropriate resources to provide the requested CFSP “Extra Work” support. As a result, it was determined that Royal Coaches Auto Body & Towing, who is the current contracted provider for Beat 29, had the appropriate resources to provide weekday CFSP support for the Victorville construction project.

Weekday CFSP services have been requested for this construction project Monday through Friday. The hours of operation for this CFSP Victorville construction project is scheduled from 7:00 pm to 7:00 am. CFSP weekday support is slated to begin in May 2022 upon SBCTA Board approval and continue through December 2023. With the approval of this amendment, it will allow for CFSP coverage to begin providing weekday tow support services.

Pursuant to Article 4, section 4.9 titled “Extra Work” authorization for “Extra Work” above \$100,000 must be pursuant to a written contract amendment approved by SBCTA’s Board. Therefore, Amendment No. 2 to Contract No. 20-1002324, which would increase the not-to-exceed amount by \$488,284 is submitted for review and approval. The Contract increase amount of \$488,284 is fully funded through the Caltrans Cooperative Agreement No. 20-1002356 (08A3133). The contract amendment and pricing information (Exhibit B) are attached.

This item is being presented directly to the SBCTA Board because Caltrans would like for the CFSP weekday support services to begin as quickly as possible due to greatly reduced and limited shoulders, as well as safety concerns along San Bernardino County I-15, post mile 28.6 to post mile 37.5 - Hesperia/Victorville from Oak Hill Road to Bear Valley Road.

Upon Board approval, the amendment will be executed to start weekday (Monday through Friday) CFSP support services for the Caltrans Victorville Project No. 0815000244.

Financial Impact:

The contract amendment cost of \$488,284 is fully funded by the Caltrans Cooperative Agreement No. 20-1002356 (08A3133) and this revenue source is included in Fiscal Year (FY) 2021/2022, adopted budget task 0704, and is included in the FY 2022/2023 Proposed Budget, Task 0704.

Reviewed By:

This item has not received prior policy committee or technical advisory committee review. SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft amendment.

Responsible Staff:

Cheryl Wilson, Management Analyst II

Board of Directors Agenda Item
May 4, 2022
Page 3

Approved
Board of Directors
Date: May 4, 2022
Witnessed By:

San Bernardino County Transportation Authority

Contract Summary Sheet

24.a

General Contract Information

Contract No: 20-1002324 Amendment No.: 2

Contract Class: Payable Department: Air Quality and Mobility

Vendor No.: 03251 Vendor Name: Royal Coaches Auto Body & Towing, Inc.

Description: FREEWAY SERVICE PATROL BEAT 29

List Any Related Contract Nos.: _____

Dollar Amount

Original Contract	\$	2,300,073.00	Original Contingency	\$	-
Prior Amendments			Prior Amendments	\$	-
Current Amendment	\$	488,284.00	Current Amendment	\$	-
Total/Revised Contract Value	\$	2,788,357.00	Total Contingency Value	\$	-
Total Dollar Authority (Contract Value and Contingency)				\$	2,788,357.0

Contract Authorization

Board of Directors Date: 05/04/2022 Board Item # 8587

Contract Management (Internal Purposes Only)

Other Contracts _____ Sole Source? No No Budget Adjustment _____

State/Local _____ Professional Services (Non-A&E) _____

Accounts Payable

Estimated Start Date: 04/01/2021 Expiration Date: 03/31/2026 Revised Expiration Date: _____

NHS: N/A QMP/QAP: N/A Prevailing Wage: No

Total Contract Funding:

Total Contingency:

Fund	Prog	Task	Sub-Task	Object	Revenue	PA Level	Revenue Code Name	\$		\$	
GL	2820	15	0704	0000	52001	42213014	FSP	1,437,777.60		-	
GL	2810	15	0704	0000	52001	42212001	SAFE-Veh Reg	425,247.20		-	
GL	2702	15	0704	0000	52001	42217703	FSP-SB1	437,048.20		-	
GL	2625	15	0704	0172	52001	42211503	CALTRANS.SHA_20-1002356_08A3133 CFSP Victorville Caltrans	488,284.00		-	
GL								-		-	
GL								-		-	
GL								-		-	
GL								-		-	
GL								-		-	
GL								-		-	

CHERYL WILSON

DUANE A. BAKER

Project Manager (Print Name)

Task Manager (Print Name)

Extra Notes: No match requirement for revenue 42211503, this revenue source is 100% reimbursable by Caltrans for Construction Freeway Service Patrol (CFSP) extra work support.

Attachment: 20-1002324-02 CSS [Revision 1] (8587 : Amendment No. 2 to Contract No. 20-1002324 with Royal Coaches Auto Body & Towing for

AMENDMENT NO. 2 TO CONTRACT 20-1002324**FOR****FREEWAY SERVICE PATROL BEAT 29****(ROYAL COACHES AUTO BODY & TOWING)**

This Amendment No. 2 to Contract 20-1002324, is made by and between the SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY ("SBCTA") and ROYAL COACHES AUTO BODY & TOWING, a California Corporation ("CONTRACTOR").

RECITALS

- A. On December 22, 2020, SBCTA and CONTRACTOR entered into an Agreement for the purpose of providing Freeway Service Patrol Services along Beat 29 (hereinafter "Contract"); and
- B. On March 16, 2022, SBCTA and CONTRACTOR entered into Amendment No. 1 to revise the insurance requirements in accordance with SBCTA Procurement and Special Risk Assessment Policy No. 11000; and
- C. SBCTA and CONTRACTOR now desire to amend the contract to increase the CONTRACT not to exceed value from \$2,300,073 to \$2,788,357, to continue providing Construction Freeway Service Patrol services as requested by the California Department of Transportation for the Victorville construction project No 0815000244 along San Bernardino County Interstate 15, PM 28.6 to PM 37.5- Hesperia/Victorville from Oak Hill Road to Bear Valley Road during weekdays (Monday through Friday) as per Article 4, SECTION 4.9 titled "Extra Work."

NOW THEREFORE, in consideration of the above recitals, and the terms and conditions contained herein, SBCTA and CONTRACTOR agree to revise the Contract as follows:

1. Article 3, COMPENSATION, Section 3.2, is amended in its entirety to read as follows:

"The total Contract Not-To-Exceed Amount is Two Million, Seven Hundred Eighty Eight Thousand and Three Hundred Fifty Seven Dollars (\$2,788,357). All Work provided under this Contract is to be performed as set forth in Exhibit A "Scope of Work." The hourly labor rates identified in Exhibit B shall remain fixed for the term of this Contract and include CONTRACTOR'S direct labor costs, indirect costs, and profit. SBCTA will not compensate CONTRACTOR for any expenses not shown in Exhibit B or agreed to and approved by SBCTA as required under this Contract."

2. Exhibit B attached to the Contract is replaced with the Exhibit B attached to this Amendment No. 2.
3. The Recitals set forth above are incorporated herein by this reference.

4. Except as amended by this Amendment No. 2, all other provisions of the Contract, including all previous amendments, shall remain in full force and effect and are incorporated herein by this reference.
5. This Amendment No. 2 is effective upon execution by SBCTA.

-----SIGNATURES ON FOLLOWING PAGE-----

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 below.

**ROYAL COACHES AUTO
BODY & TOWING, a California
Corporation**

By: _____
William Salazar
Chief Executive Officer

Date: _____

By: _____
William Salazar
Treasurer

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____
Curt Hagman
President, Board of Directors

Date: _____

APPROVED AS TO FORM:

By: _____
Juanda L. Daniel
Assistant General Counsel

CONCURRENCE:

By: _____
Shaneka Morris
Procurement Manager

20-1002324		Exhibit B									
Royal Coaches Auto Body & Towing 20-1002324											
FSP Beat 29 - I-10 Waterman Avenue to County Line Road - 3 wheel lift tow trucks that seat 5 people											
	Year 1 FSP Regular Rate 4/1/21-3/31/22 FY 20/21-FY 21/22	Year 1 FSP Extra Work Rate 4/1/21-3/31/22 FY 20/21-FY 21/22	Year 2 FSP Regular Rate 4/1/22-3/31/23 FY 21/22-FY 22/23	Year 2 FSP Extra Work Rate 4/1/22-3/31/23 FY 21/22-FY 22/23	Year 3 FSP Regular Rate 4/1/23-3/31/24 FY 22/23-23/24	Year 3 FSP Extra Work Rate 4/1/23-3/31/24 FY 22/23-23/24	Year 4 FSP Regular Rate 4/1/24-3/31/25 FY 23/24- 24/25	Year 4 FSP Extra Work Rate 4/1/24-3/31/25 FY 23/24- 24/25	Year 5 FSP Regular Rate 4/1/25-3/31/26 FY 24/25- 25/26	Year FSP Extra W 4/1/25-3/ FY 24/25-	
	\$79.80	\$87.78	\$82.59	\$90.85	\$85.48	\$93.91	\$88.47	\$97.09	\$91.57	\$100.	
Extra Time rate	\$1.33	\$1.46	\$1.38	\$1.51	\$1.42	\$1.57	\$1.47	\$1.62	\$1.53	\$1.6	
Non-Penalized rate	\$1.33	\$1.46	\$1.38	\$1.51	\$1.42	\$1.57	\$1.47	\$1.62	\$1.53	\$1.6	
Penalized rate	\$3.99	\$4.38	\$4.14	\$4.53	\$4.26	\$4.71	\$4.41	\$4.86	\$4.59	\$5.0	
	Year 1 4/1/21-3/31/22 FY 20/21-FY 21/22	Year 2 4/1/22-3/31/23 FY 21/22-FY 22/23	Year 3 4/1/23-3/31/24 FY 22/23-23/24	Year 4 4/1/24-3/31/25 FY 23/24- 24/25	Year 5 4/1/25-3/31/26 FY 24/25- 25/26						
Regular FSP 2100 hours x 2 trucks	\$335,160.00	\$346,878.00	\$359,016.00	\$371,574.00	\$384,594.00						
Extra Work FSP Weekend Pilot 700 hours x 1 truck	\$61,446.00	\$63,595.00	\$65,737.00	\$67,963.00	\$70,273.00						
TOTAL	\$396,606.00	\$410,473.00	\$424,753.00	\$439,537.00	\$454,867.00						
7% extra hours	\$27,762.42	\$28,733.11	\$29,732.71	\$30,767.59	\$31,840.69						
Extra work contingency	\$25,000.00										
CFSP SUPPORT- Caltrans Construction WEEKDAYS Scheduled to begin in May 2022 (upon SBCTA Board approval) and is anticipated to continue through 12/31/2023 from 7:00 pm to 7:00 am Victorville area (between Oak Hill Road and Bear Valley Road) 2,988 hours x 1 truck- Year 2 2,339 hours x 1 truck- Year 3		\$244,142.00	\$244,142.00								
	5 year total	\$2,788,357									

FUNDING	AMOU
	2810
	2820
	2702
	2625
TOTAL	\$2,788

FUNDING	AMQV
2810	\$425,24
2820	\$1,437,7
2702	\$437,04
2625	\$488,28
TOTAL	\$2,788,

Minute Action

AGENDA ITEM: 25

Date: May 4, 2022

Subject:

Fiscal Year 2022/2023 Proposed SBCTA and SBCOG Budget Workshop and Adoption of SBCOG Budget

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority (SBCTA):

- A. Receive the Fiscal Year 2022/2023 Budget Action Plan; and
- B. Receive a presentation of the Proposed Fiscal Year 2022/2023 Budget; and
- C. Conduct a Board of Directors Workshop for SBCTA's Proposed Fiscal Year 2022/2023 Budget.

