

AGENDA

Transit Committee Meeting

December 11, 2025

9:00 AM

Location

San Bernardino County Transportation Authority

First Floor Lobby Board Room

1170 W. 3rd Street, San Bernardino, CA 92410

Transit Committee Membership

Chair

John Dutrey, Mayor
City of Montclair

Acquanetta Warren, Mayor
City of Fontana

Vice Chair

Joe Baca, Jr., Supervisor
County of San Bernardino

Bill Hussey, Mayor
City of Grand Terrace

Art Bishop, Council Member
Town of Apple Valley

Larry McCallon, Mayor Pro Tem
City of Highland

Eunice Ulloa, Mayor
City of Chino

Alan Wapner, Mayor Pro Tem
City of Ontario

Ray Marquez, Vice Mayor
City of Chino Hills

L. Dennis Michael, Mayor
City of Rancho Cucamonga

Frank Navarro, Mayor
City of Colton

Rick Denison, Council Member
Town of Yucca Valley

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

AGENDA

Transit Committee Meeting

**December 11, 2025
9:00 AM**

Location

**SBCTA Office
First Floor Lobby Board Room
1170 W. 3rd Street, San Bernardino, CA 92410**

Items listed on the agenda are intended to give notice to members of the public of a general description of matters to be discussed or acted upon. The posting of the recommended actions does not indicate what action will be taken. The Board may take any action that it deems to be appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

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 John Dutrey)

- i. Pledge of Allegiance
- ii. Attendance
- iii. Announcements
- iv. Agenda Notices/Modifications – Victoria Hernandez

Public Comment

Brief Comments from the General Public

Possible Conflict of Interest Issues

Pg. 9

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.

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

INFORMATIONAL ITEMS

Items listed are receive and file items and are expected to be routine and non-controversial. Unlike the Consent Calendar, items listed as Informational Items do not require a vote.

2. Transit and Rail Programs Contract Change Orders to On-Going Contracts Pg. 10

Receive and file Change Order Report.

Presenter: Victor Lopez

This item is not scheduled for review by any other policy committee or technical advisory committee.

3. San Bernardino County Multimodal Transportation Quarterly Update for Fiscal Year 2024/2025 Fourth Quarter Pg. 12

Receive and file the Fourth Quarter San Bernardino County Multimodal Transportation Quarterly Update for Fiscal Year 2024/2025.

Presenter: Nancy Strickert

This item is not scheduled for review by any other policy committee or technical advisory committee.

DISCUSSION ITEMS

Discussion - Regional/Subregional Planning

4. Planning Study to Identify Next Bus Rapid Transit Corridor for Further Development in the Valley Pg. 40

Receive information on a San Bernardino County Transportation Authority planning study to identify the next Bus Rapid Transit corridor for further development in the Valley, in collaboration with Omnitrans.

Presenter: Steve Smith

This item is not scheduled for review by any other policy committee or technical advisory committee.

Discussion - Transit

5. Brightline West Hesperia Station - Caltrans Cooperative Agreement and Amendment No. 3 to Lease Agreement 22-1002723 Pg. 46

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

A. Delegate authority to the Executive Director, or her designee, to negotiate, approve, and execute Cooperative Agreement No. 25-1003332 with the State of California Department of Transportation (Caltrans) regarding the construction of the Brightline West Hesperia Station on excess State right-of-way and the ultimate relinquishment of said excess right-of-way to SBCTA, upon approval as to form by SBCTA's General Counsel.

B. Delegate authority to the Executive Director, or her designee, to negotiate, approve, and execute Amendment No. 3 to Lease Agreement No. 22-1002723 for a portion of the San Gabriel Subdivision Right-of-Way to add the excess State right-of-way relinquished to SBCTA to the lease agreement with DesertXpress Enterprises, LLC. (d/b/a Brightline West), upon approval as to form by SBCTA's General Counsel.

Presenter: Ryan Aschenbrenner

(Agenda Item 5 cont.)

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Procurement Manager have reviewed this item and the draft agreement and amendment.

6. Enhanced Frequency Service Ad Hoc Recommendation

Pg. 174

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

A. Receive an update on the Enhanced Frequency Service Ad Hoc Committee recommendation.

B. Direct staff to advance the development of the Pomona-North to Rancho Cucamonga Metrolink Shuttle Service and prepare a Project Study Report.

Presenter: Victor Lopez

This item is not scheduled for review by any other policy committee or technical advisory committee.

Comments from Board Members

Brief Comments from Board Members

ADJOURNMENT

Additional Information

Attendance

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Acronym List

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Mission Statement

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The next Transit Committee Meeting is scheduled for January 15, 2026.

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 Sec. 54950 et seq., and shall apply at all meetings of the Board of Directors and Policy Committees.

Accessibility & Language Assistance - The meeting facility is accessible to persons with disabilities. A designated area is reserved with a microphone that is ADA accessible for public speaking. A designated section is available for wheelchairs in the west side of the boardroom gallery. If assistive listening devices, other auxiliary aids or language assistance 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 the office is located at 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA.

Service animals are permitted on SBCTA's premises. The ADA defines service animals as dogs or miniature horses that are individually trained to do work or perform tasks for people with disabilities. Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work, or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

Members of the Board of Directors and any Policy Committee with a disability may participate in any meetings of their respective legislative bodies by remote participation as a reasonable accommodation in accordance with Government Code Sec. 54953(c).

Accesibilidad y asistencia en otros idiomas - Las personas con discapacidad pueden acceder a la sala de reuniones. Se reserva una zona designada con un micrófono accesible que cumple con los requisitos de la ADA para hablar en público. Una sección designada está disponible para sillas de ruedas en el lado oeste de la galería de la sala de reuniones. Si se necesitan dispositivos de ayuda auditiva, otras ayudas auxiliares o servicios de asistencia en otros idiomas para participar en la reunión pública, las solicitudes deben presentarse al Secretario de la Junta al menos tres (3) días hábiles antes de la fecha de la reunión de la Junta. Puede comunicarse con el Secretario llamando al (909) 884-8276 o enviando un correo electrónico a clerkoftheboard@gosbcta.com. La oficina se encuentra en 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA.

Los animales de servicio están permitidos en las instalaciones de SBCTA. La ADA define a los animales de servicio como perros o caballos miniatura que son entrenados individualmente para hacer trabajo o realizar tareas para personas con discapacidades. Según la ADA, los animales de servicio deben tener un arnés o ser atados, a menos que estos dispositivos interfieran con el trabajo del animal de servicio, o que la discapacidad de la persona impida el uso de estos dispositivos. En ese caso, la persona debe mantener el control del animal a través de su voz, señales u otros controles efectivos.

Los miembros de la Junta Directiva y de cualquier Comité de Políticas que tengan una discapacidad podrán participar en cualquier reunión de sus respectivos órganos legislativos mediante participación remota como una adaptación razonable de conformidad con el artículo 54953(c) del Código de Gobierno.

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 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 President of the Board or Committee Chair (“President”) will announce the subject matter of the closed session. If reportable action is taken in closed session, the President shall 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 in attendance at SBCTA who desire to speak on an item may complete and turn in a "Request to Speak" form, specifying each item an individual wishes to speak on. Individuals may also indicate their desire to speak on an agenda item when the President asks for public comment. When recognized by the President, speakers should be prepared to step forward and announce their name 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 President 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. Any individual who wishes to share written information with the Board may provide 35 copies to the Clerk of the Board for distribution. If providing written information for distribution to the Board, such information must be emailed to the Clerk of the Board, at clerkoftheboard@gosbcta.com, no later than 2:00 pm the day before the meeting in order to allow sufficient time to distribute the information. Written information received after the 2:00 pm deadline will not be distributed. Information provided as public testimony is not read into the record by the Clerk. Consent Calendar items can be pulled at Board member request and will be brought up individually at the specified time in the agenda. Any consent item that is pulled for discussion shall be treated as a discussion item, allowing further public comment from any members of the public who haven’t already commented on the item during the meeting.

Public Comment –An opportunity is also provided for members of the public to speak on any subject within the Board’s jurisdiction. Matters raised under “Public Comment” will not be acted upon at that meeting. See “Public Testimony on an Item” and “Agenda Actions”, above.

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 President 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 President of the Board or Chair of a Policy Committee (Chair) has the option of taking attendance by Roll Call. 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.
- 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.
- Votes at teleconferenced meetings shall be by roll call, pursuant to the Brown Act, or, at any meeting, upon the demand of five official representatives present or at the discretion of the presiding officer.

The Vote as specified in the SBCTA Administrative Code and 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. (Note that Alternates may vote only at meetings of the Board of Directors, Metro Valley Study Session and Mountain/Desert Policy Committee.)

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 Chair shall ask the maker of the original motion if he or she would like to amend the 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 may require deviation from general practice (but not from the Brown Act or agency policy).
- 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

Revised June 7, 2023

Minute Action

AGENDA ITEM: 1

Date: December 11, 2025

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 \$500 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
5	22-1002723-03	DesertXpress Enterprises, LLC <i>Sarah Watterson</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:

Victor Lopez, Director of Transit & Rail Programs

Approved
Transit Committee
Date: December 11, 2025
Witnessed By:

Entity: San Bernardino County Transportation Authority

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Minute Action

AGENDA ITEM: 2

Date: December 11, 2025

Subject:

Transit and Rail Programs Contract Change Orders to On-Going Contracts

Recommendation:

Receive and file Change Order Report.

Background:

The San Bernardino County Transportation Authority Department of Transit and Rail Programs has two ongoing construction contracts, one procurement of major equipment contract, and one vehicle procurement contract, of which one had Construction Change Orders (CCO) executed since the last reporting to the Transit Committee on November 13, 2025.

A. Contract No. 23-1002891 with Griffith Company for the West Valley Connector Project Mainline Construction:

- 1) CCO 38: Reconstruct brick manhole. (\$70,000)
- 2) CCO 41: Improvements at 1623 Holt Boulevard (\$89,659.30)
- 3) CCO 48: Compensation for Heritage Inn Access Impact. (\$9,315)
- 4) CCO 49: Temporary Traffic Control. (\$50,000)
- 5) CCO 51: Relocate unforeseen water meter at Sta 465+50. (\$28,500)

B. Contract No. 23-1002922 with Metro Builders & Engineers Group, Ltd. for the Arrow Maintenance Facility (AMF) Hydrogen Fuel Upgrade Project: AMF Retrofit Construction: There are no newly executed CCOs since the last report.

C. Contract No. 23-1002961 with Proterra Builders, Inc. for the AMF Hydrogen Fuel Upgrade Project: Procurement of Major Equipment: There are no newly executed CCOs since the last report.

D. Contract No. 20-1002310 with Stadler US, Inc. for Zero Emission Multiple Unit Rail Vehicle Procurement: There are no newly executed CCOs since the last report.

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2025/2026.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee.

Responsible Staff:

Victor Lopez, Director of Transit & Rail Programs

Approved
Transit Committee
Date: December 11, 2025
Witnessed By:

Entity: San Bernardino County Transportation Authority

**Transit and Rail Programs Contracts
Executed Change Orders**

Number	Description	Amount
West Valley Connector Mainline Construction, Griffith Company (23-1002891)		
	Description	Amount
38	Reconstruct Brick Manhole	\$70,000.00
41	Improvements at 1623 Holt Boulevard	\$89,659.30
48	Compensation for Heritage Inn Access Impact	\$9,315.00
49	Temporary Traffic Control	\$50,000.00
51	Relocate Unforeseen Water Meter at Sta 465+50	\$28,500.00
	CCO Total	\$238,889.56
	Approved Contingency	\$11,995,991.00
	Remaining Contingency	\$11,757,101.44
ZEMU - Arrow Maintenance Facility (AMF) Construction Upgrade Project, Metro Builders & Engineers Group, Ltd. (23-1002922)		
	Description	Amount
	CCO Total	\$298,056.70
	Amended Approved Contingency	\$475,099.00
	Remaining Contingency	\$177,042.30
ZEMU - Arrow Maintenance Facility (AMF) Procurement Upgrade Project, Proterra Builders, Inc. (23-1002961)		
	Description	Amount
	CCO Total	\$22,964.98
	Approved Contingency	\$56,280.21
	Remaining Contingency	\$33,315.23
ZEMU- Vehicle Procurement Stadler (20-1002310)		
	Description	Amount
	CCO Total	\$2,592,169.12
	Approved Contingency	\$3,487,482.12
	Remaining Contingency	\$895,313.00

Minute Action

AGENDA ITEM: 3

Date: December 11, 2025

Subject:

San Bernardino County Multimodal Transportation Quarterly Update for Fiscal Year 2024/2025
Fourth Quarter

Recommendation:

Receive and file the Fourth Quarter San Bernardino County Multimodal Transportation Quarterly Update for Fiscal Year 2024/2025.

Background:

Multimodal services are an important part of how people travel throughout San Bernardino County. This is reflected in projects and programs that 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 countywide transit performance software that the San Bernardino County transit operators, except SCRRA, use to provide operations and financial data every month. This allows SBCTA to pull data reports independently from the transit operators. The other data sources for this report came from SBCTA's rideshare program database, transit operators' staff, and 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 presented. SCRRA data is collected directly from SCRRA and reviewed as part of the SCRRA Member Agency Advisory Committee activities. SBCTA is working with SCRRA on adding access to the Arrow Service data through TransTrack for consistency.

San Bernardino County's public transit operators have worked steadily to regain Fiscal Year (FY) 2019/2020's ridership of 15 million annual trips (Exhibit 3 on the following page). Closing out FY 2024/2025 with 13.6 million passenger trips, they are now 88% of the pre-COVID peaks. Regaining ridership has not been easy. Some population groups were slow to return to public transit, such as older adults who were frightened by the prospect of public transit after long periods of social distancing. Others no longer need a transit trip as commute trip patterns have changed, particularly with the choice to work from home that many initially opted for and some continue.