That the Board, acting as the San Bernardino Associated Governments (SBCOG):

- D. Adopt the SBCOG Fiscal Year 2022/2023 Budget with appropriations of \$3,031,191, transfers out of \$554,771, and estimated revenues of \$2,780,253.

Background:

San Bernardino County Transportation Authority's (SBCTA) Fiscal Year 2022/2023 Budget Action Plan establishes the Board of Directors' (Board) priorities for the upcoming fiscal year. The Executive Director uses this as a tool with the Executive Management Team to evaluate SBCTA's progress in achieving the Board's priorities. The SBCTA Fiscal Year 2022/2023 Budget Action Plan is provided as an attachment to this item and is included in the proposed budget document.

The Proposed Fiscal Year 2022/2023 Budget for SBCTA and San Bernardino Associated Governments (SBCOG) is complete. For purposes of preparing an annual budget, SBCOG is a blended component unit of SBCTA. Therefore, SBCOG's estimated revenues and appropriations are included in the SBCTA budget. SBCTA develops a program-based budget which is adopted with funding source detail. The modified accrual basis (where revenues are recognized when received and available to meet current year obligations) is the basis for the Fiscal Year 2022/2023 Budget.

SBCTA's budget process includes a review of the Board's direction as it relates to short-term goals and how it integrates with the agency's long-term goals and objectives. As part of this review, staff analyzes the resources available to help meet the short-term goals as set forth in the fiscal year budget.

The budget process is structured to provide the maximum level of input from Board members. There are four (4) phases of the budget process:

1. A general overview of major programs was presented at the Board of Directors Metro Valley Study Session and the Mountain/Desert Policy Committee meetings in February 2022. The general overview identified activities for each program in the current

Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority

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fiscal year and goals for the next fiscal year. This information is posted on SBCTA's website at <https://www.gosbcta.com/financial/>.

2. During the month of March 2022, SBCTA policy committees reviewed the task descriptions and budgets under their purview. This included the General Policy Committee, Transit Committee, Mountain/Desert Policy Committee, and the Board of Directors Metro Valley Study Session. Task information included purpose, accomplishments, work elements, product, contract information, detailed local funding, expenditure detail and funding sources.
3. During the month of May 2022, the SBCTA Proposed Fiscal Year 2022/2023 Budget is presented, in conjunction with a budget workshop to Board members to provide input and direction. The proposed budget document provides an introduction, budget overview, revenue detail, program expenditure detail and supplemental information (including indirect cost detail information). The proposed budget is posted on the SBCTA website at: <https://www.gosbcta.com/financial/>.
4. A public hearing will be conducted, followed by consideration of the Fiscal Year 2022/2023 Budget for adoption by the Board, at the June 1, 2022 Board of Directors meeting.

SBCTA is required to publish notice of the time and place of the public hearing for adoption of the annual budget (Public Utilities Code Sec. 130106/Government Code Sec 6061). The budget schedule also sets the date for the public hearing at the June 1, 2022, Board of Directors meeting at 10:00 AM.

A resolution to establish the Appropriations Limitation will be presented with the Budget adoption item since information is unavailable until mid-May, when the State Department of Finance releases price and population information.

The San Bernardino Associated Governments Joint Exercise of Powers Agreement and Bylaws require adoption of the annual SBCOG Budget before May 15th of each fiscal year; therefore, Recommendation D is to adopt the SBCOG Proposed Fiscal Year 2022/2023 Budget.

Changes/Updates to Budget Document

Budget summaries for all governmental funds, changes in fund balances, fund type, and major object expenditures are included in the Budget Overview Section. The Revenue Detail Section provides detailed revenue information for each major fund, non-major funds, and enterprise fund.

The following items are incorporated and updated in the Proposed Fiscal Year 2022/2023 Budget:

1. Indirect costs and revenues are recorded in a general fund. Revenue sources are allocated from various Measure I funds, Local Transportation Funds (LTF) administration and planning, Council of Governments (COG), and Service Authority for Freeway Emergencies (SAFE). Concurrent with the budget hearing and adoption, Policy No. 20600, Funding Indirect Costs and Establishing Fund Balance Reserve and Capital Improvement Plan, is being updated to include allocation of Finance Department indirect costs by number of transactions.

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2. Established reserves are as follows: Measure I at \$31,039,700 based on the sales tax projection for Fiscal Year 2022/2023, LTF at \$13,368,503, State Transit Assistance (STA) Fund at \$2,025,336, Indirect Fund at \$1,937,000 and \$14 million to pay off the net pension liability,
3. Budgeted transfers consist of the following: to fund various rail projects; to fund indirect costs and establish reserves for the Depot, information systems, and emergencies; to record loan proceeds from the United States Department of Transportation under the Transportation Infrastructure Finance and Innovation Act program (enterprise to MSI-Freeway); to fund expenditures pending reimbursement from Federal and State agencies; and to fund debt service obligations. Detailed explanations for operating transfers are provided on page 46 of the proposed budget document.

The proposed regular full-time equivalent positions total 83, an increase of five positions from the current fiscal year. The new positions consist of three Management Analyst II positions in Planning and Toll Operations, an Accountant in Finance, and an Energy Project Manager in Planning. The budget includes changes approved by the Board in October 2021 for the reorganization of Project Delivery and Transit and Rail departments and the reorganization of Finance adopted by the Board in November 2021. The budget includes \$284,942 to allow the Executive Director to grant merit increases of up to 4.0%, \$318,115 of Cost-of-Living Adjustment (COLA) at 3.7%, and a \$1,200/year increase to the medical premium subsidy.

Estimated revenues for Fiscal Year 2022/2023 are \$850,430,614. The following is a summary of major revenue sources:

<u>Funding Source</u>	<u>SBCTA</u>	<u>SBCOG</u>	<u>Total</u>
Measure I Sales Tax	\$ 250,000,000	\$ -	\$ 250,000,000
Local Transportation Fund	133,685,831	-	133,685,831
Intergovernmental	429,905,590	2,214,477	432,120,067
Charges for Services	244,775	-	244,775
Special Assessments	-	331,276	331,276
Investment earnings and Miscellaneous	33,814,165	234,500	34,048,665
Total Revenues	<u>\$ 847,650,361</u>	<u>\$ 2,780,253</u>	<u>\$ 850,430,614</u>

Measure I sales tax revenue is projected to increase by \$54 million or 27.5% from the current year's budget. The increase is attributed to the continuing increase of on-line shopping and the Supreme Court decision of Wayfair vs. Dakota where on-line retailers are required to collect sales tax.

The Proposed Fiscal Year 2022/2023 Budget includes the largest appropriations proposed of \$1,111,791,515 and transfers of \$189,882,153. The following is a summary of proposed program expenditures:

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<u>Program</u>	<u>SBCTA</u>	<u>SBCOG</u>	<u>Total</u>
General Government	\$ 13,935,605	\$ 869,806	\$ 14,805,411
Environment and Energy Conservation	964,596	1,139,753	2,104,349
Commuter and Motorist Assistance	7,559,232	-	7,559,232
Regional and Subregional Planning	4,207,822	1,021,632	5,229,454
Transit	334,620,556	-	334,620,556
Project Delivery	586,581,664	-	586,581,664
Fund Administration	147,623,934	-	147,623,934
Debt Service	13,266,915	-	13,266,915
Total Expenditures	<u>\$ 1,108,760,324</u>	<u>\$ 3,031,191</u>	<u>\$ 1,111,791,515</u>
Other Funding Sources			
Transfers in	\$ 189,882,153	\$ -	\$ 189,882,153
Transfers out	(189,327,382)	(554,771)	(189,882,153)
Total Other Financing Sources	<u>\$ 554,771</u>	<u>\$ (554,771)</u>	<u>\$ -</u>

Project Delivery, Transit, and Fund Administration represent 96% of appropriations. These three programs include a substantial investment in freeway, highway and arterial construction, commuter rail projects, and pass-through funds for local transit and street improvements. The total proposed expenditures have increased by \$93.2 million compared to the previous fiscal year. The increase is attributed to a number of large projects commencing or continuing construction.

SBCTA continues to strive for delivery of projects using innovative technology while optimizing use of Federal, State, and local funds. The proposed budget reflects a balanced budget with new revenues and use of fund balance or carryover balances from prior years covering appropriations. This results in a strong cash position with projected ending fund balances of \$673.1 million and reserves of \$62.3 million from various funds.

Financial Impact:

The Proposed Fiscal Year 2022/2023 Budget establishes the financial, staffing and work product authority for activities during the coming fiscal year. Estimated revenues for Fiscal Year 2022/2023 are \$850,430,614, appropriations are \$1,111,791,515, the difference of \$261,360,901 is funded with fund balances and transfers are \$189,882,153.