Strategies to confront changing demand patterns have varied and have been previously reported in these Quarterly Reports. They include SBCTA's comprehensive countywide marketing campaigns, messaging from buses and bus stops, as well as increasing messaging via social media. Active use of fare policy, including SBCTA supported free fares for youth programs, have sought to invite a new generation of young riders to try transit. Technology is making it easier to plan routes, check on real-time bus arrivals, and to pay fares. In some cases, new services have been introduced, such as OmniConnect and Victor Valley Transit Authority (VVTA's) Micro-Link. These are among the strategies San Bernardino County's operators are using to steadily regain ridership.

Entity: San Bernardino County Transportation Authority

Transit Committee Agenda Item

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Results of these and other strategies show:

- Bus operators have now reached a healthy 9.6 million boardings for FY 2024/2025, regaining 91% of its previous peak.
- Metrolink rail service, for San Bernardino Station boardings on the San Bernardino Line, Inland Empire Orange County Line, Riverside Line, and including Arrow, had 4.1 million trips in FY 2019/2020 and is now just over 3.3 million, nearly 80% recovery of the pre-COVID peak.
- Vanpool ridership now exceeds pre-COVID levels, growing to 726,000 annual vanpool passenger trips, up from 617,000 trips in FY 2019/2020 and an increase of 18%. The County's two programs, SBCTA's SB Loop and VVTA's iVanpool, provide a significant resource to commuters, many of whom are making long-distance commutes.
- Consolidated Transportation Services Agencies' multiple programs in the San Bernardino Valley and the Victor Valley, now including the Morongo Basin, are providing 60% more trips, up from 172,000 in FY 2019/2020 to 274,000 in FY 2024/2025, with ridership largely to vulnerable populations that include older adults and persons with disabilities.

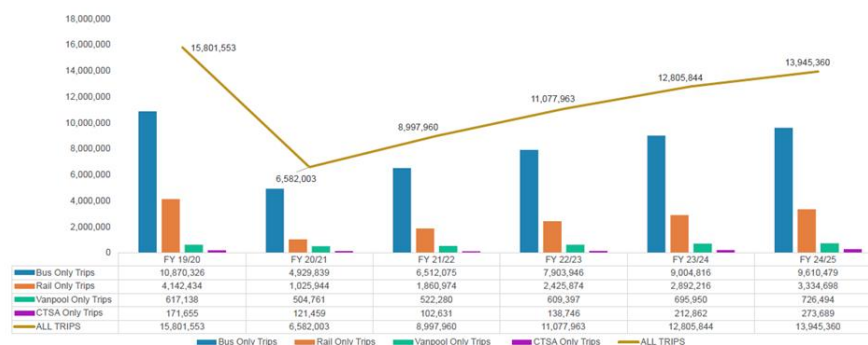
Current Initiatives Update:

In continued efforts to make the existing transit resource information and current transit initiatives for San Bernardino County readily available to the public, SBCTA has developed a senior-focused transit services brochure and multimodal transit resource website (<https://www.gosbcta.com/allthingstransit>). These tools support ongoing efforts to provide the public with up-to-date information on navigating the transit network and to encourage the county's residents to use transit and engage with SBCTA.

SBCTA's multimodal group launched a much-needed community resource on National Senior Citizens' Day, August 21, 2025. The new Senior Transit Brochure is a guide to public transportation services available to older adults and people with disabilities in San Bernardino with connections to services throughout the region.

The printed brochure is being distributed to key community partners that serve potential rider audiences and is available online on the multimodal website. The launch was supported by social media posts and ads on SBCTA channels on the day and week of National Senior Citizens' Day, which received approximately 30,000 views, and ongoing social media posts and ads.

Exhibit 3. Six Years of San Bernardino County Annual Ridership by Mode - Total Ridership and Bus, Rail, Vanpool and CTSA Program Ridership



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More Transportation Services for all Seniors and People with Disabilities

Basin Transit
basin-transit.com 760-366-2395 Senior = 60+

Monrovia Basin
Ready Ride: Origin to destination, Dial-a-Ride service for seniors (60+) and Persons with Disabilities with a Basin Transit ID. It is also available to others at a higher price. basin-transit.com/ready-ride
Senior Center Lunch Transportation: Specialized service for seniors who wish to attend the Yucca Valley Senior Center lunch program. 760.366.2395.
TREP Volunteer Driver Program: For eligible individuals who are unable to drive or use public transportation. basin-transit.com/trep

Needles Transit Services
needles-transit.com 760-326-4789 Senior = 55+

City of Needles
Dial-a-Ride: Curb-to-curb service for seniors (55+) and Persons with Disabilities within the City of Needles. Fare is \$1.25. Participants must register with the Needles Senior Center. needles-transit.com/dial-a-ride
Ft. Mohave/Bullhead Shuttle: General public on-demand service between Needles and Ft. Mohave/Bullhead City for shopping, medical and other trips. Operates Tuesday and Thursday. Advanced reservation and payment required. needles-transit.com/shopper-shuttle
TRIP Volunteer Driver Mileage Reimbursement Program: For individuals unable to use public transit or drive for some or all trips. Eligibility determination required. Administered by VTA - vta.org/flex/trip

Victor Valley Transit
vta.org 760-948-4021 Senior = 60+

Victor Valley and Barstow
Direct Access: ADA Paratransit Service for Victor Valley communities served by VTA. Fare is \$2.50 to \$6.00 based on zones traveled. vta.org/flex/ada-direct-access
TRIP Volunteer Driver Mileage Reimbursement Program: For individuals unable to use public transit or drive for some or all trips. Eligibility determination required. vta.org/flex/trip
MicroLink: A general public on-demand service in Hesperia, Apple Valley and Victorville West. You request rides using a smartphone app or computer. Only \$2.00 per ride. vta.org/microlink

Mountain Transit
mountaintransit.org 909-878-5200 Senior = 60+

Crestline, RIM Area and Big Bear
Dial-a-Ride: Fare-free, curb-to-curb service for seniors (60+), Veterans and Persons with Disabilities with Mountain Transit issued Dial-a-Ride ID. Available in Big Bear and RIM area. mountaintransit.org/big-bear-dial-a-ride or mountaintransit.org/rim-area-dial-a-ride
TRIP Volunteer Driver Mileage Reimbursement Program: For eligible individuals who are unable to drive or use public transportation. mountaintransit.org/accessibility

Omnitrans
omnitrans.org 909-379-7341 Senior = 62+

San Bernardino Valley
OmniaAccess: ADA Paratransit Service for all communities served by Omnitrans. Fare is \$3.75 to \$6.75 based on zones traveled. omnitrans.org/services/access-ada
RIDE Program: Monthly subsidy for seniors (62+) and Persons with Disabilities to use Uber or traditional taxi services at half price. Application required. omnitrans.org/services/rms
Volunteer Driver Mileage Reimbursement Program: For individuals with disabilities unable to use transit for some or all trips. omnitrans.org/services/rms

Scan QR code for more information:

Basin Transit Rider Appreciation Day

On November 22, 2025, SBCTA joined Basin Transit and The Way Station, a local charity, to thank riders with free transit service and giveaways. The Rider Appreciation Day, which took place in front of Walmart in the Town of Yucca Valley, was part of Basin Transit and The Way Station's Fill the Bus event, in which the public was encouraged to donate groceries and goods to support Morongo Basin residents.

**RIDER APPRECIATION
AND
FILL THE BUS**

**Saturday, November 22
8 AM to 6 PM**

**Walmart Super Center
Yucca Valley**

RIDE FREE ALL DAY!

powered by **sb cta**
San Bernardino County Transportation Authority

BASIN TRANSIT **sb cta**

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2025/2026.

Reviewed By:

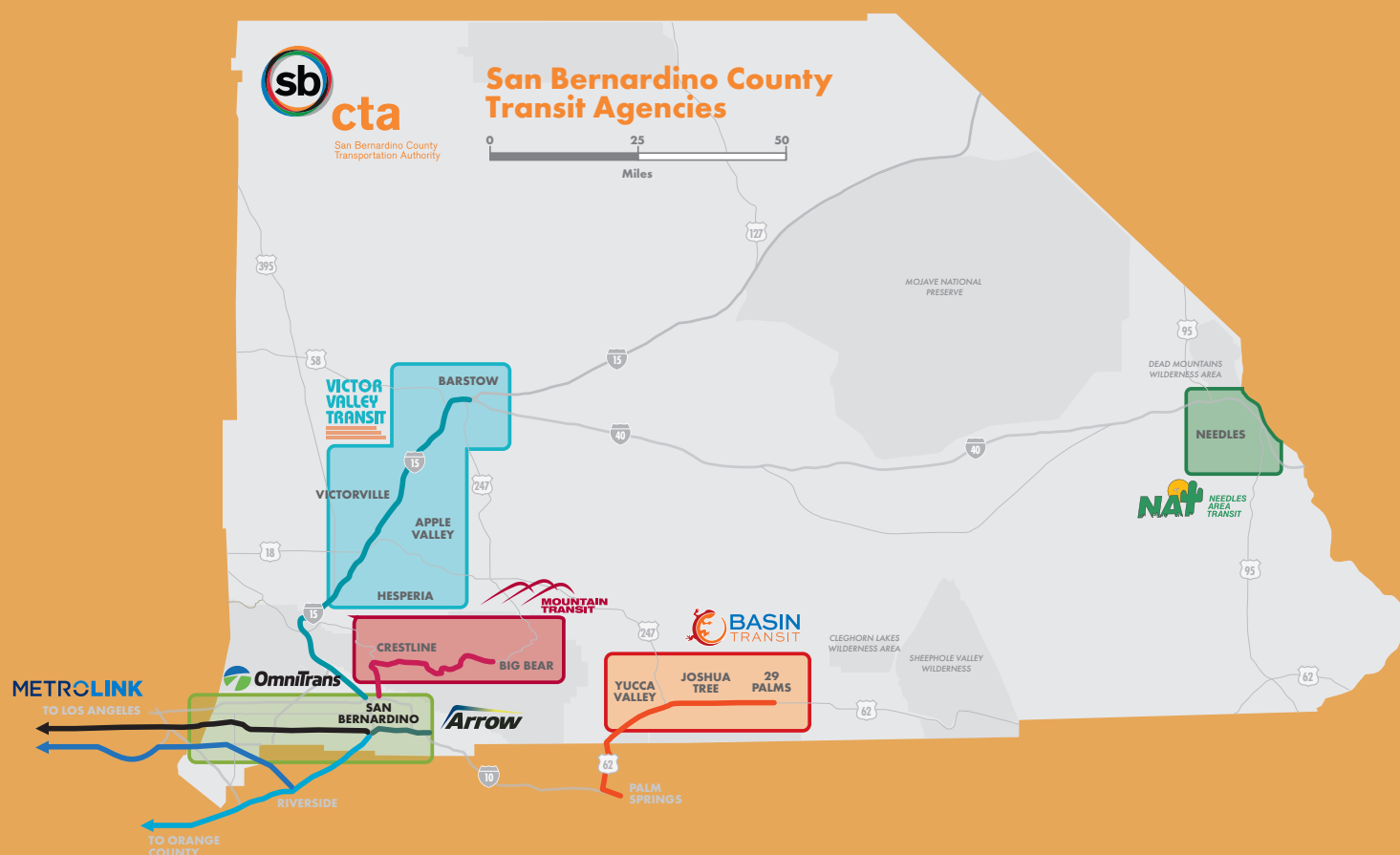
This item is not scheduled for review by any other policy committee or technical advisory committee.

Responsible Staff:

Nancy Strickert, Multimodal Manager

Approved
Transit Committee
Date: December 11, 2025
Witnessed By:

San Bernardino County Multimodal Transportation Quarterly Update



Fourth Quarter Fiscal Year 2024/2025

Volume 6, Number 4

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Introduction

This year-end report highlights ongoing efforts to rebuild ridership, reported in this iteration of the SAN BERNARDINO COUNTY MULTIMODAL TRANSPORTATION QUARTERLY REPORT (Volume 6, Number 4). The County's public transportation operators report their final, fourth quarter experience of April, May and June 2025 of Fiscal Year 2024/2025 (FY 24/25). A countywide picture of six years of public transportation performance is presented. Selected current initiatives by San Bernardino County Transportation Authority (SBCTA) are also reported, followed by a picture of each of the County's operators as they seek to grow ridership and enhance community-level and regional transit.

This report has two primary purposes in informing San Bernardino County policy makers, members of the general public and interested stakeholders:

1. Providing high-level information about specific transportation services and programs available.
2. Reporting current initiatives and tracking trends in key performance indicators.

San Bernardino County's Public Transportation Modes and Programs

San Bernardino County is served by six public transit operators, providing rail, fixed-route bus services, microtransit and Americans with Disabilities Act (ADA) complementary paratransit services. The new Metrolink Arrow San Bernardino-Redlands train service commenced in October 2022. Its tenth full quarter of service is presented in this report. The service areas of the County's five bus operators, plus Metrolink service, are depicted in Exhibit 1.

- **Metrolink** – Providing passenger rail service across a 538-mile network throughout the counties of Los Angeles, Orange, Riverside, San Bernardino and Ventura. Metrolink launched the Arrow service in October 2022, adding nine additional miles, four new stations and new Diesel Multiple Unit (DMU) trains, and connecting Downtown San Bernardino with the University of Redlands.

• **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 Barstow areas, connecting to the San Bernardino Valley.

• **Basin Transit (previously Morongo Basin Transit Authority)** – 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 Transit Services** – Providing services within the City of Needles and limited connections into Arizona.

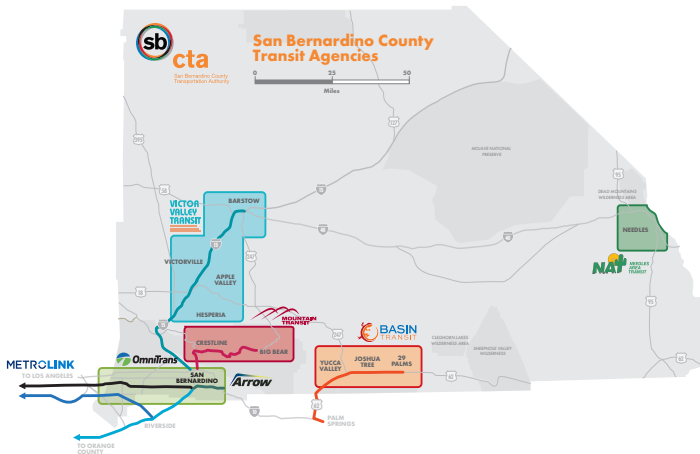
Three additional modes of transportation support San Bernardino County residents:

- **Consolidated Transportation Services Agencies (CTSAs) programs** – Specialized transportation services administered by Omnitrans and VVTA.

• **Vanpool programs** – Programs are operated by SBCTA and VVTA – SB Loop and iVanpool.

• **IE Commuter** – A rideshare program in partnership with SBCTA and the Riverside County Transportation Commission (RCTC).

Exhibit 1, San Bernardino County Public Transit Bus Operators

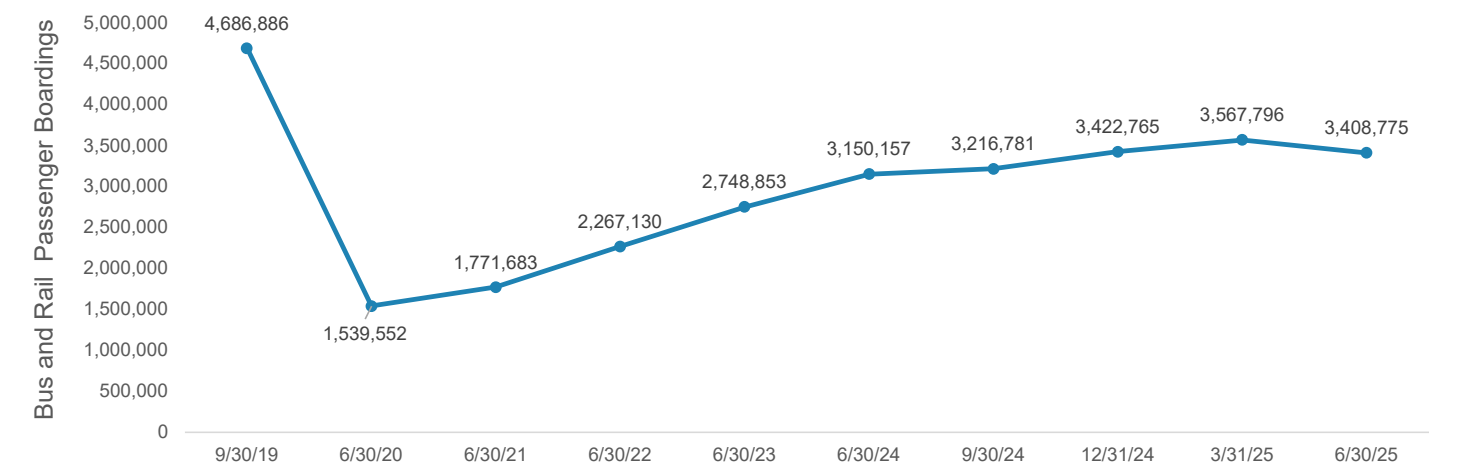


Commentary

Ridership Growth Despite Changing Travel Patterns and Needs

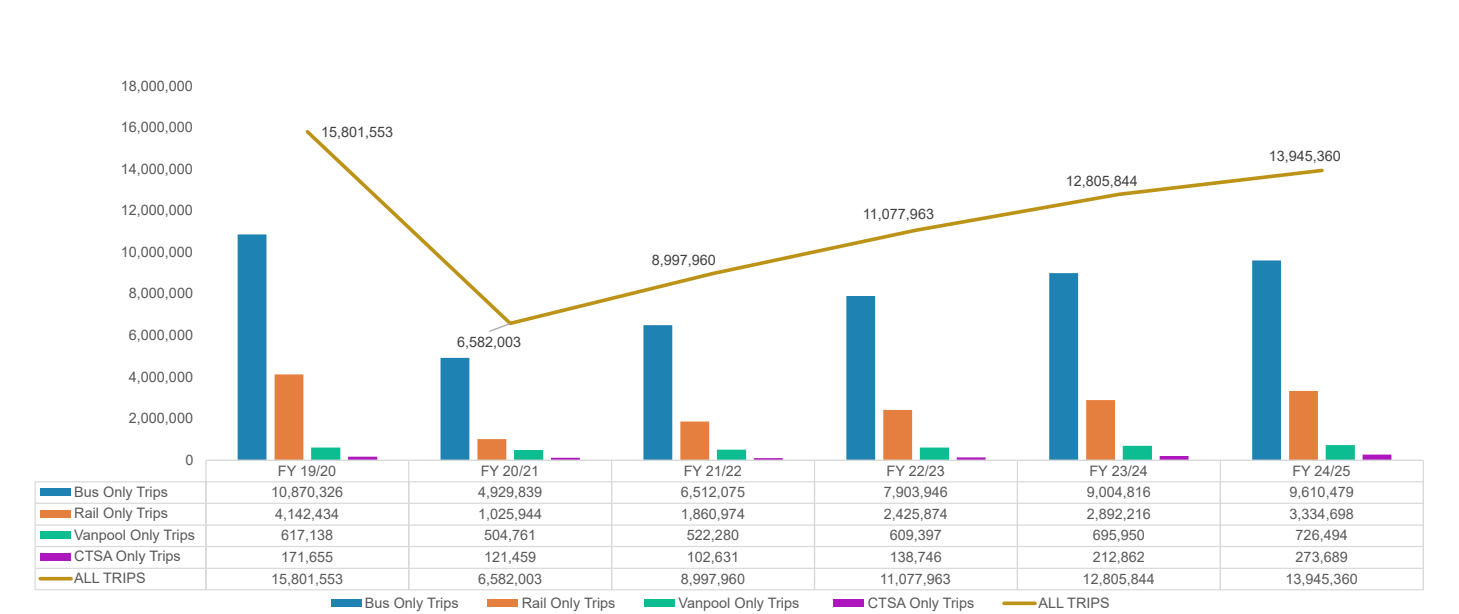
Quarterly San Bernardino County public transit ridership, shown in Exhibit 2, continues a steady upward trend, albeit dropping slightly to 3.4 million quarterly passenger trips from the third quarter seasonal peak, as Mountain Transit's winter ski shuttles cease operation. Countywide transit ridership is now up to 73% of its pre-Covid levels of 4.7 million quarterly trips. Trips within each mode have risen consistently over the more than five years since the Covid-19 pandemic, presented as annual totals in Exhibit 3.

Exhibit 2, Six Years of San Bernardino County Quarterly Ridership - All Modes



*Quarterly rail ridership represents boardings at San Bernardino County Stations for the San Bernardino Line, Inland Empire Orange County Line, and Arrow. Some historical rail ridership data does not include weekend service.

Exhibit 3, Six Years of San Bernardino County Annual Ridership by Mode - Total Ridership and Bus, Rail, Vanpool and CTSA Program Ridership



1. <https://www.urban.org/urban-wire/transit-ridership-hasnt-recovered-pandemic-what-can-us-learn-french-transit-systems>, July 7, 2025

Commentary

San Bernardino County’s public transit operators have worked steadily to regain FY 19/20’s ridership of 15.8 million annual trips (Exhibit 3). Closing out FY 24/25 with 13.9 million passenger trips, we are now 88% of the Covid start year water mark. Regaining ridership has not been easy. Some population groups were slow to return to public transit, such as older adults who were frightened by the prospect of public transit after long periods of social distancing. Others no longer needed a transit trip as commute trip patterns changed, particularly with the choice to work from home that many initially opted for, and some continue.

Strategies to confront changing demand patterns have been varied, reported in these Quarterly Reports, and include SBCTA’s comprehensive, countywide marketing campaigns messaging from buses and bus stops, as well as increasing via social media. Active use of fare policy – including SBCTA-supported free fares for youth – have sought to invite a new generation of young riders to try transit. Technology is making it easier to plan routes, check on real-time bus arrival and to pay fares. In some cases, new services have been introduced, such as OmniConnect and VVTA’s Micro-Link. These are among the strategies San Bernardino County’s operators are using to steadily regain ridership.

Results of these and other strategies are showing:

- Bus operator’s 10.8 million ridership in FY 19/20 has now reached a healthy 9.6 million boardings for FY 24/25, regaining 91% of riders since the start year.
- Metrolink rail service, for San Bernardino Station boardings on the San Bernardino Line, Inland Empire Orange County Line, Riverside Line, and including Arrow for two years now since the fall of 2024, was at 4.1 million trips in FY 19/20 and is now at just over 3.3 million, nearly 80% recovery from the year Covid began.
- Vanpool ridership now exceeds pre-Covid levels, growing to 726,000 annual vanpool passenger trips, up from 617,000 trips in FY 19/20 and an increase of 18%. The County’s two programs, SBCTA’s SB Loop and VVTA’s iVanpool, provide a significant resource to commuters, many of whom are making long-distance commutes.
- Consolidated Transportation Services Agencies’ (CTSAs) multiple programs in the San Bernardino Valley and the Victor Valley, now including the Morongo Basin, are providing 60% more trips – up from 172,000 in FY 19/20 to 274,000 in FY 24/25, with ridership largely to vulnerable populations that include older adults and persons with disabilities.

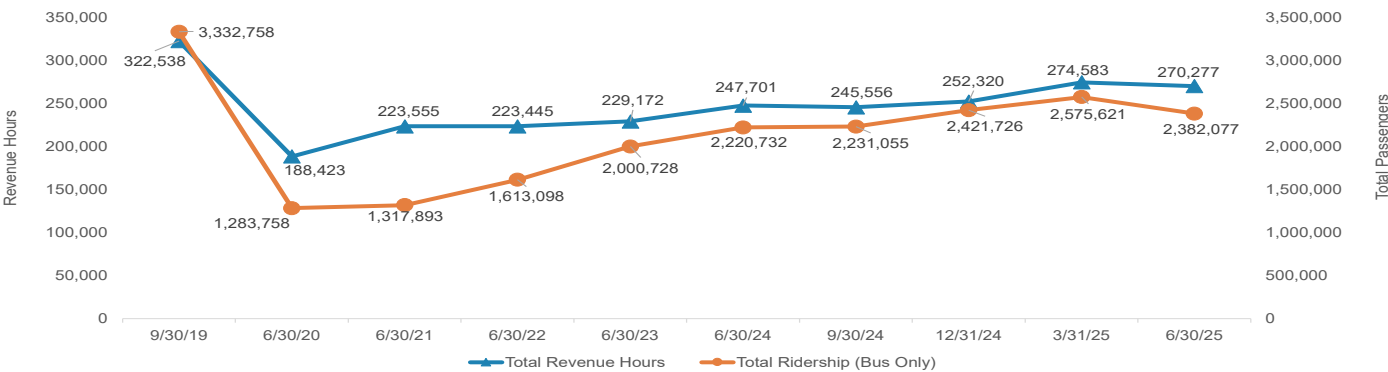
Bus Operators Manage “Supply and Demand”

San Bernardino County’s bus operators have carefully managed resources during these years since the Pandemic, both to stretch available resources – in buses and revenue hours – and to match levels of demand.

Revenue Hours Supply

Exhibit 4 considers the two factors of revenue hour inputs (plotted on the triangles’ blue line), in relation to output of ridership (the dots on the orange line), for all San Bernardino County public transit bus operators. This chart presents data for the pre-Pandemic quarter of FY 19/20, five fourth quarters of 2020 through 2024, and the individual quarterly totals of the recent 2024/2025 fiscal year.

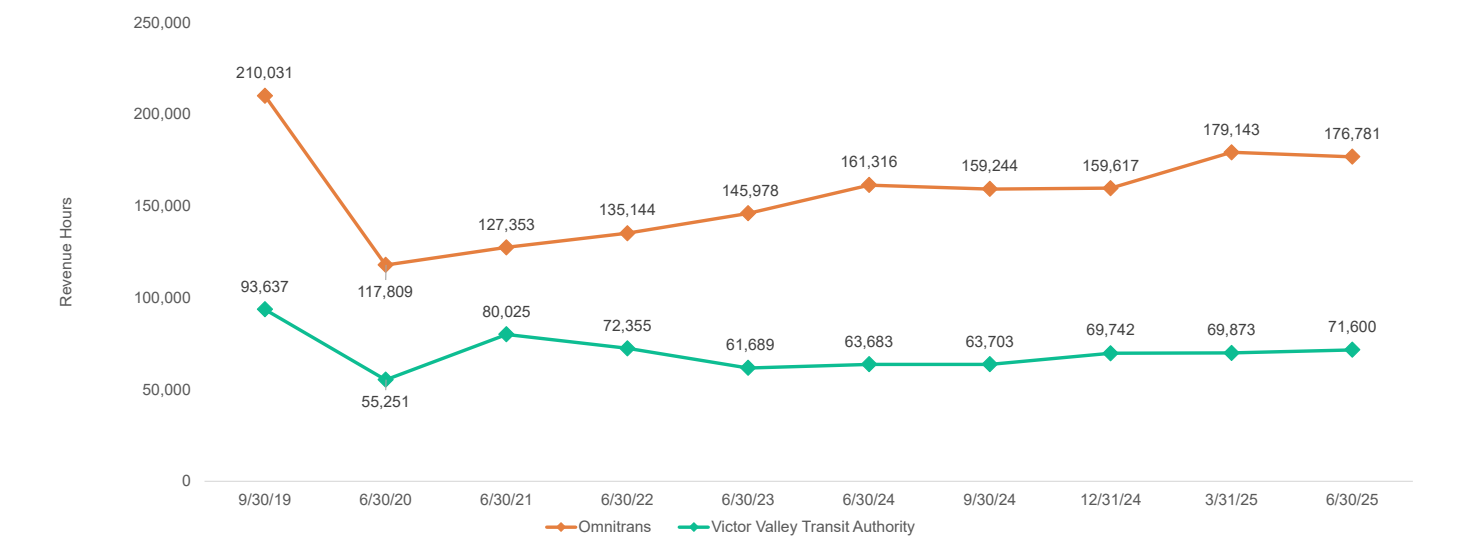
Exhibit 4, Bus Operators’ Quarterly Revenue Hours and Bus Only Ridership for Selected Quarters, 2019-2025



As we all know, 2020 ridership (the orange dots) plummeted in the early Covid months by more than 60%, from its peak of 3.3 million bus trips per quarter, only to begin slowly coming back in the summer of 2021 and more substantially in the years since. The blue triangle line (Exhibit 4) reflects the transit operators' response to these ridership declines by systemwide reductions in vehicle revenue hours — decreasing from 323,000 revenue hours to a low of 188,000 revenue hours, a decrease of 134,000 revenue hours each quarter. The blue triangles (Exhibit 4) show the recovering step increases over subsequent periods as capacity was slowly increased to respond to growing passenger loads.