Reviewed By:

The Budget Overview for each program was reviewed during the Metro Valley Study Session on February 10, 2022, and the Mountain/Desert Policy Committee on February 18, 2022. All SBCTA policy committees have reviewed task descriptions and budget for activities under their purview. The Budget Action Plan was received by the General Policy Committee on April 13, 2022.

Responsible Staff:

Hilda Flores, Chief Financial Officer

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Approved
Board of Directors
Date: May 4, 2022

Witnessed By:

San Bernardino Council of Governments
San Bernardino County Transportation Authority

Budget Action Plan

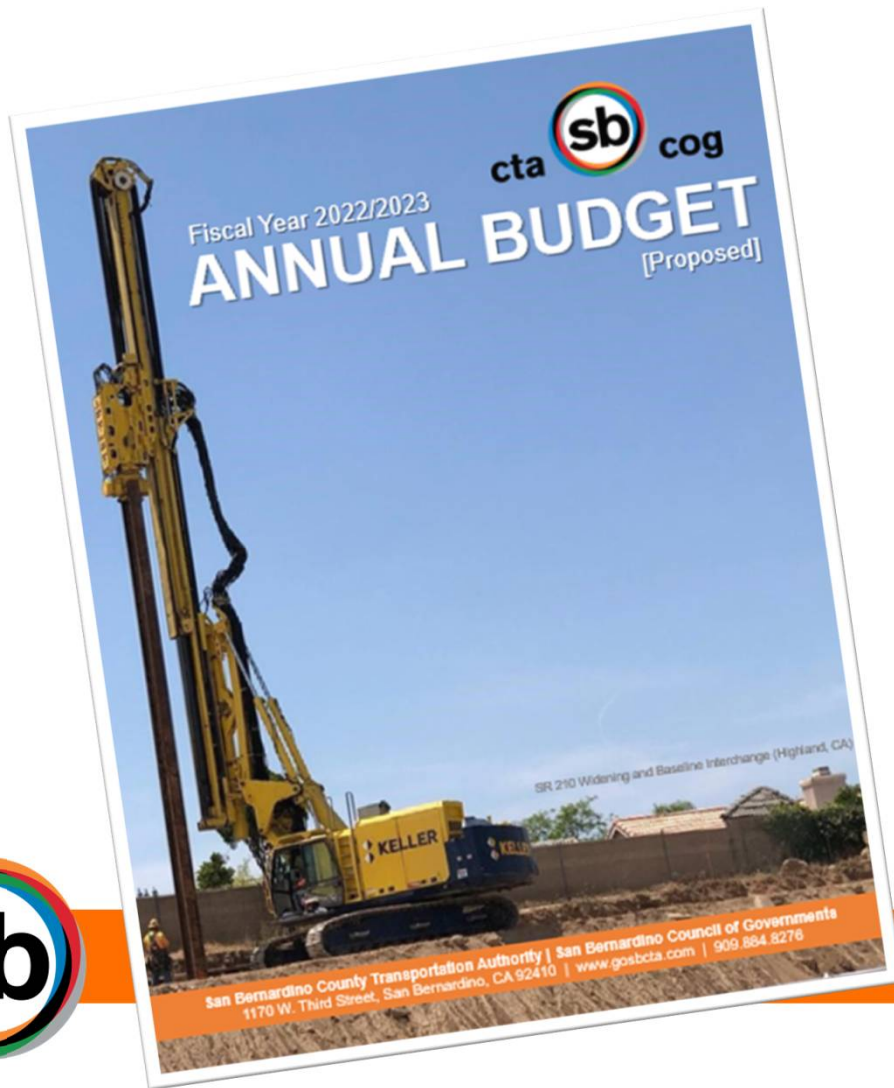
Action Plan		Milestones	Responsibility
Initiative #1: Transparent and Accountable Allocation Strategies			
Division Strategy: Complete timely audits of Measure I and Transportation Development Act recipients			
1A	Manage and communicate with Audit firm to plan and complete annual audits.	Manage and complete audits - Q2	Finance
	Monitor progress of audits.	Monitor audit until complete - Q2	
	Inform Committees and Board of status of audits.	Committee and Board - Q3	
	Manage Transportation Development Act (TDA) triennial performance audits of SBCTA and transit operators.	Board approval to release request for proposals for audit services - Q4	Fund Administration
Division Strategy: Update construction in progress and conduct annual inventory of capital assets			
1B	Conduct biannual inventory of capital and inventorial assets, including updates to construction in progress (CIP).	Updates to CIP and capital assets - Q2	Finance
Division Strategy: Use strategic programming to ensure that no funds are lost			
1C	Manage projects closely with California Department of Transportation (Caltrans) to ensure adequate resources are available when projects are ready.	May 1 is Caltrans’ deadline for guaranteed access to federal Obligation Authority (OA) – Q4 June 30 is California Transportation Commission (CTC) deadline for project allocation or extension requests – Q4	Fund Administration, Project Delivery, Transit
	Manage projects to ensure funds are not lost.	Request allocation of competitive grant funds for I-10 Truck Climbing Plan project - Q3 Request allocation of competitive grant funds for West Valley Connector project - Q3 Request allocation of Planning, Programming and Monitoring funds for Fiscal Year 2023/2024 - Q4 Program Local Partnership Program formula share funds on I-15 Express Lanes Contract 1 - Q4 Request allocation or extension of competitive grant funds awards and State Transportation Improvement Program (STIP) for I-15 Express Lanes Contract 1 - Q4	Fund Administration
Division Strategy: Protect San Bernardino County’s equitable share of available state and federal funds			
1D	Develop funding strategies that maximize resources available and result in opportunities to seize additional state and federal funds.	Ensure Obligation Authority (OA) and apportionment are available as new projects are ready while planning for implementation of the zero emission bus mandate - Q4	Fund Administration, Project Delivery, Transit
Division Strategy: Develop long-term bonding needs to help leverage other funds and deliver projects			
1E	Establish plan for 2024 sales tax revenue bond program through development of the 2023 Update to the 10-Year Delivery Plan.	Monitor implementation of the 2021 Update to the 10-Year Delivery Plan and Measure I revenue receipts to identify need for short-term borrowing – Ongoing Begin process of development of the 2023 Update to the 10-Year Delivery Plan for adoption by the Board in December 2023 - Q3	Fund Administration (Finance, Project Delivery, Transit, Planning)
Division Strategy: Manage geographic equity in fund distribution across the county			
1F	Manage long-term strategy for ensuring geographic equity in fund distribution over the life of the Measure.	Work with Victor Valley Transit Authority to identify Federal funds required for implementation of the zero emission bus mandate in the North Desert and Victor Valley Subareas - Q2	Fund Administration (Transit)
Division Strategy: Manage SBCTA railroad right of way in an efficient and comprehensive fashion			
1G	Manage SBCTA railroad right of way in an efficient and comprehensive fashion.	Ongoing	Transit
Initiative #2: Engender Public Trust			
Division Strategy: Secure an unmodified opinion of Comprehensive Annual Financial Report (Annual Report)			
2A	Plan meeting at interim field work with Executive Board officers and Certified Public Accountant (CPA) firm.	Meet with Executive Board - Q2	Finance
Division Strategy: Obtain Certificate of Achievement for Excellence in Financial Reporting			
2B	Apply for Government Finance Officers Association (GFOA) award for the Annual Financial Report (Annual Report).	GFOA Award submittal - Q3	Finance
Division Strategy: Obtain Distinguished Budget Presentation Award			
2C	Apply for GFOA award for annual budget.	GFOA Award submittal - Q1	Finance
Division Strategy: Complete internal control self-assessment to identify areas of improvement.			
2D	Complete review of annual internal control self-assessment (AICA).	Review of AICA - Q3	Finance
Division Strategy: Implement the Records Retention Schedule			
2E	Continue with the implementation of the Records Retention Program, including establishing quarterly meetings with records coordinators, an annual clean up day, a system that will assist tracking which documents have passed retention.	Clean up day - Q1 Identify the retention period for boxes located at SBCTA offsite storage for at least four (4) departments - One department per quarter. Automate at least four (4) records series - Q4	Special Projects and Strategic Initiatives and Executive Administration and Support
Initiative #3: Focus on Creating and Strengthening Collaborative Partnerships with Governmental and Business Entities			
Division Strategy: Work with other governments and business groups to leverage resources for our region’s benefit			
3A	Prepare tools to assist local agencies with changes to statewide housing policies and environmental regulations.	Continue to explore a Housing Trust for our region as a way to leverage additional funds for affordable housing. Work with CCMTAC in Q1/Q2 and report to Board on possible actions and funding.	COG
	Partner with local and government agencies to improve opportunities in workforce development.	Work with state, County and cities to expand participation of our Business to Business event as a tool for improving access for smaller businesses - Event scheduled in Q2.	
		Continue close coordination with Brightline West to support their construction along the San Gabriel Subdivision between I-15 and Cucamonga Station, as well as coordinated development of the Cucamonga Station.	Ongoing
Division Strategy: Enhance COG role			
3B	Organize annual City/County Conference.	In person conference set for Spring 2023.	COG
	Collaborate with Member Agencies through the COG Advisory Group during the decision-making process on items related to the COG work plan and any items related to the Countywide Vision.	Ongoing quarterly meetings with COG Advisory Group and periodic updates to City Managers.	

Budget Action Plan

Action Plan		Milestones	Responsibility
Division Strategy: Enhance SBCOG's and the region's ability to compete for grant funding			
3C	Host grant writing workshop for our members and other local government partners.	Host a workshop - Q3	COG
	Better communicate grant opportunities to member agencies.	Provide monthly updates to member agencies on new grant opportunities.	
Division Strategy: Assist local governments with environmental and efficiency initiatives			
3D	Work with local agencies with Zero Emission Vehicle (ZEV) readiness plan and assist in identifying grant opportunities for charging infrastructure.	Include EV charging infrastructure grants in monthly grant updates.	Air Quality/Mobility
	Assist local agencies with reducing energy consumption and achieving savings through formation of a Regional Energy Network (REN).	Adopt formal REN governing documents in Q1 and begin to implement programs in three focus areas of Public Sector, Workforce Education and Training, and Codes and Standards in Q2.	
Initiative #4: Accelerate Delivery of Capital Projects			
Division Strategy: Deliver the Redlands Passenger Rail Project & Implement Arrow Service			
4A	Start revenue service.	Q2	
Division Strategy: Support Delivery the West Valley Connector Phase I			
4B	Execute full funding grant agreement with the Federal Transit Administration (FTA) for the Small Starts funding and supplemental American Recovery Plan funding.	Q1	Transit
	Issue Invitation for Bids (IFB) for construction.	Q3	
Division Strategy: Produce Zero Emission Multiple Unit			
4C	Begin dynamic testing in Europe.	Q2	Transit
Division Strategy: Deliver the Tunnel to ONT Project			
4D	Draft Environmental Document prepared.	Q4	Transit
Division Strategy: Delivery of Capital Projects			
4E	Project Approval and Environmental Document (PA/ED) Milestones:		Project Delivery
	SR-210 Waterman Ave Interchange	PA/ED approval - Q1	
Division Strategy: Delivery of Capital Projects			
4F	Plans, Specifications and Estimate (PS&E); Engineering Reports Milestones:		Project Delivery
	ATP Metrolink Phase II	PS&E approval - Q1	
	I-215 Bi-County Landscaping	PS&E approval - Q1	
	I-10 Eastbound Truck Climbing Lane	PS&E approval - Q1	
	I-215 University Parkway IC	PS&E approval - Q2	
	I-15 Corridor Freight and Express Lanes Contract 1	PS&E approval - Q4	
Division Strategy: Delivery of Capital Projects			
4G	Construction Milestones:		Project Delivery
	North First Avenue Bridge over BNSF	Start construction - Q1	
	I-10 Cedar Avenue Interchange	Start construction - Q1	
	I-215 Bi-County Landscaping	Start construction - Q3	
	ATP Metrolink Phase II	Start construction - Q3	
	I-10 Eastbound Truck Climbing Lane	Start construction - Q3	
	SR-60 Central Avenue Interchange	Complete for Beneficial Use - Q1	
	I-10 Alabama Street Interchange	Complete for Beneficial Use - Q2	
	SR-210 Base line Interchange	Complete for Beneficial Use - Q4	
	SR-210 Lane Addition	Complete for Beneficial Use - Q4	
Initiative #5: Maximize Funding Opportunities and Cost-Effectiveness of Investments			
Division Strategy: Conduct regional forums to discuss issues of importance across our region			
5A	Advocate for policies and funding formulas at the state and federal levels that are favorable for SBCTA to construct and deliver transportation projects.	Advocate for legislation regarding increase in federal funding for local bridges (AB 2120), CEQA exemptions for transportation projects (SB 922), and flexible use of state funds for discounted transit fares, as well as Brown Act revisions providing for remote participation. Build coalitions in support of state and federal transportation grant applications and budget items. Maintain good working relationships and communication with state and federal officials.	Legislative/Public Affairs
Initiative #6: Awareness of SBCTA Programs, Services, and Transit Options			
Division Strategy: Build awareness of SBCTA programs and services			
6A	Highlight Measure I's contributions to the region's transportation system.	Annual state of transportation event; monthly blog series "Measure I (Impact)".	Legislative/Public Affairs, Fund Administration
	Market SBCTA identity, promote awareness of programs and services.	Employee spotlight blog series.	Legislative/Public Affairs
Division Strategy: Leverage and grow public outreach and communication services			
6B	Continue to enhance traditional and social media presence.	Ongoing: providing project updates, alerts, and information.	Legislative/Public Affairs
	Utilize On-Call Public Outreach Contracts, On-Call Graphic Design Services Contracts, Marketing & Branding Services Contract, and Redlands Passenger Rail Project Outreach Contract to utilize new tools and capitalize on communication opportunities throughout the region.	Ongoing: providing services for Mt. Vernon Viaduct, I-10 Express Lanes, 210 freeway, Redlands Passenger Rail Project.	Legislative/Public Affairs, Transit
	Utilize On-Call Graphic Design Services Contracts & Marketing and Branding Services Contract to support each department in their efforts to communicate internally and externally.	Ongoing: provide assistance with presentations, graphics (i.e. Budget Book), and collateral materials.	Legislative/Public Affairs, Fund Administration
Division Strategy: Highlight transit options in San Bernardino County			
6C	In partnership with transit operators, highlight transit connectivity options in the region.	Ongoing: provide legislative information and updates, advocate at the state and federal levels for transit maintenance and operations funding.	Legislative/Public Affairs, Transit
	Support Omnitrans with implementation of pilot programs first/last mile shuttles from the Cucamonga Station and San Bernardino Transit Center that are coordinated with the Metrolink service schedule.	Q2	Transit
Initiative #7: Long Range Strategic Planning			
Division Strategy: Analyze long range transportation strategy in a financially constrained framework			
7A	Prepare a Long Range Multimodal Transportation Plan (LRMTP).	Complete bus rapid transit study for Valley - Q2	Planning, Transit, Fund Administration
		Initiate full LRMTP - Q3	
	Complete San Bernardino County input on growth and projects to the Southern California Association of Governments (SCAG) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS).	Assist SCAG with local growth distribution update - Q3	Planning, Fund Administration
		Provide updated list of RTP projects to SCAG - Q3	

Budget Action Plan

Action Plan		Milestones	Responsibility
Division Strategy: Conduct strategic planning of Measure 1 projects and update policies to be consistent with practice			
7B	Maintain Measure 1 Strategic Plan Parts 1 and 2.	Ongoing	Planning, Fund Administration
Division Strategy: Provide current, quality planning data			
7C	Support other departments with data analysis and mapping/Geographic Information System (GIS).	Ongoing	Planning
	Update SBTAM modeling system.	Complete updated SBTAM for testing - Q3	
		Complete Model Validation - Q4	
	Upgrade to new Congestion Monitoring System.	Initiate operation - Q1	
		Prepare documentation - Q2	
	Incrementally implement an SBCTA agency-wide data and analytics dashboard.	Ongoing	
Division Strategy: Conduct subarea and modal studies			
7D	Update Comprehensive Multimodal Corridor Plans with RCTC and Caltrans, to address SB 1 Solutions for Congested Corridors requirements.	Complete update - Q1	Planning
	Conduct SR-18/138 Corridor Study with Metro and Caltrans.	Prepare final report - Q3	
Initiative #8: Environmental Stewardship, Sustainability, and Grant Applications			
Division Strategy: Monitor and Provide Input to State, Federal, and Regional Plans and Guidelines			
8A	Provide technical comments on draft reports, plans, and guidelines from Caltrans, CTC, OPR, CARB, CalSTA, and other state agencies.	Ongoing	Planning, COG
	Prepare Grant Applications for SB1 and other funding.	Senate Bill 1 (SB1) Grants submitted - Q2	Planning, Fund Administration
		Award announcements - Q4	
Division Strategy: Assist jurisdictions, developers, and other stakeholders with area-wide sustainability studies			
8B	Begin development of VMT mitigation bank and/or approaches to mitigation under SB 743.	Initiation of VMT mitigation bank - Q4 (conditioned on REAP funding and Board approval)	Planning
	Complete updated draft of the Regional Conservation Investment Strategy (RCIS).	Updated draft - Q3	
	Assist local agencies with housing initiatives under Regional Early Action Plan (REAP 2.0).	Work with SCAG on REAP application to HCD - Q2	
Division Strategy: Prepare effective active transportation plans			
8C	Prepare Active Transportation Plans: Safe Routes to School Program (with County).	Restart plan development following COVID - Q2	Planning
	Manage TDA Article 3 bike/ped project invoicing.	Ongoing	
	Conduct Countywide Sidewalk Inventory, Phase 2.	Complete inventory, documentation, and update active transportation website with added data - Q3	
Division Strategy: Implement components of ATP Metrolink Station Accessibility Grant			
8D	Implementation of Phase 2 of the Bicycle and Pedestrian improvements around the Metrolink Stations on the San Bernardino and Riverside Lines.	Complete final design - Q4	Planning, Project Delivery
Division Strategy: Develop and administer programs to improve the efficient use of our existing freeway network			
8E	Implement a mobile call box program.	Release RFP for call handling for program - Q3	Air Quality/Mobility
		Target for program implementation - Q2	
	Administer Freeway Service Patrol (FSP) and call box system to improve traffic safety, reduce congestion and traffic delays.	Ongoing. Present annual report on programs to Board - Q4	
	Merge IE 511 with a regional SoCal 511.	Merger expected - Q1	Transit
	Merge the regional rideshare database with OCTA, LA Metro, RCTC, and VCTC enhancing ride matching functionality and customer experience.	Q2	
Division Strategy: Support access to jobs, healthcare, and education while reducing roadway congestion.			
8F	Administer multi-modal programs to reduce congestion and improve quality of life including coordination with transit providers and Consolidated Transportation Service Agencies (CTSA) serving San Bernardino County.	Work with the transit providers and CTSA's, to identify key activities for inclusion in the SBCTA LRMTTP, and proposed Fiscal Year 2022/2023 budget based on the approved Public Transit-Human Services Transportation Coordination Plan – Q3	Transit, Fund Administration, Legislative/Public Affairs



Fiscal Year 2022/2023 Budget

BOARD WORKSHOP

Recommendations

That the Board, acting as the San Bernardino County Transportation Authority (SBCTA):

- A. Receive the Fiscal Year 2022/2023 Budget Action Plan
- B. Receive a presentation of the Proposed Fiscal Year 2022/2023 Budget
- C. Conduct a Board of Directors' Workshop for SBCTA's Proposed Fiscal Year 2022/2023 Budget

That the Board, acting as the San Bernardino Associated Governments (SBCOG):

- D. Adopt the SBCOG Fiscal Year 2022/2023 Budget with appropriations of \$3,031,191, transfers out \$554,771, and estimated revenues \$2,780,253.