For the larger operators, Exhibit 5 shows this step-wise function of revenue hour changes. Omnitrans is the orange line tracking revenue hours for these same quarterly periods, which have moved up steadily though they are still 33,000 hours (16%) below their 2019 peak. VVTA's green line shows revenue hours bumping up early on with its shared-shift approach to driver scheduling, and then falling back to match slow growing ridership. There are revenue hour modest increases in more recent quarters as service levels moved upwards, though still 24% below pre-Pandemic service.

Exhibit 5, Large Bus Operator Revenue Hours for Selected Quarters, 2019-2025

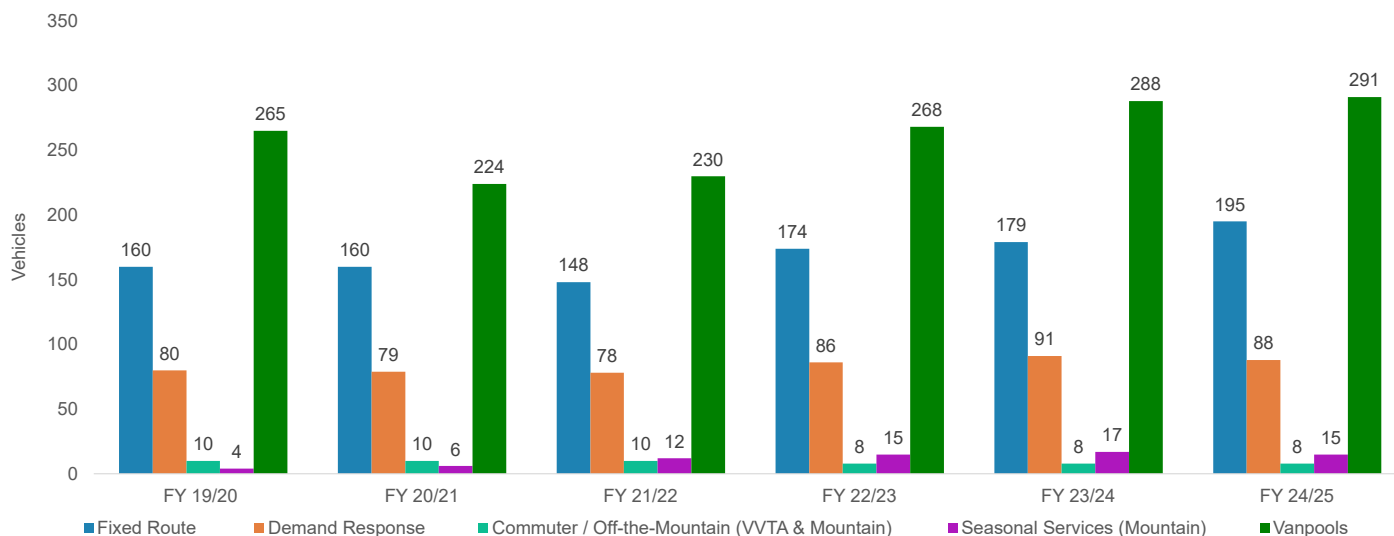


Vehicle Supply

Vehicles are the second significant input to manage in response to Covid impacts. At the start of the Pandemic, the County's bus operators fielded exactly 254 vehicles, with an additional 265 vanpools under VVTA's iVanpool and the SB Loop programs. The vanpool vehicle fleet is managed by a third party vendor and is readily available for new vanpools joining the program. Both modes fell off during 2020 and 2021. Fixed-route and demand response transit vehicles countywide fell to a low of 248 vehicles during 2022. Vanpools fell 13% during that same period.

The countywide bus operations fleet has grown to 306 vehicles, up 23% from its low in 2022. An additional 15 vehicles are operated seasonally by Mountain Transit for ski season. Exhibit 6 presents, by mode or service, the annual number of vehicles.

Exhibit 6, Public Transit Vehicles by Mode/Service Across San Bernardino County Public Transit Programs



Omnitrans and VVTA have seen the greatest changes in fleet size.

- Omnitrans held its fixed-route fleet steady for the first three years post-Pandemic, slowly increasing from 94 vehicles to now 125 as frequency has been steadily increased on key routes. Its ADA service, OmniAccess, stayed constant at 40 vehicles over this period, while more capacity was added and more riders were served on its specialized transportation city-sponsored and LYFT/taxi-based programs.
- VVTA retained fleet size through the early Pandemic period but then reduced the fixed-route fleet and frequencies, as riders were slow to return to public transit use. VVTA returned to full fixed-route service in FY 22/23 and more recently, has increased its on-demand services with neighborhood rides via Micro-Link.

Mountain Transit continues its successful seasonal service, partnering with Big Bear area ski resorts to help move winter visitors. Its fleet expands by 15 vehicles during winter months, in addition to its airport shuttle service.

Basin Transit and Needles Transit fleet sizes have remained constant during this period.

The County's two vanpool programs, VVTA's iVanpool and the SBCTA SB Loop, have steadily brought back ridership and increased the number of vanpools from a couple of years of lower use. By the end of FY 24/25, there were 291 vanpools between the two programs, approaching in size the 306-combined vehicles in the other public transit modes.

Current Initiatives

Developing Senior-Focused Transit Resources and Access to Information

In continued efforts to make the existing transit resource information and current transit initiatives for San Bernardino County readily available to the public, SBCTA has developed a senior-focused transit services brochure and multimodal transit resource website. These tools support ongoing efforts to provide the public with up-to-date information on navigating the transit network and encouraging the County’s residents to use transit and engage with SBCTA.

Multimodal Transit Resource Website

In continued efforts to make the existing transit resource information and current transit initiatives for San Bernardino County readily available to the public, SBCTA has developed the Multimodal Transit Resource Website. The website includes information from the newly developed Senior Transit Brochure, including available services, SBCTA's Google-based trip planner and required passenger fares. For those keeping track of current transit initiatives, an inventory of specialized transit service is kept current, along with a catalog of quarterly countywide transit performance reports, current funding opportunities and updates on current events, such as the Coordinated Plan, the Ride Happy! Campaign

Senior Transit Brochure

SBCTA launched a much-needed community resource on National Senior Citizens’ Day, August 21, 2025. The new Senior Transit Brochure is a guide to public transportation services available to older adults and people with disabilities in San Bernardino County with connections to services throughout the region (Exhibit 7).

The printed brochure is being distributed to key community partners that serve potential rider audiences and is available on the multimodal website. The launch was supported by social media posts and ads on SBCTA channels on the day and week of National Senior Citizens’ Day, which received approximately 30,000 views, and ongoing social media posts and ads.

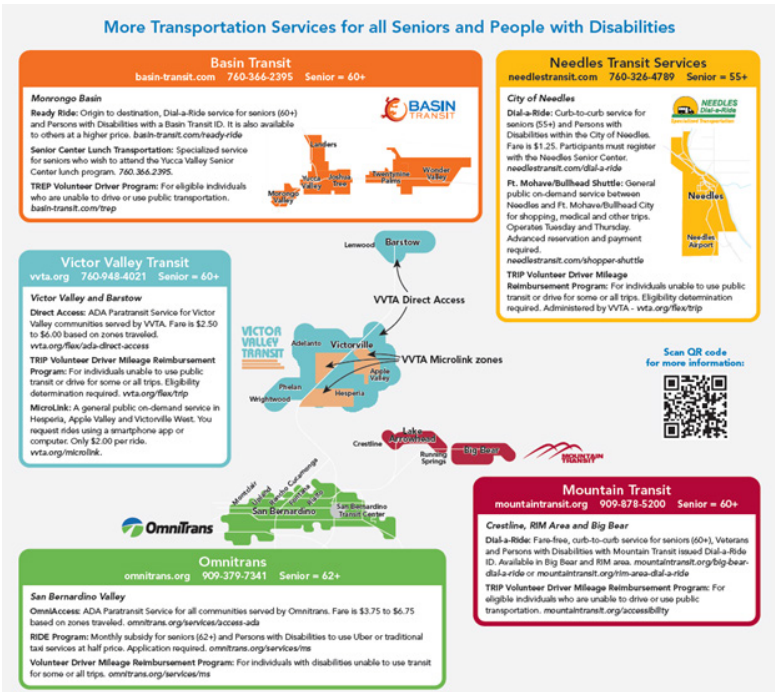
Showing Appreciation to Riders

SBCTA Rider Appreciation events are an opportunity to celebrate the people who use public transit and to raise awareness about its services and benefits.

City of Needles Rider Appreciation Day and Shuttle Launch

On September 4, 2025, SBCTA supported the Needles Area Transit Rider Appreciation Day, in conjunction with celebrating the launch of the Ft. Mohave/Bullhead Shuttle which was held at the El Garces West transit stop (Exhibit 8). All Needles Transit Services programs were free for the day. SBCTA and City of Needles staff greeted passengers and the public with giveaways, including sunscreen and transit service information. Riders of the newly launched Needles Ft. Mohave/Bullhead Shuttle service, which provides vital transit connections to nearby cities’ shopping and medical resources, received special insulated grocery bags to use on their trips. Social media promotions on SBCTA channels received approximately 5,600 views. The event was also supported by public relations outreach and social media posts on Needles’ community accounts.

Exhibit 7, Senior Transit Brochure



Current Initiatives (Continued)

Exhibit 8, Needles Rider Appreciation Day

Ride Free on Sept 4!
Needles Rider Appreciation Day

Celebrate with us at El Garces West Parking Lot
Sept 4, 7:30-11:30am
Get a grocery bag to celebrate the Fort Mohave/Bullhead Shuttle





Ride Free on Sept 4!
Needles Rider Appreciation Day

Celebrate with us at El Garces West Parking Lot
Sept 4, 7:30-11:30am
Get a grocery bag to celebrate the Fort Mohave/Bullhead Shuttle



Basin Transit Rider Appreciation Day

On November 22, 2025, SBCTA joined Basin Transit and The Way Station, a local charity, to thank riders with free transit service and giveaways. The Rider Appreciation Day, which took place in front of Walmart in Yucca Valley, was part of Basin Transit and The Way Station’s Fill the Bus event, in which the public was encouraged to donate groceries and goods to support Morongo Basin residents (Exhibit 9).

Exhibit 9, Basin Transit Rider Appreciation Day Promotions

RIDER APPRECIATION
AND
FILL THE BUS

RIDE FREE ALL DAY!

Saturday, November 22
8 AM to 6 PM
Walmart Super Center
Yucca Valley






powered by

sb cta

Fighting Air Pollution Through Free Fare Day Campaigns

Two events in September and early October encouraged people to use public transit rather than automobiles to help fight local air pollution, which worsens during that season’s warm, still weather. SBCTA supported Car-Free Day on September 22 (Exhibit 10) and California Clean Air Day on October 1 (Exhibit 11) with free travel on all systems in the network. As with other fare-free days, SBCTA provides all operators with marketing materials to promote the events on their own channels. Both events were promoted with social media posts on SBCTA channels in advance of the day and on the day itself. Car-Free Day posts on SBCTA channels received about 3,500 views, while California Clean Air Day posts got approximately 11,000 views.

Current Initiatives (Continued)

Exhibit 10, Car-Free Day Promotions

Car-Free

Means Fare-Free!





World Car-Free Day is September 22.



Travel on all bus systems in San Bernardino County free of charge.







powered by



¡Sin auto,

sin tarifa!





Día Mundial Sin Auto 22 de septiembre.

Viaja en todos los sistemas de autobús en el condado de San Bernardino sin tarifas.







Desarrollado por



Exhibit 11, Clean Air Day

CLEAN AIR

MEANS

FREE FARES!

California Clean Air Day is October 1.



ALL BUS SYSTEMS IN

SAN BERNARDINO COUNTY

ARE FREE!





powered by



¡AIRE LIMPIO

SIGNIFICA

VIAJES GRATIS!

El Día del Aire Limpio de California es el 1 de octubre.



¡TODOS LOS VIAJES EN

AUTOBUS EN EL CONDADO DE

SAN BERNARDINO SON GRATIS!





Desarrollado por



San Bernardino County Multimodal
Transportation Quarterly Update

Volume 6, Number 4

Fourth Quarter Fiscal Year 2024/2025

Packet Pg. 25

Attachment: SBCTA Quarterly Report 4th Quarter FY 24-25 Final (10944 : San Bernardino County Multimodal Transportation Quarterly Update)

The Public Transit-Human Services Coordinated Transportation Plan

SBCTA has begun the development of the Public Transit-Human Services Coordinated Transportation Plan, 2026 Update (Coordinated Plan) to enhance the mobility of individuals with disabilities, seniors, people with low incomes, tribal members and military veterans — the target populations of the plan. The coordinated planning process is required by the Federal Transit Administration through Circular 9070.1H. This is the 5th edition of the Coordinated Plan for San Bernardino County, a mandate which began in 2005 with the passage by Congress of the Safe Accountable Flexible Efficient Transportation Equity Act – a Legacy for Users (SAFETEA-LU) transportation bill.

Recent activities for the Coordinated Plan included conducting a countywide mobility needs survey, hosted online for responses (Exhibit 13). SBCTA developed an ad campaign with the goals of raising awareness about the Coordinated Plan and urging viewers to complete the survey. Ads launched on Facebook and Instagram on August 13, and continued in pulses through October 9. Ads were targeted to the San Bernardino County region and reached social media users beyond those who follow SBCTA's pages. Spanish-language ads were targeted to Spanish speakers.

Throughout the life of the ad campaign, we collected comments (in English and Spanish) related to the Coordinated Plan to make sure social media users had a chance to give their opinion. We collected and responded to 35 comments, always encouraging commenters to complete the full survey. Ads received more than 90,000 impressions (times an ad was seen).

Exhibit 13, Coordinated Plan Survey Promotions

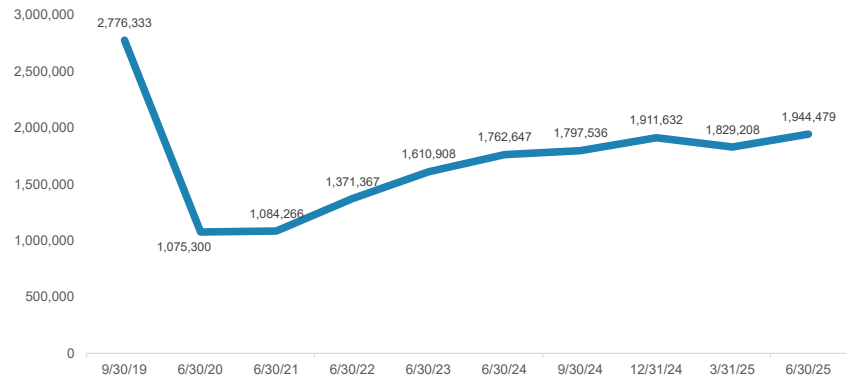


Commentary and Trends

Omnitrans' fixed-route service continues to experience growth year-over-year with a 7% increase in FY 24/25 to more than 7.3 million trips. Demand response ridership experienced a modest decrease of 2%. Overall, total ridership is up 7% in FY 24/25 with a 6% increase over the past quarter.

Total operating costs remained constant while revenue collected from passengers increased by 4%. The TDA farebox recovery ratio decreased slightly from 27.2% in FY 23/24 to 26.7% in FY 24/25.

Omnitrans Quarterly Ridership



Performance*

	Year End FY 23/24	Year End FY 24/25	
	Prior Year FY 23/24	Current Year FY 24/25	% change from FY 23/24
SYSTEM Total Passenger Trips	6,976,002	7,482,983	7%
Fixed-Route Trips**	6,818,839	7,329,646	7%
Demand Response Trips	157,163	153,337	-2%
SYSTEM Performance			
Revenue Hours	602,079	620,128	3%
Passengers per Rev Hour	11.6	12.1	4%
Revenue Miles	8,190,876	8,326,643	2%
Passengers per Rev Mile	0.85	0.90	6%
Passenger Miles	35,332,180	37,625,936	6%
Average Trip Length (miles)	5.06	5.03	-1%
OPERATIONS Expense			
Total Operating Cost	\$92,927,222	\$92,728,371	0%
Passenger Revenue (excluding local revenue)	\$8,019,025	\$8,379,840	4%
Passenger Revenue	\$25,263,104	\$24,724,312	-2%
Farebox Recovery Ratio	8.6%	9.0%	5%
Farebox Recovery (TDA Formula***)	27.2%	26.7%	-2%
Cost per Revenue Mile	\$11.35	\$11.14	-2%
Subsidy/Pass Trip – Systemwide	\$13.32	\$12.39	-7%
Fixed-Route Cost per Trip	\$11.45	\$11.06	-3%
Demand Response Cost per Trip	\$94.39	\$104.55	11%
FLEET Characteristics			
Vehicles in Peak Service	(Includes sbX)	(Includes sbX)	
Fixed-Route	110	125	
Demand Response	40	40	
Total Vehicles in Peak Service	150	165	

* Extracted from TransTrack Manager Quarterly Scorecard during September 2025.

** OmniConnect performance data are also counted as fixed-route trips for Omnitrans services and should not be double counted with following pages.

*** The Transportation Development Act (TDA) allows local revenue to be counted as passenger revenue in calculating the farebox recovery ratio.

OmniConnect Shuttle Services:

- SB Connect - Rte. 300
- ONT Connect - Rte. 380

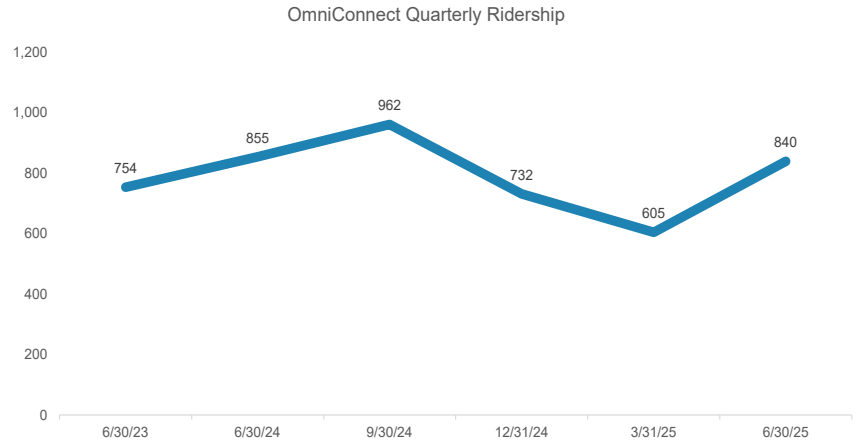


Commentary and Trends

OmniConnect provides shuttle service between the Ontario Airport and Metrolink stations on the ONT Connect and from the San Bernardino Transit Center to Downtown San Bernardino employment locations on the SB Connect.

Route 380 ONT Connect continues to provide the bulk of shuttle service riders, bringing this year's total shuttle ridership to 3,139 trips, a 3% increase over FY 23/24. Route 300 SB Connect that circulates in Downtown San Bernardino increased its ridership by 5%, providing 619 trips. The SB Connect shuttle was discontinued on August 11, 2025.

Revenue hours overall increased by 5%, while total operating costs remained constant. Revenue collected from passengers increased by 24% but is still covering less than half of 1% of service cost.



Performance*

	Year End FY 23/24	Year End FY 24/25	
	Prior Year FY 23/24	Current Year FY 24/25	% change from FY 23/24
Total Passenger Trips**	3,058	3,139	3%
Route 300 SB Connect	591	619	5%
Route 380 ONT Connect	2,467	2,520	2%
Performance			
Revenue Hours	8,741	9,207	5%
Passengers per Rev Hour	0.35	0.34	-3%
Revenue Miles	81,468	83,919	3%
Passengers per Rev Mile	0.04	0.04	-0%
OPERATIONS Expense			
Total Operating Cost	\$1,046,492	\$1,042,624	-0%
Passenger Revenue (excluding local revenue)	\$3,572	\$4,446	24%
Passenger Revenue	\$189,330	\$178,215	-6%
Farebox Recovery Ratio (TDA Formula***)	18.1%	17.1%	-6%
Farebox Recovery Ratio	0.3%	0.4%	25%
Subsidy per Pass Trip	\$341.05	\$330.74	-3%
FLEET Characteristics			
Vehicles in Peak Service	2	2	

* Extracted from TransTrack Manager Quarterly Scorecard during September 2025.

** OmniConnect performance data are also counted as fixed-route trips for Omnitrans services and should not be double counted.

*** The Transportation Development Act (TDA) allows local revenue to be counted as passenger revenue in calculating the farebox recovery ratio.

Omnitrans Consolidated Transportation Services Agency (CTSA)

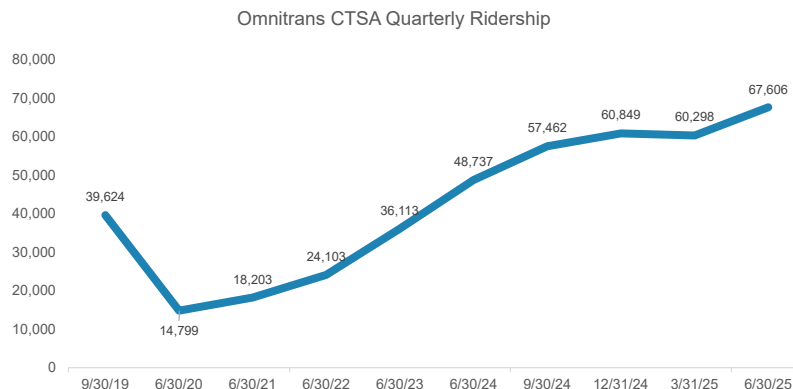


Commentary and Trends

Omnitrans' CTSA programs support transportation to vulnerable populations by providing specialized transit services and through funding partnerships with human service agencies.

Total CTSA ridership saw a significant increase in FY 24/25, growing by 36% overall to almost 250,000 trips. The addition of two new Regional Mobility Partnership programs — Foothill AIDS Project and VIP Inc. — and the increase in trips production by the City of Ontario — have contributed to the success of CTSA programs after the loss of Aging Next as a partner in FY 23/24.

The TREP volunteer driver mileage reimbursement program more than doubled over the past year, a 142% increase. Trip subsidization through Uber and Taxi programs also increased by 49%.



Performance

	Year End FY 23/24	Year End FY 24/25	
	Prior Year FY 23/24	Current Year FY 24/25	% change from FY 23/24
TOTAL TRIPS	181,335	246,215	36%
TREP Mileage Reimbursement Trips	27,444	66,372	142%
Uber and Taxi Ride Program Trips	22,416	33,334	49%
Travel Training Program*	215	150	-30%
Regional Mobility Partnership (RMP) Trips	131,260	146,359	12%
Anthesis	44,827	42,052	-6%
Lutheran Social Services	3,953	4,966	26%
City of Grand Terrace	679	1,066	57%
OPARC	35,050	39,109	12%
City of Chino	7,028	9,757	39%
Highland Senior Center	5,421	5,078	-6%
Loma Linda University Adult Day Health	4,876	4,852	-0%
City of Ontario	3,601	12,141	237%
Foothill AIDS Project	0	2,570	0%
VIP Inc.	0	24,768	0%
City of Rialto**			—
AgingNext ***	25,825		—

* Reporting numbers are for the number of individuals trained.

** New Regional Mobility Partner: Contract has been executed. Partner is in the process of starting their program.

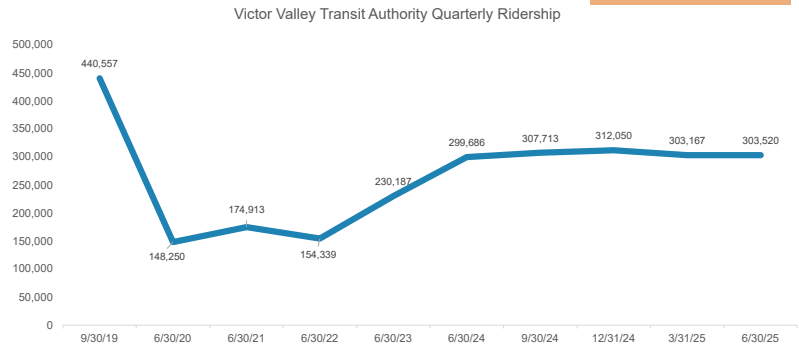
*** Agency is no longer a Regional Mobility Partner as of FY 24/25

Victor Valley Transit Authority

Commentary and Trends

VVTA continues its ridership recovery from the pandemic with its highest total ridership since FY 19/20 at 1.2 million trips, now at 86% of pre-pandemic totals. Fixed-route service increased by 10% while both Commuter Bus and Demand Response modes experienced slight reductions of 5%, respectively. In efforts to continue ridership growth, VVTA will be launching its Ride Time Refresh on November 2, 2025, extending evening service on 16 routes and enhancing weekend service on three routes.

Operating costs increased by 33% while passenger fares decreased by 25%, contributing to a reduction in farebox recovery from 6.9% in FY 23/24 to 3.9% in FY 24/25.



Performance*

	Year End FY 23/24	Year End FY 24/25	
	Prior Year FY 23/24	Current Year FY 24/25	% change from FY 23/24
SYSTEM Total Passenger Trips	1,132,450	1,223,126	8%
Fixed-Route Trips	956,966	1,057,072	10%
Commuter Bus Trips	33,564	31,861	-5%
Demand Response Trips	141,920	134,193	-5%
SYSTEM Performance [excludes vanpool revenue hours & miles]			
Revenue Hours	252,587	274,923	9%
Passengers per Rev Hour	4.5	4.4	-1%
Revenue Miles	4,411,509	4,474,442	1%
Passengers per Rev Mile	0.26	0.27	6%
OPERATIONS Expense [excludes vanpool expense & revenue]			
Total Transit Operating Cost	\$36,850,173	\$49,064,391	33%
Passenger Revenue	\$2,552,417	\$1,910,564	-25%
Farebox Recovery Ratio Systemwide	6.9%	3.9%	-44%
Cost per Revenue Mile	\$8.35	\$10.97	31%
Subsidy/Pass Trip – Systemwide	\$30.29	\$38.55	27%
Fixed-Route Cost per Trip	\$29.01	\$33.80	17%
Commuter Bus Cost per Trip	\$34.25	\$36.99	8%
Demand Response Cost per Trip	\$55.92	\$90.61	62%
FLEET Characteristics			
Vehicles in Peak Service	Includes 12 Electric Vehicles	Includes 12 Electric Vehicles	
Fixed-Route	47	49	
Commuter	6	6	
Demand Response	40	40	
Total Vehicles in Peak Service	93	95	
Service Area Square Mileage	1,082	1,082	
Vehicles per Square Mile	0.07	0.07	

* Extracted from TransTrack Manager Quarterly Scorecard during September 2025.

Victor Valley Transit Consolidated Transportation Services Agency (CTSA)



Commentary and Trends

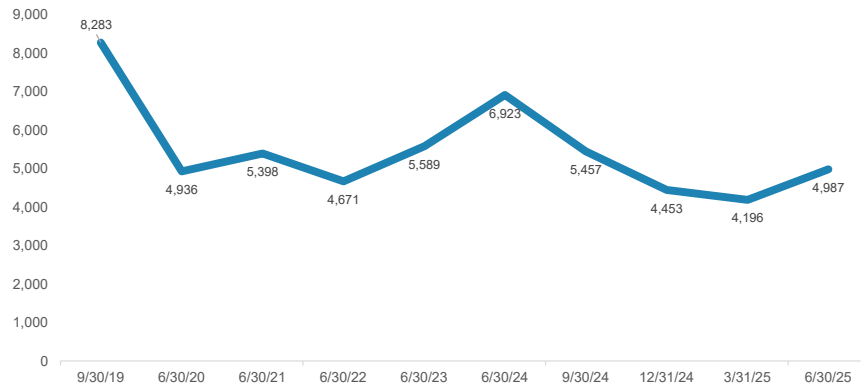
VVTA's CTSA programs include a range of projects that provide specialized service for seniors and persons with disabilities.