New Revenues & Use of Carry Over From Prior Years

	SBCTA	SBCOG	Total	Percent of New Revenues
Measure I Sales Tax	\$ 250,000,000	\$ -	\$ 250,000,000	29.40%
Local Transportation Fund	133,685,831	-	133,685,831	15.72%
Intergovernmental	429,905,590	2,214,477	432,120,067	50.81%
Charges for Services	244,775	-	244,775	0.03%
Special Assessments	-	331,276	331,276	0.04%
Investment earnings and Miscellaneous	33,814,165	234,500	34,048,665	4.00%
Total New Revenues	\$ 847,650,361	\$ 2,780,253	\$ 850,430,614	
Balance Carry Over From Prior Years	260,555,192	805,709	261,360,901	
Total New Revenues and Carry Over	\$ 1,108,205,553	\$ 3,585,962	\$ 1,111,791,515	



Proposed Appropriations

<u>Program</u>	<u>SBCTA</u>	<u>SBCOG</u>	<u>Total</u>	<u>Perent of total Expenditures</u>
General Government	\$ 13,935,605	\$ 869,806	\$ 14,805,411	1.33%
Environment and Energy Conservation	964,596	1,139,753	2,104,349	0.19%
Commuter and Motorist Assistance	7,559,232	-	7,559,232	0.68%
Regional and Subregional Planning	4,207,822	1,021,632	5,229,454	0.47%
Transit	334,620,556	-	334,620,556	30.10%
Project Delivery	586,581,664	-	586,581,664	52.76%
Fund Administration	147,623,934	-	147,623,934	13.28%
Debt Service	13,266,915	-	13,266,915	1.19%
Total Expenditures	<u>\$1,108,760,324</u>	<u>\$ 3,031,191</u>	<u>\$ 1,111,791,515</u>	
Other Funding Sources				
Transfers in	\$ 189,882,153	\$ -	\$ 189,882,153	
Transfers out	(189,327,382)	(554,771)	(189,882,153)	
Total Other Financing Sources (OFS)	<u>554,771</u>	<u>(554,771)</u>	<u>-</u>	
Total Expenditures and OFS	<u>\$1,108,205,553</u>	<u>\$ 3,585,962</u>	<u>\$ 1,111,791,515</u>	



Major Construction Projects

- Project Delivery and Toll Operations
 - I-10 Contract 1 – Construction
 - SR 210 Freeway Lane Addition – Construction
 - Mount Vernon Viaduct & North First Avenue Bridges - Construction
 - Cedar Avenue Interchange - Construction
- Transit
 - Redlands Passenger Rail Project (RPRP) - Completion
 - Fueling Infrastructure and Retrofit of Arrow Maintenance Facility - Construction
 - West Valley Connector - ROW & Construction
 - Tunnel to ONT – Environmental Clearance



Transfers Out

- Fund various rail projects and support transit administrative activities
- Fund indirect costs for information systems and building improvements and establish reserves
- Record loan proceeds from the USDOT under the Transportation Infrastructure Finance and Innovation Act program
- Fund expenditures pending reimbursement from Federal and State agencies
- Fund debt service obligations



Indirect Fund

Local Transportation Fund – Administration	\$	1,230,394
Local Transportation Fund – Planning		1,677,728
Service Authority for Freeway Emergencies		315,314
Council of Governments - Assessment Dues		264,314
Council of Governments - Grant		290,457
Sales Tax MSI – Valley Freeway		2,838,775
Sales Tax MSI – Valley Interchange		1,618,086
Sales Tax MSI – Valley Grade Separation		21,604
Sales Tax MSI – Valley Arterial		249,043
Sales Tax MSI – Valley Rail		268,224
Sales Tax MSI – Valley Bus Rapid Transit		399,270
Sales Tax MSI – Victor Valley Major Local Highway		155,601
Sales Tax MSI – North Desert Major Local Highway		88,811
Sales Tax MSI – Colorado River Major Local Highway		33,769
Sales Tax MSI – Morongo Basin Major Local Highway		35,634
Sales Tax MSI – Mountain Major Local Highway		30,256
Sales Tax MSI – Cajon Pass		3,030
Sales Tax MSI – Administration		(1,000,000)
Total Revenues	\$	8,520,310
Add: Beginning Estimated Fund Balance		3,075,155
Reduce: Expenditures		(9,658,465)
Estimated Ending Fund Balance	\$	1,937,000



Staffing Overview

- Proposed budget–Increase by 5 positions, total of 83 full-time positions
 - Includes 3 Management Analyst II positions in Planning and Toll Operations, an Accountant in Finance, and Energy Project Manager in Planning
 - Budget includes reorganization changes approved by the Board of Directors:
 - October 2021 Project Delivery and Toll Operations and Transit Departments
 - November 2021 Finance Department
- Proposed budget includes the following increases:
 - Budget \$318,115 for 3.7% COLA and \$284,942 to allow the Executive Director to grant merit increases of up to 4%
 - Increase of medical premium subsidy by \$1,200/year to \$6,757/year



Reserves for Measure I Funds

Valley:	Per Policy 40021
Freeway	\$ 11,734,440
Interchange	4,451,000
Major Street - Grade Separation	1,375,760
Major Street - Arterials	5,503,340
Metrolink/Rail	3,237,080
Express Bus/Bus Rapid Transit	2,023,180
Traffic Management	809,280
Total Valley	<u>\$ 29,134,080</u>
Mountain/Desert - Major Local Highway:	
Victor Valley	\$ 1,313,020
North Desert	257,740
Colorado River	28,260
Morongo Basin	156,480
Mountain	150,120
Total Mountain/Desert	<u>\$ 1,905,620</u>
Total Reserve for Measure I Funds	<u>\$ 31,039,700</u>



Reserves for TDA and Indirect Fund

Transportation Development Act (TDA) Funds:

Local Transportation Fund	\$ 13,368,583
State Transit Assistance Fund	<u>2,025,336</u>
Total Reserves for TDA	<u>\$ 15,393,919</u>

Indirect Fund:

Emergencies	\$ 500,000
Capital Projects	<u>1,437,000</u>
Total Reserve for Indirect Fund	<u>\$ 1,937,000</u>

Reserve to payoff Net Pension Liability

Various Funds	<u>\$ 14,000,000</u>
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Total Reserves

	<u>\$ 62,370,619</u>
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ADDITIONAL INFORMATION

BOARD OF DIRECTORS ATTENDANCE RECORD – 2022

Name	Jan	Feb	March	April	May	June	July	Aug DARK	Sept	Oct	Nov	Dec
Paul Cook Board of Supervisors	X	X	X	X								
Janice Rutherford Board of Supervisors		X	X	X								
Dawn Rowe Board of Supervisors	X	X	X	X								
Curt Hagman Board of Supervisors	X	X	X	X								
Joe Baca, Jr. Board of Supervisors	X	X	X	X								
Daniel Ramos City of Adelanto		X	X									
Art Bishop Town of Apple Valley	X	X	X	X								
Paul Courtney City of Barstow	X	X	X									
Rick Herrick City of Big Bear Lake		X	X									
Eunice Ulloa City of Chino	X	X	X	X								
Ray Marquez City of Chino Hills		X	X	X								
Frank Navarro City of Colton	X	X	X	X								
Acquanetta Warren City of Fontana	X	X	*	X								
Darcy McNaboe City of Grand Terrace	X	X	X	X								
Rebekah Swanson City of Hesperia	X	X	X	X								
Larry McCallon City of Highland	X	X	X	X								

X = member attended meeting. * = alternate member attended meeting. Empty box = did not attend meeting Crossed out box = not a Board Member at the time. Shaded box=no meeting

BOARD OF DIRECTORS ATTENDANCE RECORD – 2022

Name	Jan	Feb	March	April	May	June	July	Aug DARK	Sept	Oct	Nov	Dec
Rhodes ‘Dusty’ Rigsby City of Loma Linda	X		X	X								
John Dutrey City of Montclair	X	X	X	X								
Edward Paget City of Needles	X	X	X									
Alan Wapner City of Ontario	X	X	X									
L. Dennis Michael City of Rancho Cucamonga	X	X	X	X								
Paul Barich City of Redlands		X	X	X								
Deborah Robertson City of Rialto	X	X	X	X								
John Valdivia City of San Bernardino	X	X	X *	X								
Joel Klink City of Twentynine Palms	X	X	X	X								
Carlos A. Garcia City of Upland		X	X									
Debra Jones City of Victorville	X	X	X	X								
David Avila City of Yucaipa	X	X	X	X								
Rick Denison Town of Yucca Valley	X	X	X	X								
Michael Beauchamp Ex-Official Member	Diane Morales	X	X	X								

Communication: Attendance (Additional Information)

X = member attended meeting. * = alternate member attended meeting. Empty box = did not attend meeting. Crossed out box = not a Board Member at the time. Shaded box=no meeting

This list provides information on acronyms commonly used by transportation planning professionals. This information is provided in an effort to assist Board Members and partners as they participate in deliberations at Board meetings. While a complete list of all acronyms which may arise at any given time is not possible, this list attempts to provide the most commonly-used terms. Staff makes every effort to minimize use of acronyms to ensure good communication and understanding of complex transportation processes.

AB	Assembly Bill
ACE	Alameda Corridor East
ACT	Association for Commuter Transportation
ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
APTA	American Public Transportation Association
AQMP	Air Quality Management Plan
ARRA	American Recovery and Reinvestment Act
ATMIS	Advanced Transportation Management Information Systems
BAT	Barstow Area Transit
CALACT	California Association for Coordination Transportation
CALCOG	California Association of Councils of Governments
CALSAFE	California Committee for Service Authorities for Freeway Emergencies
CARB	California Air Resources Board
CEQA	California Environmental Quality Act
CMAQ	Congestion Mitigation and Air Quality
CMIA	Corridor Mobility Improvement Account
CMP	Congestion Management Program
CNG	Compressed Natural Gas
COG	Council of Governments
CPUC	California Public Utilities Commission
CSAC	California State Association of Counties
CTA	California Transit Association
CTC	California Transportation Commission
CTC	County Transportation Commission
CTP	Comprehensive Transportation Plan
DBE	Disadvantaged Business Enterprise
DEMO	Federal Demonstration Funds
DOT	Department of Transportation
EA	Environmental Assessment
E&D	Elderly and Disabled
E&H	Elderly and Handicapped
EIR	Environmental Impact Report (California)
EIS	Environmental Impact Statement (Federal)
EPA	Environmental Protection Agency
FHWA	Federal Highway Administration
FSP	Freeway Service Patrol
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
FTIP	Federal Transportation Improvement Program
GFOA	Government Finance Officers Association
GIS	Geographic Information Systems
HOV	High-Occupancy Vehicle
ICTC	Interstate Clean Transportation Corridor
IEEP	Inland Empire Economic Partnership
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
IIP/ITIP	Interregional Transportation Improvement Program
ITS	Intelligent Transportation Systems
IVDA	Inland Valley Development Agency
JARC	Job Access Reverse Commute
LACMTA	Los Angeles County Metropolitan Transportation Authority
LNG	Liquefied Natural Gas
LTF	Local Transportation Funds

MAGLEV	Magnetic Levitation
MARTA	Mountain Area Regional Transportation Authority
MBTA	Morongo Basin Transit Authority
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
MSRC	Mobile Source Air Pollution Reduction Review Committee
NAT	Needles Area Transit
NEPA	National Environmental Policy Act
OA	Obligation Authority
OCTA	Orange County Transportation Authority
PA&ED	Project Approval and Environmental Document
PASTACC	Public and Specialized Transportation Advisory and Coordinating Council
PDT	Project Development Team
PNRS	Projects of National and Regional Significance
PPM	Planning, Programming and Monitoring Funds
PSE	Plans, Specifications and Estimates
PSR	Project Study Report
PTA	Public Transportation Account
PTC	Positive Train Control
PTMISEA	Public Transportation Modernization, Improvement and Service Enhancement Account
RCTC	Riverside County Transportation Commission
RDA	Redevelopment Agency
RFP	Request for Proposal
RIP	Regional Improvement Program
RSTIS	Regionally Significant Transportation Investment Study
RTIP	Regional Transportation Improvement Program
RTP	Regional Transportation Plan
RTPA	Regional Transportation Planning Agencies
SB	Senate Bill
SAFE	Service Authority for Freeway Emergencies
SAFETEA-LU	Safe Accountable Flexible Efficient Transportation Equity Act – A Legacy for Users
SCAB	South Coast Air Basin
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
SCRRA	Southern California Regional Rail Authority
SHA	State Highway Account
SHOPP	State Highway Operations and Protection Program
SOV	Single-Occupant Vehicle
SRTP	Short Range Transit Plan
STAF	State Transit Assistance Funds
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TAC	Technical Advisory Committee
TCIF	Trade Corridor Improvement Fund
TCM	Transportation Control Measure
TCRP	Traffic Congestion Relief Program
TDA	Transportation Development Act
TEA	Transportation Enhancement Activities
TEA-21	Transportation Equity Act for the 21 st Century
TMC	Transportation Management Center
TMEE	Traffic Management and Environmental Enhancement
TSM	Transportation Systems Management
TSSDRA	Transit System Safety, Security and Disaster Response Account
USFWS	United States Fish and Wildlife Service
VCTC	Ventura County Transportation Commission
VVTA	Victor Valley Transit Authority
WRCOG	Western Riverside Council of Governments

AGENCY REPORTS



REPORT: Mobile Source Air Pollution Reduction Review Committee

FROM: Larry McCallon, SBCTA Representative to the MSRC

SYNOPSIS: The Mobile Source Air Pollution Reduction Review Committee held a hybrid meeting on Thursday, March 17, 2022. The following is a summary of the meeting.

FYs 2021-24 Work Program

Staff provided an update on the MSRC-Technical Advisory Group (TAC) Work Program Development Subcommittee progress. The MSRC-TAC recommended approval to authorize the development of a transformative transportation Program Opportunity Notice (PON). The MSRC considered and approved the MSRC-TAC's recommendation.

Contract Modification Requests

The MSRC considered two contract modification requests and took the following actions:

1. City of Santa Ana, Contract #ML14012, which provides \$244,000 to procure seven heavy-duty propane (LPG) vehicles and install EV charging, approval of reduced scope and value, substitution of CNG for propane and a six-month term extension; and
2. SCAG, Contract #MS18015 which provides \$2,000,000 for the Southern California Future Communities Partnership Program, approval of a nine-month term extension.

Contracts Administrator's Report

The MSRC AB 2766 Contracts Administrator's report provides a written status report on all open contracts from FY 2007-08 to the present.

COMMITTEE MEMBERSHIP

San Bernardino County Transportation Authority (SBCTA)
Representatives on SCAG Committees

APPOINTING/ELECTING AUTHORITY	REGIONAL COUNCIL (12:15 p.m.)	POLICY COMMITTEES (Regional Council Members Serve on One Each) (Subregional Appointments) (County Commissions Appoint One to TC) (10:00 a.m.)		
		Community, Economic, and Human Development	Energy and Environment	Transportation
District 6 (Grand Terrace, Colton, Loma Linda, Redlands, Yucaipa) District 7 (San Bernardino, Highland) District 8 (Rialto, Fontana) District 9 (Rancho Cucamonga, Upland, Montclair) District 10 (Chino, Chino Hills, Ontario) District 11 (Barstow, Big Bear, Needles, Twentynine Palms, Yucca Valley) District 65 (Adelanto, Apple Valley, Hesperia, Victorville) San Bernardino County † Community of Concern Appointee	F. Navarro L. McCallon D. Robertson L. Michael R. Marquez R. Putz L. Becerra C. Hagman G. Reyes	G. Reyes	D. Robertson R. Putz	F. Navarro L. McCallon L. Becerra C. Hagman
†† San Bernardino County Transportation Authority Appointee	A. Wapner			A. Wapner
SBCTA Subregional Appointees* *One appointee to each policy committee for a total of three appointees per subregion, plus one additional appointee for every SCAG District over three in the subregion. SBCTA has a total of seven subregional appointees to the policy committees. Terms of appointment expire December 31 of odd-numbered years.		David Avila Ed Paget Acquanetta Warren	Cynthia Moran John Valdivia Rick Denison	John Dutrey

Rules of Appointment

1) SBCTA policy stipulates that all SBCTA appointees be SBCTA Board Members. 2) SCAG President appoints Regional Council members to Standing and Policy Committees.

Terms of Appointment

Terms of appointment are two years, commencing on adjournment of the annual General Assembly in May of each year. Even-numbered District representatives' terms expire in even-numbered years; odd-numbered District representatives expire in odd-numbered years. † Community of Concern appointee, appointed by the County Regional Council representative for a two-year term. †† SBCTA Regional Council Representative serves a two-year term from the date of appointment.

Stipend Summary

SCAG Regional Council members receive a \$120 stipend for attendance and travel to SCAG sponsored meetings. Regional Council members may also receive reimbursement for public transit expenses or a mileage reimbursement. Parking is validated at SCAG's downtown Los Angeles office for RC members. RC members are eligible to receive up to six (6) per diem stipends per month. Both RC members and Subregional Appointees, if eligible, may receive reimbursement (\$150 + taxes) for lodging (please review SCAG rules before making expenditure). Subregional Appointees shall receive a \$120 stipend for up to four Policy or Task Force meetings per month.

Meeting Information

The regular meetings of SCAG Regional Council and Policy Committees are on the 1st Thursday of each month at the SCAG offices located at 900 Wilshire Blvd., Ste. 700, Los Angeles. Generally, the Policy Committee meetings start at 10 AM and Regional Council meetings start at 12:15 PM.

Policy Committees

Community, Economic, and Human Development: Provides policy recommendations to the Regional Council on subjects of housing, land use, resource, economic, community development, infrastructure, employment, and regional disaster preparedness issues. Reviews and recommends to the Planning Committee revisions to the Housing, Economy, Growth Management, Human Resources, and Finance Chapters of the Regional Comprehensive Plan and Guide.

Energy and Environment: Acts as the policy advisory committee to the Regional Council on environmental issues, including air and water, hazardous, solid waste management, natural resources conservation, and energy conservation. Reviews the Environmental Impact Report of the Regional Comprehensive Plan and Guide. Provides recommendations to the Planning Committee on state and federal legislative proposals and administrative guidelines affecting environmental quality, resource conservation.

Transportation: Acts as the policy advisory committee to the Regional Council on all regional matters pertaining to the movement of goods and people on land, water, and air. Reviews and recommends to the Regional Council all major utility development plans. Addresses the location, size, or capacity, timing, and impact of facilities.

Appointments to External Agencies

The San Bernardino County Transportation Authority (SBCTA) and San Bernardino Council of Governments (SBCOG) work closely with not only the County and cities within the County of San Bernardino, but with a number of regional governments that relate to the multiple counties within the Southern California region. Members of the SBCTA Board of Directors frequently take active roles in representing the interests of San Bernardino County on these regional bodies. This participation provides assurance that the unique needs and characteristics of San Bernardino County are taken into consideration as policies are developed which impact this County and its individual local government units. Active participation in regional organizations further promotes the interests of San Bernardino County and secures its appropriate role in the Southern California region.

The following table lists some of the regional bodies upon which SBCTA and SBCOG representatives serve.