Overall, the CTSA programs experienced a decrease of 19% in total ridership. However, the nonprofit provider's combined ridership grew by 9% over the past fiscal year.

The greatest decline during this period was in the TRIP volunteer driver mileage reimbursement program, which saw a 21% decline in trips provided and, as the largest of the CTSA programs, this had the greatest impact on the loss of overall ridership.

The Travel Training and Transit Ambassador programs are both on hold at the end of the fiscal year due to staffing shortages.

VVTA CTSA Quarterly Ridership



Performance

	Year End FY 23/24	Year End FY 24/25	
	Prior Year FY 23/24	Current Year FY 24/25	% change from FY 23/24
TOTAL TRIPS	24,069	19,376	-19%
TRIP Program	13,556	10,672	-21%
Nonprofit Providers	4,852	5,267	9%
Foothill AIDS Project	1,402	1,434	2%
Abundant Living Church	2,360	1,851	-22%
Heart's Extended	200	94	
Trona Community and Senior Center	766	1,659	117%
Bonnie Baker Senior Center	124	229	85%
Travel Training Program	755	249	-67%
Fare Media Scholarship Program	4,906	3,188	-35%
TOTAL MILES	368,752	411,874	12%
TRIP Program	368,752	411,874	12%
TOTAL HOURS	301	149	-50%
Transit Ambassador Program	301	149	-50%

Victor Valley Transit iVanpool

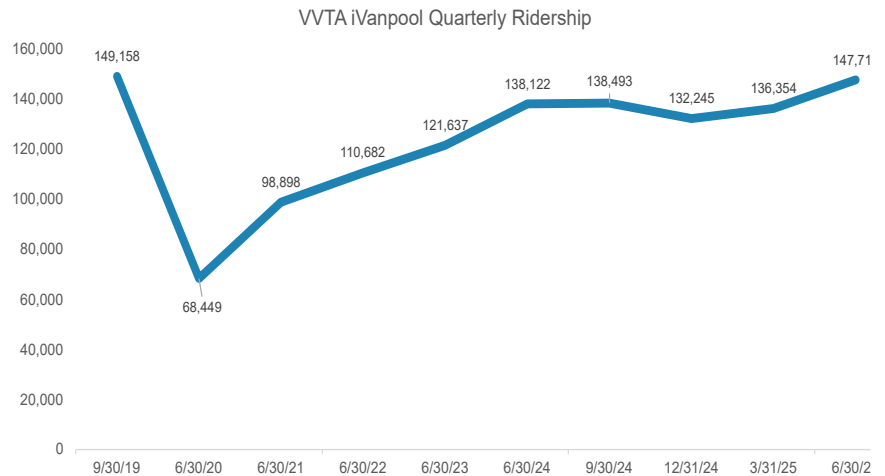


Commentary and Trends

VVTA's regional vanpool program provides a subsidy to support coworker groups with the cost of renting and maintaining a vehicle for the purpose of commuting to and from work. All vanpools are eligible to receive up to \$600 per month in program subsidy toward the cost of a vanpool.

The iVanpool program added 13 more vans over the previous fiscal year, growing to 222 total vanpools. Unlinked Passenger Trips increased by 5%, adding almost 28,000 trips in FY 24/25.

Passenger Miles, the sum of the distances ridden by each passenger, is a useful measure of the scale of vanpool activity, held steady over the past fiscal year at 28.3 million miles.



Performance

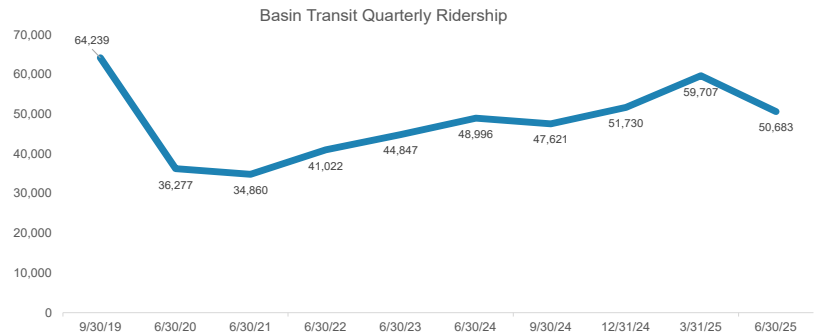
	Year End FY 23/24	Year End FY 24/25	
	Prior Year FY 23/24	Current Year FY 24/25	% change from FY 23/24
Performance			
Number of Vanpools	209	222	6%
Revenue Miles	5,594,402	5,884,643	5%
Revenue Hours	113,496	128,772	13%
Unlinked Passenger Trips	528,541	556,386	5%
Passenger Miles	28,259,076	28,321,655	0%
Subsidies Disbursed	\$1,476,095	\$1,547,826	5%
Participation Fees	\$1,350,077	\$1,187,058	-12%

Basin Transit

Commentary and Trends

Basin Transit's total ridership increased by 13% during the FY 24/25, attributable to fixed-route bus trips, adding almost 27,000 trips. Commuter bus and demand response ridership experienced some decline at 13% and 9%, respectively, although this only representing a total reduction of 2,400 trips.

The TREP volunteer driver, mileage reimbursement program had a ridership increase of 13%, or almost 600 more trips. Operating costs are up slightly along with passenger revenue, although farebox recovery slipped from 7.9% in FY 23/24 to 7.5% in FY 24/25. Basin Transit installed new Intelligent Transit Systems (ITS) on its vehicles in December 2024 to more accurately track fare types and count passenger boardings.



Performance*

	Year End FY 23/24	Year End FY 24/25	
	Prior Year FY 23/24	Current Year FY 24/25	% change from FY 23/24
SYSTEM Total Passenger Trips	186,234	210,741	13%
Fixed-Route Trips	162,818	189,723	17%
Commuter Bus Trips	8,251	7,194	-13%
Demand Response Trips	15,165	13,824	-9%
SYSTEM Performance			
Revenue Hours	32,256	36,468	13%
Passengers per Rev Hour	5.8	5.8	0%
Revenue Miles	635,475	706,449	11%
Passengers per Rev Mile	0.29	0.30	2%
OPERATIONS Expense			
Total Operating Cost	\$4,456,628	\$4,959,191	11%
Passenger Revenue	\$354,110	\$370,624	5%
Farebox Recovery Ratio Systemwide	7.9%	7.5%	-6%
Cost per Revenue Mile	\$7.01	\$7.02	0%
Subsidy/Pass Trip – Systemwide	\$22.03	\$21.77	-1%
Fixed-Route Cost per Trip	\$19.47	\$18.66	-4%
Commuter Bus Cost per Trip	\$54.07	\$64.73	20%
Demand Response Cost per Trip	\$55.46	\$68.90	24%
TREP Mileage Reimbursement Program			
TREP Clients	191	127	-34%
TREP Trips	4,658	5,242	13%
TREP Miles Reimbursed	102,056	107,472	5%
Mileage Reimbursement Cost	\$35,761	\$42,988	20%
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	

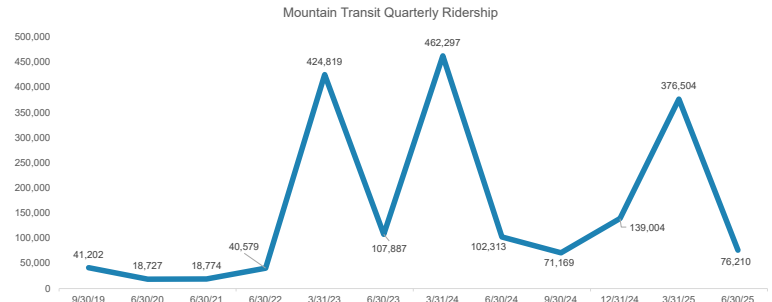
* Extracted from TransTrack Manager Quarterly Scorecard during September 2025.

Mountain Transit

Commentary and Trends

Mountain Transit's ridership total decreased in FY 24/25 by 15%, and is the lowest total over the past three years, primarily due to a much drier winter that attracted fewer tourists visiting ski resorts, a major driver of ridership in the mountain community.

Revenue hours saw a slight decrease of 3% and the number of passengers carried per hour fell to 12.4, a 12% decrease over the previous year, reflecting the reduction in ski resort traffic. However, farebox recovery increased by 21%, up to 27.7%.



Performance*

	Year End FY 23/24	Year End FY 24/25	
	Prior Year FY 23/24	Current Year FY 24/25	% change from FY 23/24
SYSTEM Total Passenger Trips	796,998	674,347	-15%
Fixed-Route Trips	775,584	652,844	-16%
Commuter Bus Trips	8,546	8,472	-1%
Demand Response Trips	12,868	13,031	1%
SYSTEM Performance			
Revenue Hours	56,291	54,348	-3%
Passengers per Rev Hour	14.2	12.4	-12%
Revenue Miles	816,136	808,397	-1%
Passengers per Rev Mile	0.98	0.83	-15%
OPERATIONS Expense			
Total Operating Cost	\$6,857,974	\$7,607,292	11%
Passenger Revenue	\$1,566,839	\$2,108,621	35%
Farebox Recovery Ratio Systemwide	22.8%	27.7%	21%
Costs per Revenue Mile	\$8.40	\$9.41	12%
Subsidy/Pass Trip – Systemwide	\$6.64	\$8.15	23%
Fixed-Route Cost per Trip	\$6.89	\$9.02	31%
Commuter Bus Cost per Trip	\$64.29	\$68.30	6%
Demand Response Cost per Trip	\$75.19	\$87.52	16%
FLEET Characteristics			
Vehicles in Peak Service			
Fixed-Route	12	11	
Demand Response	4	2	
Off the Mountain	2	2	
Seasonal Service	16	14	
Airport Shuttle	1	1	
Total Vehicles in Peak Service	35	30	
Service Area Square Mileage	269	269	
Vehicles per Square Mile	0.05	0.05	

* Extracted from TransTrack Manager Quarterly Scorecard during September 2025.

Needles Transit Services

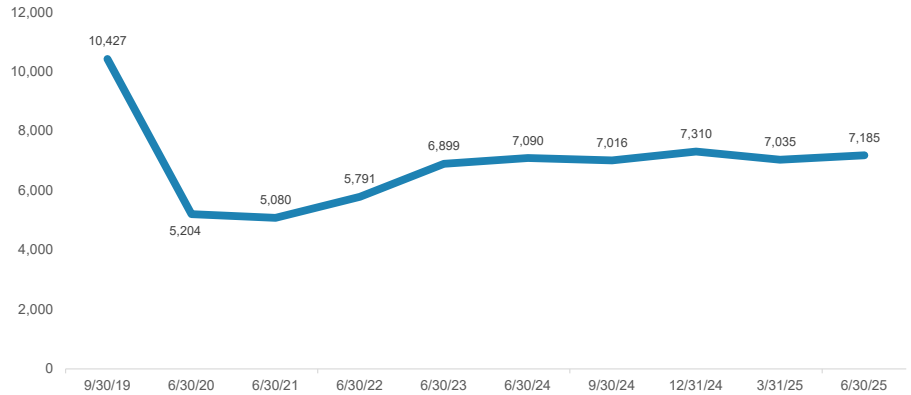


Commentary and Trends

Needles Transit Services' experienced a slight decrease of 2% in Passenger Trips over the past year. Fixed-route ridership fell by 5% while demand response trips are up 9%.

On a positive note, while ridership is down, passenger revenue increased by 34%, bringing farebox recovery to 9.7%, a 37% increase over the previous year and in line with the 10% TDA requirement for rural transit providers.

Needles Transit Services Quarterly Ridership



Performance*

	Year End FY 23/24	Year End FY 24/25	
	Prior Year FY 23/24	Current Year FY 24/25	% change from FY 23/24
SYSTEM Total Passenger Trips	29,257	28,546	-2%
Fixed-Route Trips	23,174	21,931	-5%
Demand Response Trips	6,083	6,615	9%
SYSTEM Performance			
Revenue Hours	5,175	4,887	-6%
Passengers per Rev Hour	5.7	5.8	3%
Revenue Miles	62,602	63,115	1%
Passengers per Rev Mile	0.47	0.45	-3%
OPERATIONS Expense			
Total Operating Cost	\$591,010	\$581,159	-2%
Passenger Revenue	\$42,120	\$56,621	34%
Farebox Recovery Ratio Systemwide	7.1%	9.7%	37%
Costs per Revenue Mile	\$9.44	\$9.21	-2%
Subsidy/Pass Trip – Systemwide	\$18.76	\$18.38	-2%
Fixed-Route Cost per Trip	\$20.42	\$21.39	5%
Demand Response Cost per Trip	\$19.38	\$16.95	-13%
FLEET Characteristics			
Vehicles in Peak Service			
Fixed-Route		1	
Demand Response		1	
Total Vehicles in Peak Service		2	
Service Area Square Mileage		31	
Vehicles per Square Mile		0.06	

* Extracted from TransTrack Manager Quarterly Scorecard during September 2025.