Committee	Appointee	Appointing Authority	Purpose	Term
California Association of Councils of Governments	Alan Wapner, Ontario	President	CALCOG facilitates communication and information sharing among its members. Most members of CALCOG are Councils of Governments (COGs), while some are transportation commissions and others are the large Metropolitan Planning Organizations like SCAG and SANDAG. CALCOG is governed by a Board of Directors comprised of a representative from each member's Board of Directors.	12/31/22
Inland Empire Economic Partnership (IEEP)	Dennis Michael, Rancho Cucamonga	President	The IEEP is a partnership that includes business, government and academic leaders to develop and carry out initiatives to benefit the region.	
The Sam and Alfreda L. Maloof Foundation for Arts and Crafts	Janice Rutherford, Supervisor	Board of Directors	A non-profit corporation that participates in the preparation of the Conservation Plan and oversees the activities and assets of the Foundation. A payment of stipend for participation has not been authorized.	12/31/23
Gold Line Phase II Joint Powers Authority	John Dutrey, Montclair, Primary Ray Marquez, Chino Hills, Alternate	Board of Directors	The Gold Line Phase II Construction Authority is a Joint Powers Authority (JPA) formed by 14 cities along the corridor and SBCTA. The JPA serves as a forum for the review, consideration, study, development and recommendation of policies and plans for the extension of the Gold Line from Pasadena to Montclair. Members receive \$100 payment from Gold Line Authority for participation.	12/31/23 12/31/22
Metro Gold Line Foothill Extension Construction Authority	Alan Wapner, Ontario, Primary John Dutrey, Montclair, Alternate	President	The Authority is responsible for the development of a light rail project from the City of Los Angeles into San Bernardino County. The Authority board meets on the second and fourth Wednesday of the month at 7:00 p.m. at the Authority's office in Monrovia. Members receive \$150 for each day spent on Authority business, not to exceed \$600 per month.	12/31/22 12/31/22
Mobile Source Air Pollution Reduction Review Committee	Larry McCallon, Highland, Primary John Valdivia, San Bernardino, Alternate	Board of Directors	Develops and implements work programs which reduce mobile source emissions, funded by AB2766 (portion of the \$4 motor vehicle registration fee). County Commissions, SCAQMD, and ARB have one appointment with alternates. In April 2005, SBCTA authorized a stipend of \$100 per day. The MSRC meets on the third Thursday of the month at 2:00 p.m. at South Coast Air Quality Management District in Diamond Bar.	12/31/22 12/31/22

Communication: Appointments to External Agencies (Committee Membership)

Appointments to External Agencies

Committee	Appointee	Appointing Authority	Purpose	Term
One Water One Watershed (OWOW) Steering Committee of the Santa Ana Watershed Project Authority	Deborah Robertson, Rialto	Board of Directors	Responsible for developing the integrated Regional Water Management Plan for the Santa Ana River. The term of the appointment is for four years for a city representative from San Bernardino County. Officers leaving elected office after appointment are still eligible to serve. Beginning January 2016, the OWOW meets on the 4 th Thursday of every other month at 11:00 a.m. at the Santa Ana Watershed Project Authority (SAWPA). Members of the Steering Committee do not receive a stipend.	12/31/22
SCAG Policy Committees	See associated table.	The Board has authorized the President to make appointments to SCAG Policy Committees.	SBCTA also has authority to appoint up to seven appointees to the three SCAG Policy Committees: i.e., Community Economic and Human Development, Energy and Environment, and Transportation. SCAG pays appointees to policy committees a stipend of \$120 per meeting.	See associated table – Representatives on SCAG Committees
Southern California Regional Rail Authority	Alan Wapner, Ontario, Primary Larry McCallon, Highland, Primary Ray Marquez, Chino Hills, Alternate John Dutrey, Montclair, Alternate	Board of Directors (Recommendation made by the Transit Committee)	SCRRA serves as the governing body for Metrolink, the regional commuter rail system serving the five Southern California Counties. Members receive payment of \$100 per day from SCRRA for participation.	Indefinite
SR 91 Advisory Committee	Ray Marquez, Chino Hills, Ex-Officio Member	Board of Directors	The Committee reviews issues and makes recommendations to OCTA regarding the transportation facilities acquired, including tolls imposed, operations, maintenance, use of toll revenues, and improvements in the area of SR 91 between I-15 and SR 55, including the identification and siting of alternate highways. SBCTA has not authorized payment of stipend for participation.	12/31/22
Regional Rideshare Agency - Mobile Source Air Pollution Reduction Review Committee	John Dutrey, Montclair, Primary Ray Marquez, Chino Hills, Alternate	Board of Directors	The County Transportation Commissions within the South Coast Air Basin operating a rideshare program are identified as the Regional Rideshare Agencies. Ride share programs consist of providing resources and ride matching to commuters to reduce single occupancy vehicle trips, as well as employer support for implementing rideshare programs and reduction plans for the South Coast Air Quality Management District's Rule 2202. In April 2005, SBCTA authorized a stipend of \$100 per day. The MSRC meets on the third Thursday of the month at 2:00 p.m. at South Coast Air Quality Management District in Diamond Bar.	4/30/22 4/30/22

Communication: Appointments to External Agencies (Committee Membership)

San Bernardino County Transportation Authority (SBCTA) Policy Committee Membership

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
General Policy Committee Membership consists of the following: SBCTA President, Vice President, and Immediate Past President 4 East Valley (3 City, 1 County) 4 West Valley (3 City, 1 County) 4 Mt/Desert (3 City, 1 County) City members shall be SBCTA Board Members elected by caucus of city SBCTA Board Members within the subarea. Policy Committee and Board Study Session Chairs are members of this policy committee. All City members serving as Board officers, Committee chairs, or Board Study Session Chair, are counted toward their subareas City membership. Supervisors collectively select their representatives. The SBCTA Vice President shall serve as Chair of the General Policy Committee.	Makes recommendations to Board of Directors and: (1) Provides general policy oversight which spans the multiple program responsibilities of the organization and maintains the comprehensive organization integrity; (2) Provides policy direction with respect to administrative issues, policies, budget, finance, audit, and personnel issues for the organization; (3) Serves as policy review committee for any program area that lacks active policy committee oversight. Committee has authority to approve contracts in excess of \$25,000 with notification to the Board of Directors. (Brown Act)	<u>West Valley</u> Ray Marquez, Chino Hills (Chair TC) Acquanetta Warren, Fontana Alan Wapner, Ontario Curt Hagman, Supervisor (Vice Chair/ President) <u>East Valley</u> Frank Navarro, Colton (Past President) Darcy McNaboe, Grand Terrace Larry McCallon, Highland Dawn Rowe, Supervisor (Chair MVSS & MDC) <u>Mountain/Desert</u> Art Bishop, Apple Valley (Chair/Vice President) Edward Paget, Needles Debra Jones, Victorville Paul Cook, Supervisor Should the chairs of each Committee and the Officers all be from the East Valley, West Valley or Mountain/Desert, additional members may be added to maintain geographical balance. Additional Board Members may be appointed annually at the discretion of the Board President.	6/30/2022 6/30/2022 6/30/2022 6/30/2022 6/30/2022 6/30/2022 6/30/2022 6/30/2022 6/30/2022 6/30/2022 6/30/2022 6/30/2022 Indeterminate (6/30/2022) 12/31/2022 (6/30/2022) 12/31/2023 12/31/2023 Indeterminate Indeterminate Indeterminate 12/31/2023 12/31/2022 12/31/2022 12/31/2022 12/31/2022
Transit Committee Membership consists of 12 SBCTA Board Members: 10 Valley-members, two being Southern California Regional Rail Authority (SCRRA) primary (*) and two being SCRRA alternate (**) members, and 2 Mountain/Desert Board Members. SCRRA members and alternates serve concurrent with their term on the SCRRA Board of Directors as appointed by the SBCTA Board. Other members are appointed by the SBCTA President for 2-year terms.	Provides policy guidance and recommendations to the SBCTA Board of Directors and Southern California Regional Rail Authority (SCRRA) delegates with respect to commuter rail and transit service. * SCRRA Primary Member ** SCRRA Alternate Member (Brown Act)	Ray Marquez, Chino Hills** (Chair) David Avila, Yucaipa (Vice Chair) Frank Navarro, Colton Acquanetta Warren, Fontana Larry McCallon, Highland* John Dutrey, Montclair** Alan Wapner, Ontario* L. Dennis Michael, Rancho Cucamonga Deborah Robertson, Rialto John Valdivia, San Bernardino Rick Denison, Yucca Valley Dawn Rowe, Supervisor	Indeterminate (6/30/2022) 12/31/2022 (6/30/2022) 12/31/2023 12/31/2023 Indeterminate Indeterminate Indeterminate 12/31/2023 12/31/2022 12/31/2022 12/31/2022 12/31/2022

Communication: Committee Membership (Committee Membership)

San Bernardino County Transportation Authority (SBCTA) Policy Committee Membership

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
Mountain/Desert Committee Membership consists of 12 SBCTA Board Members from each Mountain/Desert jurisdiction and County Supervisors representing the First, Second, and Third Districts.	Provides ongoing policy level oversight related to the full array of SBCTA responsibilities as they pertain specifically to the Mountain/Desert subregion. The Committee also meets as the Mountain/Desert Measure I Committee as it carries out responsibilities for Measure I Mountain/Desert Expenditure Plan. (Brown Act)	Dawn Rowe, Supervisor (Chair) Art Bishop, Apple Valley (Vice Chair) Daniel Ramos, Adelanto Paul Courtney, Barstow Rick Herrick, Big Bear Lake Cameron Gregg, Hesperia Edward Paget, Needles Joel Klink, Twentynine Palms Debra Jones, Victorville Rick Denison, Yucca Valley Janice Rutherford, Supervisor Paul Cook, Supervisor	Indeterminate (6/30/20 Indeterminate (6/30/20 Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate
Legislative Policy Committee Membership consists of the following: President, Vice-President, Immediate Past President and four Board members appointed by the Board President. - 1 East Valley member - 1 West Valley member - 1 Mountain/Desert member - 1 County member Members shall serve for the duration of the State and Federal two-year legislative session in which they were appointed, with terms expiring December 31 of odd-numbered years. The SBCTA Board President shall serve as Chair of the Legislative Policy Committee.	Provide guidance and recommendations to the Board of Directors regarding issues and actions relating to the executive, legislative or judicial branches of the State and Federal government, or any other local governing body. Review and provide input on drafting of State and Federal legislative platform, which will serve as guiding principles to support or oppose State and Federal legislation and regulations. (Brown Act)	Curt Hagman, Supervisor (President) Art Bishop, Town of Apple Valley (Vice President) Frank Navarro, Colton (Past President) Larry McCallon, Highland Alan Wapner, Ontario Rick Denison, Yucca Valley Janice Rutherford, Supervisor	Indeterminate Indeterminate Indeterminate 12/31/2022 12/31/2022 12/31/2022 12/31/2022

Policy Committee Meeting Times

General Policy Committee	Second Wednesday, 9:00 a.m., SBCTA Office
Legislative Policy Committee	Second Wednesday, 9:30 a.m., SBCTA Office
Transit Committee	Second Thursday, 9:00 a.m., SBCTA Office
Mountain/Desert Committee	Third Friday, 9:30 a.m., Victorville, CA