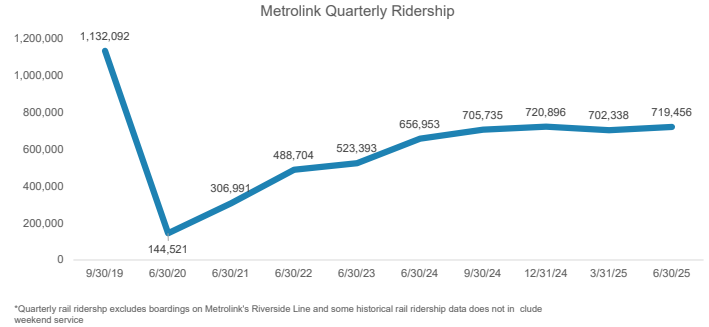
Metrolink

Commentary and Trends

Metrolink implemented new service schedules during October 2024 branded as Metrolink Reimagined, that removed one weekday train on the San Bernardino Line (SBL) for trains traveling within San Bernardino County. As part of the service change, additional train service was added between the Covina Station and L.A. Union Station. To address service issues resulting from the enhanced service, Metrolink conducted another service change in January 2025, which also extended the Covina service to the Montclair Station.

In FY 24/25 ridership increased on both the SBL at 17% and on the Inland Empire Orange County Line (IEOCL) by 12%.

METROLINK



Performance*

	Year End FY 23/24	Year End FY 24/25	
	Prior Year FY 23/24	Current Year FY 24/25	% change from FY 23/24
SYSTEM Passenger Boardings by Line	2,467,918	2,849,308	15%
TOTAL San Bernardino Line (SBL)	1,814,747	2,118,187	17%
TOTAL Inland Empire Orange County Line (IEOCL)	653,171	731,121	12%
Boardings at San Bernardino County Stations	599,315	775,361	29%
San Bernardino Line	543,815	704,908	30%
IEOC Line	23,074	38,027	65%
Riverside Line	32,426	32,426	0%
FINANCIAL - Total San Bernardino Line*			
Operating Cost Per Train Mile SB Line	\$101.52	\$105.21	4%
Farebox Revenue Per Train Mile SB Line	\$13.15	\$17.09	30%
Farebox Recovery Ratio SB Line	12.90%	16.20%	26%
FINANCIAL - Total IEOC Line*			
Operating Cost Per Train Mile IEOC Line	\$107.90	\$102.58	-5%
Farebox Revenue Per Train Mile IEOC Line	\$10.33	\$11.23	9%
Farebox Recovery Ratio IEOC Line	9.50%	10.90%	15%
PERFORMANCE MEASURES - San Bernardino Line			
Passenger Miles	66,348,828	76,893,696	16%
Average Passenger Trip Length	36.5	36.3	-1%
PERFORMANCE MEASURES - IEOC Line			
Passenger Miles	21,322,343	26,086,241	22%
Average Passenger Trip Length	34.3	35.9	5%
SERVICE LEVELS**			
San Bernardino Line			
# of trains per weekday WB	18	22	
# of trains per weekday EB	18	22	
# of trains per Saturday WB/EB	8	8	
# of trains per Sunday WB/EB	8	8	
IEOC Line - with stops in San Bernardino County			
# of trains per weekday WB	7	4	
# of trains per weekday EB	7	4	
# of trains per weekend WB	2	2	
# of trains per weekend EB	2	2	

* Metrolink FY23/24 financials are actual and FY24/25 Financials are budgeted.

** FY 24/25 includes five turnaround trains between Montclair and L.A. Union Station.

Metrolink Arrow



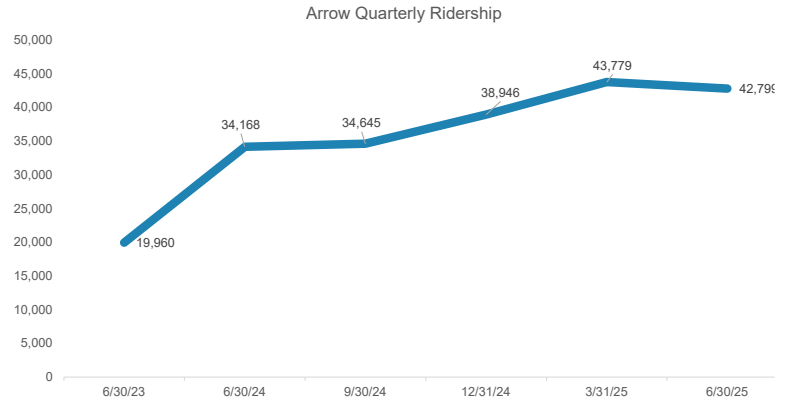
Commentary and Trends

Metrolink's Arrow service is in its third year of operation, servicing four rail stations between the downtown San Bernardino Transit Center and Redlands University.

Ridership is continuing to grow through FY 24/25, increasing by 35% year over year, providing more than 160,000 trips while only increasing passenger miles by 1%.

Metrolink's Student Adventure Pass program, continued in FY 24/25, providing students free rides throughout the system. Student riders accounted for approximately 55% of the total riders on Arrow. While the Student Adventure Pass program concluded at the end of the Fiscal Year, SBCTA opted to continue a free fare program in coordination with local colleges and universities, for students riding Arrow.

Financial information and additional performance measures will be reported here as it becomes available.



Performance*

Year End
FY 23/24

Year End
FY 24/25

Prior Year
FY 23/24

Current Year
FY 24/25

% change from
FY 23/24

Passenger Boardings

Total Passenger Boardings	118,181	160,107	35%
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FINANCIAL

Operating Cost			
Farebox Revenue	N/A	N/A	
Farebox Recovery Ratio			

PERFORMANCE MEASURES - Arrow

Passenger Miles	847,261	857,118	1%
Average Passenger Trip Length	7.4	6.6	-11%

SERVICE LEVELS

# of trains per weekday WB	25	23	
# of trains per weekday EB	25	23	
# of trains per Saturday WB/EB	16	16	
# of trains per Sunday WB/EB	16	16	

* Excludes Metrolink Express Train in FY 23/24 and Full-Length Train to Downtown Redlands in FY 24/25

SBCTA Multimodal Programs SB Loop

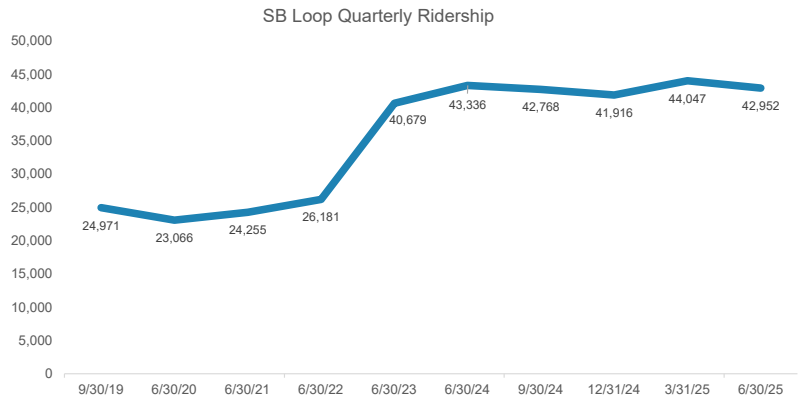


Commentary and Trends

SB Loop is a vanpool program for the County that provides up to 50%, or a maximum of \$600 per month, to organized vanpools toward the lease of a qualifying vehicle. The service area includes trips with destinations in the Valley, the Mountain Communities, the Colorado River Basin and the Morongo Valley.

SB Loop added three more vanpools during FY 24/25, bringing the total to 82 vanpools and increasing ridership to 171,323 passenger trips, a 2% increase.

SBCTA provided \$560,140 in disbursed subsidies to offset the costs of vanpool participation while total passenger fees received increased 2% over the previous year. The average subsidy per passenger trip for FY 24/25 was \$3.27, with a total cost per passenger of \$10.54.



Performance

	Year End FY 23/24	Year End FY 24/25	
	Prior Year FY 23/24	Current Year FY 24/25	% change from FY 23/24
SYSTEM Totals			
Number of Vanpools	79	82	4%
Vanpool Passenger Trips	167,409	171,323	2%
SYSTEM Performance			
Passenger Miles	6,544,666	6,459,545	-1%
Passengers/Miles	39.1	37.7	-4%
OPERATIONS Expense			
Subsidies Disbursed	\$539,483	\$560,140	4%
Participation Fees	\$1,220,934	\$1,245,618	2%
Subsidy per Passenger Trip	\$3.22	\$3.27	1%
Average Cost per Passenger Trip	\$10.52	\$10.54	0%

SBCTA Multimodal Programs

IE Commuter Rideshare



cta
San Bernardino County
Transportation Authority



Commentary and Trends

IE Commuter is a ridesharing program of the Riverside County Transportation Commission and SBCTA, working to reduce traffic and improve air quality in the region by helping businesses develop employee rideshare programs.

During FY 24/25, IE Commuter increased the previous fiscal years' total of employer participation by four employers and the total number of IE Commuter accounts has increased by 7% over the FY 23/24 total. Incentive participants are up from the previous year, and the number of employers and commuters surveyed remained unchanged. However, the estimate of vehicle trip reductions and vehicle miles traveled have both seen noticeable increases.

Performance

	Year End FY 23/24	Year End FY 24/25
	Prior Year FY 23/24	Current Year FY 24/25
PROGRAM Totals		
Total Number of Employers	116	120
Total Number of Employer Worksites	825	886
Total Number of IE Commuter Accounts	75,388	83,772
Number of Accounts Active for Ridematching	10,630	12,860
EMPLOYER Totals		
Total Employers Surveyed	32	32
Total Commuters Surveyed	42,834	43,300
Vehicle Trip Reductions (VTR)	2,851,264	3,118,457
Vehicle Miles Traveled (VMT) Reduced	88,170,485	103,116,079
Greenhouse Gas Emissions (GHG) Reduced (lbs)	78,640,925	83,861,545
INCENTIVE Totals		
Total Participants	1,355	1,659
Vehicle Trip Reductions (VTR)	109,150	99,765
Vehicle Miles Traveled (VMT) Reduced	3,244,016	2,496,088
Greenhouse Gas (GHG) Emissions Reduced (lbs)	2,810,589	2,025,642

Minute Action

AGENDA ITEM: 4

Date: December 11, 2025

Subject:

Planning Study to Identify Next Bus Rapid Transit Corridor for Further Development in the Valley

Recommendation:

Receive information on a San Bernardino County Transportation Authority planning study to identify the next Bus Rapid Transit corridor for further development in the Valley, in collaboration with Omnitrans.

Background:

The purpose of this agenda item is to update the San Bernardino County Transportation Authority (SBCTA) Board of Directors (Board) on the process of identifying a corridor in the Valley for potential development of a third Bus Rapid Transit (BRT) project. It is a follow-up to a March 5, 2025 Board action to incorporate the following as “top tier” Priority Transit Corridors in the SBCTA Long Range Multimodal Transportation Plan (LRMTP). (Listed in alphabetical order, not by priority):

- Baseline/Highland Avenues, San Bernardino Transit Center to Greenspot Road
- Foothill Boulevard, Victoria Gardens to San Bernardino Transit Center
- San Bernardino Avenue, Ontario Mills to San Bernardino Transit Center

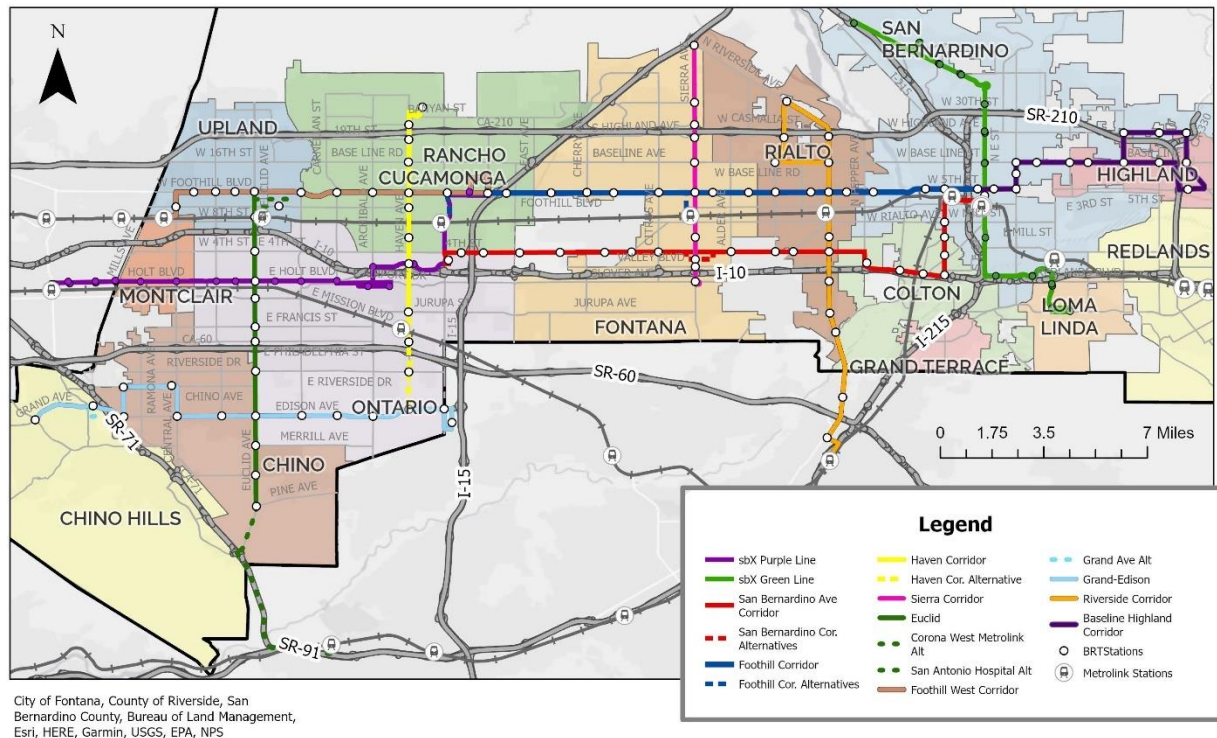
This agenda item explains the process to be used to select a single BRT corridor for further development. The item provides background on the process previously used to narrow the list of candidates from nine down to the three, and describes the Scope of Work (SOW) to assist the Board in selecting the single corridor from the final three candidates.