Board of Directors Study Sessions for Metro Valley Issues

STUDY SESSION	PURPOSE	MEMBERSHIP	TERMS
Board of Directors Study Sessions for Metro Valley Issues Refer to SBCTA Policy 10007.	To review, discuss, and make recommendations for actions to be taken at regular meetings of the Board on issues relating to Measure I Projects in the Valley. (Brown Act)	Board of Directors Dawn Rowe, Supervisor (Chair) John Valdivia, San Bernardino (Vice Chair)	6/30/2022 6/30/2022

Meeting Time: Second Thursday, 9:30 a.m., SBCTA Office

I-10 and I-15 Corridor Joint Sub-Committee

Joint Sub-Committee	PURPOSE	MEMBERSHIP	TERMS
I-10 and I-15 Corridor Joint Sub-Committee of the Board of Directors Metro Valley Study Session and the Mountain/Desert Policy Committee Members of the committee will be members of the SBCTA Board of Directors and will be appointed by the SBCTA Board President. The President will appoint the Chair and Vice-Chair of the Sub-Committee. The Sub-Committee will include a minimum of nine and a maximum of fourteen SBCTA Board members. Membership will be composed of a minimum of three representatives from the East Valley; and a minimum of two representatives from the Victor Valley. The Sub-Committee will meet as necessary immediately following the Metro Valley Study Session.	The purpose is to consider and make recommendations to the Board of Directors on the development of express lanes in San Bernardino County, in particular on the I-10 and I-15 Corridors. (Brown Act)	Alan Wapner, Ontario (Chair) Art Bishop, Town of Apple Valley (Vice Chair) Joe Baca Jr., Supervisor Paul Cook, Supervisor Larry McCallon, Highland L. Dennis Michael, Rancho Cucamonga Frank Navarro, Colton Deborah Robertson, Rialto Acquanetta Warren, Fontana	12/31/2022 12/31/2022 12/31/2022 12/31/2022 12/31/2022 12/31/2022 12/31/2022 12/31/2022

Public and Specialized Transportation Advisory and Coordinating Council (PASTACC)

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
Public and Specialized Transportation Advisory and Coordinating Council (PASTACC) Membership consists of 11 members appointed by the SBCTA Executive Director. 5 representing Public Transit Providers 1 representing County Dept. of Public Works 2 representing the Consolidated Transportation Services Agency - Omnitrans and VVTA also represent CTSA for the Valley and High Desert respectively. 5 At Large Members representing Social Service Providers	Subject to the Transportation Development Act (TDA) Section 99238 – establishes PASTACC’s statutory responsibilities; (1) Review and make recommendations on annual Unmet Transit Needs hearing findings (2) Score and make recommendations for Federal Transit Administration Section 5310 Capital Grant Program applications (3) Assist SBCTA in developing public outreach approach on updating the Coordinated Public Transit/Human Services Transportation Plan (4) Review call for projects for Federal Transit Administration Section 5310 grant applications (5) Monitor and make recommendations on Federal regulatory processes as they relate to transit and specialized transit (6) Monitor and disseminate information in reference to State level law and recommendations as they relate to transit and specialized transit (7) Receive annual reports on funded specialized programs funded through FTA Section 5310 and Measure I (8) Identify regional or county level areas of unmet needs (9) Address special grant or funding opportunities (10) Address any special issues of PASTACC voting and non-voting members (Brown Act)	Standing Membership – Morongo Basin Transit Authority Mountain Transit City of Needles Transit Services Omnitrans Victor Valley Transit Authority County of San Bernardino Dept. of Public Works At Large Membership – San Bernardino Dept. of Aging and Adult Services Foothill Aids OPARC Option House Loma Linda University Health	On-going On-going On-going On-going On-going On-going 5/31/2024 9/30/2023 9/30/2023 6/30/2022 5/31/2024

Meeting Dates and Time: Bi monthly, beginning in January, 2nd Tuesday of the month, 10:00 a.m., (Location rotates: SBCTA Office, VVTA, MBTA)

Independent Taxpayer Oversight Committee (ITOC) Review of Measure I Expenditure Plan

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
<p>Independent Taxpayer Oversight Committee (ITOC) Review of Measure I Expenditure Plan</p> <p>The ITOC shall provide citizen review to ensure that all Measure I funds are spent by the San Bernardino County Transportation Authority (hereby referred to as the Authority) in accordance with provision of the Expenditure Plan and Ordinance No. 04-01. The ordinance specifies that each member of the ITOC have certain credentials or experience as follows:</p> <ol style="list-style-type: none"> One member who is a professional in the field of municipal audit, finance and/or budgeting with a minimum of five years in a relevant and senior decision-making position in the public or private sector. One member who is a licensed civil engineer or trained transportation planner with at least five years of demonstrated experience in the fields of transportation and/or urban design in government and/or the private sector. No member shall be a recipient or sub-recipient of Measure "I" funding. One member who is a current or retired manager of a major publicly financed development or construction project, who by training and experience would understand the complexity, costs and implementation issues in building large scale transportation improvements. One member who is current or retired manager of a major privately financed development or construction project, who by training and experience would understand the complexity, costs and implementation issues in building large scale transportation improvements. One public member, who possesses the knowledge and skills which will be helpful to the work of the ITOC. <p>In addition to the appointed members, the SBCTA President and Executive Director will serve as ex-officio members.</p>	<p>The ITOC shall review the annual audits of the Authority; report findings based on the audits to the Authority; and recommend any additional audits for consideration which the ITOC believes may improve the financial operation and integrity of program implementation.</p> <p>The Authority shall hold a publicly noticed meeting, which may or may not be included on the agenda of a regularly scheduled Board meeting, with the participation of the ITOC to consider the findings and recommendations of the audits.</p> <p>(Brown Act)</p>	<p>Vacant (A)</p> <p>Gerry Newcombe (B)</p> <p>Wayne Hendrix (C)</p> <p>Rick Gomez (D)</p> <p>Mike Layne (E)</p> <p>Curt Hagman, Ex-Officio</p> <p>Ray Wolfe, Ex-Officio</p>	<p>12/31/24</p> <p>12/31/22</p> <p>12/31/22</p> <p>12/31/22</p>

SBCTA Ad Hoc Committees

COMMITTEE	PURPOSE	MEMBERSHIP
<p>Equity Ad Hoc Committee</p> <p>On October 7, 2020, the Board approved the establishment of this ad hoc committee composed of seven Board members appointed by the Board President. Membership consists of the following:</p> <ul style="list-style-type: none"> - 2 East Valley member - 2 West Valley member - 2 Mountain/Desert member - 1 County member 	<p>To look broadly at equity and inequity region-wide both within the practices, policies and projects of SBCTA, as well as policies and issues facing SBCOG's member agencies.</p>	<p>L. Dennis Michael, Rancho Cucamonga</p> <p>Acquanetta Warren, Fontana</p> <p>John Valdivia, San Bernardino</p> <p>Rick Denison, Yucca Valley</p> <p>Darcy McNaboe, Grand Terrace</p> <p>Art Bishop, Apple Valley</p> <p>Joe Baca Jr., Supervisor</p>

Communication: Committee Membership (Committee Membership)

Emerging Technology Ad Hoc Committee On October 6, 2021, the Board approved the establishment of this ad hoc committee composed of Board members appointed by the Board President.	To look broadly at Transportation Technology. This ad hoc has a term ending December 31, 2022.	Art Bishop, Apple Valley Frank Navarro, Colton Acquanetta Warren, Fontana Carlos A. Garcia, Upland John Dutrey, Montclair L. Dennis Michael, Rancho Cucamonga David Avila, Yucaipa Curt Hagman, Supervisor
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SBCTA Technical Advisory Committees

COMMITTEE	PURPOSE	MEETING SCHEDULE
Transportation Technical Advisory Committee (TTAC) Committee membership consists of a primary staff representative of each SBCTA member agency designated by the City Manager or County Administrative Officer.	SBCTA's Transportation Technical Advisory Committee was formed by SBCTA management to provide input to SBCTA staff on technical transportation-related matters and formulation of transportation-related policy recommendations to the SBCTA Board of Directors. The TTAC is not a Brown Act committee.	Generally meets on the first Monday of each month at 1:30 PM, at SBCTA.
City/County Manager's Technical Advisory Committee (CCM TAC) The committee is composed of up to two representatives of the County Administrator's Office and the city manager or administrator from each city and town in the County.	SBCTA's City/County Manager's Technical Advisory Committee was established in the Joint Powers Authority that established San Bernardino Associated Governments (SANBAG). The primary role of the committee is to provide a forum for the chief executives of SANBAG's member agencies to become informed about and discuss issues facing SANBAG/SBCTA. It also provides a forum for the discussion of items of mutual concern and a way to cooperate regionally in addressing those concerns. The CCM TAC is a Brown Act Committee.	Meets on the first Thursday of each month at 10:00 AM, at SBCTA.
Planning and Development Technical Forum (PDTF) Committee membership consists of a primary staff representative of each SBCTA member agency designated by the City Manager or County Chief Executive Officer.	The SBCTA Planning and Development Technical Forum was formed by SBCTA management to provide an opportunity for interaction among planning and development representatives of member agencies on planning issues of multijurisdictional importance. The PDTF is not a Brown Act Committee.	Meets the 4th Wednesday of each month at 2:00 p.m. at the Santa Fe Depot (in the SCAG Office).
Project Development Teams	Project Development Teams (PDTs) are assembled for all major project development activities by SBCTA staff. Teams are generally composed of technical representatives from SBCTA, member jurisdictions appropriate to the project, Caltrans, and other major stakeholder entities that have significant involvement in the project. PDTs make recommendations related to approaches to project development, evaluation of alternatives, and technical solutions. PDTs meet on a regular basis throughout the project phase to review progress and to provide technical input required for project development. The PDTs are not Brown Act Committees.	Varies with the PDT.

Communication: Committee Membership (Committee Membership)



MISSION STATEMENT

Our mission is to improve the quality of life and mobility in San Bernardino County. Safety is the cornerstone of all we do.

We achieve this by:

- Making all transportation modes as efficient, economical, and environmentally responsible as possible.
- Envisioning the future, embracing emerging technology, and innovating to ensure our transportation options are successful and sustainable.
- Promoting collaboration among all levels of government.
- Optimizing our impact in regional, state, and federal policy and funding decisions.
- Using all revenue sources in the most responsible and transparent way.

Approved December 4, 2019