Review of the Process for Identifying the Three “Top Tier” Priority Transit Corridors

Omnitrans prepared their original Systemwide Plan of priority transit routes in 2010. An update to the Systemwide Plan was developed in 2019, further refined in 2024, and is shown in Figure 1 on the following page. The E Street BRT line (Green Line) has been in service for 11 years. The West Valley Connector BRT (future Purple Line) is under construction. For context, the Federal Transit Administration (FTA) definition of BRT is as follows:

Bus Rapid Transit (BRT) is an innovative, high-capacity, lower-cost public transit solution that can achieve the performance and benefits of more expensive rail modes. This integrated system uses buses or specialized vehicles on roadways or dedicated lanes to quickly and efficiently transport passengers to their destinations, while offering the flexibility to meet a variety of local conditions. BRT system elements can easily be customized to community needs and incorporate state-of-the-art, low-cost technologies that attract more passengers and ultimately help reduce overall traffic congestion.

The FTA Brochure on BRT provides an overview of elements that fall into this category of transit service, available at: [Bus Rapid Transit \(BRT\) Brochure](#).

Figure 1. Omnitrans Systemwide Plan, 2024 Update

As part of the LRMTTP, Omnitrans and SBCTA looked broadly at what investments could be made to other Priority Transit Corridors in the Systemwide Plan and sought input from local jurisdictions in Summer 2024 regarding potential investments on routes serving their jurisdictions. SBCTA has funding that could be available from the Measure I Express Bus/BRT Program through 2040. The Express Bus/BRT Program receives five percent of Valley Measure I revenue that can be used for both capital and operations. With the right combination of investments, this funding could be leveraged to bring additional State and Federal funds into the area. The types of investments could range from making strategic improvements to transit service on multiple routes, to larger investments that are more focused on one or two corridors similar to the Green Line or Purple Line.

On December 4, 2024 the SBCTA Board approved a recommendation relating to Priority Transit Corridors in the San Bernardino Valley. The recommendation was to “*Direct staff to continue collaboration with local jurisdictions to identify the priority of routes for further development of the Bus Rapid Transit (BRT) network as identified in the Omnitrans Systemwide Plan (updated in 2019), to be incorporated into the Long Range Multimodal Transportation Plan.*”

Pursuant to this recommendation, staff from Omnitrans and SBCTA conducted a technical evaluation of the nine remaining (other than Green Line and Purple Line) candidate Priority Transit Corridors in the Omnitrans Systemwide Plan. The intent was to identify a “top tier” of corridors to be included in the Final LRMTTP. The evaluation was not intended to represent a funding commitment to a particular route or routes. Rather, the top tier of corridors can be seen as a framework for the strategic use of the funds remaining in the Measure I Express Bus/BRT program through 2040, whether that be smaller investments on the “top tier” routes or a larger investment on a single route. The hope is to leverage those funds to bring in as much outside investment as possible, including State and Federal funds as well as potential private investment.

A set of seven criteria was used to help guide how the corridors could be prioritized for further development and how to invest in future BRT corridors on the Omnitrans Systemwide Plan. The evaluation panel rated each corridor in a “low-medium-high” format.

The result of the Omnitrans and SBCTA staff evaluation was to recommend incorporation of the three corridors listed above as “top tier” Priority Transit Corridors in the LRMTTP. The next section describes more specifically how this evaluation was conducted, as it established a foundation for how to identify the next priority transit corridor for further project development.

Evaluation Process Used to Screen Candidate Corridors

The March 5, 2025 SBCTA Board agenda item documented the set of criteria that guided how the “top tier” corridors were identified, as cited below:

1. Total current daily ridership (*from ridership table developed by Omnitrans and contained in the SBCTA December 4, 2024 agenda item*).
2. Current daily riders per mile in the corridor (*from Omnitrans’ table*).
3. General level of interest by cities in the corridor to back a project (given that it could involve modifications to their traffic signal systems and operating protocols – *based on meetings with jurisdictions from July/August 2024 plus any follow up communications or meetings if appropriate*).
4. Potential for Transit Oriented Development (TOD) (e.g. population/employment density – existing and future; potential for redevelopment – *qualitative rating based on review of existing population and employment density “dot maps” by transportation analysis zone (TAZ) plus projected growth by TAZ from Southern California Association of Governments 2024 Regional Transportation Plan/Sustainable Communities Strategy*).
5. Service to disadvantaged communities (*qualitative rating based on CalEnviroScreen 4.0 mapping*).
6. Potential travel time reduction for transit in the corridor (*qualitative rating of how much travel time benefit there could be by implementing TSP and other priority features – based on qualitative assessment of congestion data in each corridor from ClearGuide – greater congestion level generally means more potential benefit from investment in priority transit features*).
7. Contribution to the overall connectivity of the BRT network (*routes that connect priority transit corridors together or that feed the passenger rail system may have more merit*).

These seven criteria were considered as part of the process of determining how to narrow down the list of priority corridors for potential future investment from nine to three. The approach was to rate each corridor in a “low-medium-high” format. The evaluation was conducted in numeric fashion by assigning the following:

- Low = 1
- Medium = 2
- High = 3

One of the important inputs to this evaluation was the set of data generated by Omnitrans shown in Figure 2 on the following page. Some of this data will also be pertinent to the further evaluation that will lead to a single corridor to advance for project development.

Figure 2. Corridor-Level Data Used as an Input for Identifying the “Top Tier” Corridors

	Base-High	Edison	Euclid	Foothill	FH West	Haven	Riverside	SB Ave	Sierra
Current Local Daily Ridership	3,678	659	1,111	4,915	2,198	394	792	4,110	1,081
Total Distance (including alt. routing)	13.7	15.69	20.29	20.49	11.59	14.29	16.72	20.75	8.36
Current Avg Daily Riders/Mile	268.5	42.0	54.7	239.9	189.7	27.6	47.4	198.1	129.4
Potential BRT Stations	15	14	14	21	12	14	15	22	12
Population (2022 ACS) (0.5 mile station radius)	60,257	25,581	55,227	88,915	50,451	33,607	56,970	68,150	41,155
Density (ppl/ml ²) (0.5 mile station radius)	6,098	2,400	5,407	6,229	6,133	3,350	5,252	4,571	5,948
Jobs (2021 LEHD) (0.5 mile station radius)	33,807	34,589	23,940	38,370	32,903	50,889	39,004	50,744	16,846
Density (jobs/ml ²) (0.5 mile station radius)	3,421	3,245	2,344	2,688	4,000	5,073	3,596	3,403	2,435

SOW for Identifying the Next Priority Transit Corridor for Development

A SOW has been developed to carry out a process for narrowing down the three “top tier” corridors to a single corridor to advance into project development, subject to approval by the SBCTA Board. While it would be possible to spread lower-cost BRT strategies across all three corridors, the best chance of bringing substantial outside funding to the table would be through a larger project similar to the Green or Purple Lines that would better address State and Federal competitive funding criteria, including the TOD/land use criterion listed earlier.

The funding remaining in the Measure I Express Bus/BRT Program would be used to leverage as much outside State and Federal funding as possible. The three sources that have the greatest potential for outside funding include:

- The Senate Bill (SB) 1 Solutions for Congested Corridors Program (SCCP) managed by the California Transportation Commission,
- The Transit and Intercity Rail Capital Program (TIRCP) managed by California State Transportation Agency, and
- The Small Starts funding within the FTA Capital Investment Grant (CIG) Program.

The SCCP and CIG played major roles in fully funding the West Valley Connector project, currently under construction. A number of higher-capacity bus investments have been funded through TIRCP. Therefore, it would make sense that the decision to invest in development of a new BRT project would especially focus on the criteria for securing funding from these specific sources. In addition, active local jurisdiction support of the selected corridor is absolutely critical to its success.

The SOW below provides the recommended process for moving forward to select the single recommended corridor from the top three. The recommended process identifies a set of metrics that collectively address the CIG, TIRCP, and SCCP criteria, but in simplified form. In addition, the recommended process explains the proposed outreach to local jurisdictions in each corridor, given that the willing participation of the jurisdictions will be fundamental to the conceptual design of each route as well as to positioning the chosen corridor for funding. There is no point

in pursuing a corridor where the jurisdictions are not fully supportive, given that design and operational strategies will likely involve incorporation of transit-supportive features on their streets and enhancements to their signal systems.

The project will begin by briefing participating jurisdictions about the process. Through consultant support, SBCTA and Omnitrans will then work with the jurisdictions in each of the three corridors to develop a “project concept” that can be endorsed by the jurisdictions through which each corridor passes. This needs to be an interactive process between transit planning/operations staff (from SBCTA and Omnitrans, with consultant assistance) and local jurisdiction engineering and planning staff, with input from their elected officials. It is possible that adjustments to the route and its terminal points could be made as part of the “fine tuning” of each concept.

To begin the process, jurisdictions in each corridor would be presented with three “levels of BRT” that they could consider endorsing, such as:

- a. **BRT lite (“Minimum-Build” BRT)** - Generally including 1-mile station spacings, level boarding, Transit Signal Priority (TSP), and increased frequency with a mix of in-lane stations and pull-out stations (where necessary to avoid blocking traffic). There would be no dedicated lanes but could be with or without queue jumps at this first level.
- b. **Medium-Build BRT** - Everything in “a” plus dedicated lanes and/or queue jumps in the most congested areas, with a minimum of 15 percent of the miles being exclusive to buses or shared with turning vehicles. This would be similar to the West Valley Connector (Purple Line), which has just over 15 percent of its mileage as dedicated lanes. It is described as “medium build” because a CIG commitment typically expects some portion of the corridor to include dedicated lanes, keeping in mind that “corridor-based BRT” under FTA Small Starts could exclude dedicated lanes (see FTA CIG Program documentation.). There are also some robust land use/TOD strategies in this corridor.
- c. **Maximum-Build BRT** - Everything in “b” plus a higher percentage of dedicated lanes and/or queue jumps, more like the Green Line (E Street) BRT. This would be the most competitive for funding, but also at higher cost, and warranted only in more densely developed areas or where denser development is planned. Concerns about access to adjacent commercial properties may also be a factor in limiting how extensive the dedicated lanes could be. The expected level of right-of-way acquisitions could also be a factor in shaping the project concept.

Each route could consist of a “mix and match” set of these BRT components, but with a goal to both make each alignment consistent with strategies each local jurisdiction is willing to accept while at the same time having sufficient BRT features to make the alignment competitive for funding.

The evaluation process will be sensitive to the criteria from the funding programs but in simplified form. The results of the evaluation will be documented, shared with the local jurisdictions involved, and then be taken to the SBCTA Board for approval. An initial funding commitment to conduct an FTA Alternatives Analysis would be considered the “next step.”

The project deliverables will include:

- Opening year ridership estimates based on the methodology outlined in this task.
- Tech memo on the evaluation methodology and data/mapping available for each corridor.
- Tech memo on the results of the evaluation, including a planning-level CIG “mock rating” for each corridor.

Transit Committee Agenda Item

December 11, 2025

Page 6

A preliminary schedule includes:

- Task 1: Project Orientation and Management – January-March 2026.
- Task 2: Development of “Project Concepts” – March-July 2026.
- Task 3: Evaluation and Selection of the Corridor to be Advanced into Project Development - July-September 2026.

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2025/2026.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee.

Responsible Staff:

Steve Smith, Director of Planning & Regional Programs

Approved
Transit Committee
Date: December 11, 2025

Witnessed By:

Minute Action

AGENDA ITEM: 5

Date: December 11, 2025

Subject:

Brightline West Hesperia Station - Caltrans Cooperative Agreement and Amendment No. 3 to Lease Agreement 22-1002723

Recommendation:

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

A. Delegate authority to the Executive Director, or her designee, to negotiate, approve, and execute Cooperative Agreement No. 25-1003332 with the State of California Department of Transportation (Caltrans) regarding the construction of the Brightline West Hesperia Station on excess State right-of-way and the ultimate relinquishment of said excess right-of-way to SBCTA, upon approval as to form by SBCTA's General Counsel.

B. Delegate authority to the Executive Director, or her designee, to negotiate, approve, and execute Amendment No. 3 to Lease Agreement No. 22-1002723 for a portion of the San Gabriel Subdivision Right-of-Way to add the excess State right-of-way relinquished to SBCTA to the lease agreement with DesertXpress Enterprises, LLC. (d/b/a Brightline West), upon approval as to form by SBCTA's General Counsel.

Background:

San Bernardino County Transportation Authority (SBCTA) and DesertXpress Enterprises, LLC. (DXE) first entered into Memorandum of Understanding No. 21-1002447 in July 2020, memorializing the efforts that SBCTA and DXE would collaborate on to bring a private high speed rail service to connect Las Vegas, Nevada, to Southern California and the SBCTA Board of Director's (Board) willingness to encumber a portion of SBCTA right-of-way for a dollar in exchange for obtaining local rail service through the Cajon Pass. Lease Agreement No. 22-1002723 (SGS Lease), of March 2022, provided DXE with the necessary right-of-way at the cost of \$1 per year, and required DXE and SBCTA to enter into a local rail service agreement. Amendment No. 1 to the SGS Lease increased the rent to fair market value but retained a clause that would revert to rent of \$1 per year in the event that DXE's project became subject to prevailing wage requirements and updated DXE's deadlines concerning the commencement of construction to October 5, 2025, and the commencement of DXE's interstate rail service to October 5, 2029. Amendment No. 2 to the SGS Lease extended DXE's deadline to commence construction by one year to October 5, 2026, and to commence DXE's interstate rail service by October 5, 2032. SBCTA and DXE entered into Local Rail Service Agreement (LRSA) No. 24-1003091 in July 2024. The LRSA more particularly describes DXE's obligation to design, construct, and build an in-line station in the City of Hesperia (Hesperia Station) to serve the local rail service, as well as reserving 150 round-trip seats per day in the direction of prevailing travel on DXE's trains for local rail service patrons.

DXE had difficulty obtaining the property rights for the Hesperia Station directly from the California Department of Transportation (Caltrans), and staff from Caltrans, DXE, and SBCTA worked together to find a resolution to the issues that DXE and Caltrans were running up against. Caltrans proposed that Caltrans and SBCTA enter into Cooperative Agreement No. 25-1003332, which will ultimately result in Caltrans relinquishing the property to SBCTA once construction

Entity: San Bernardino County Transportation Authority

of the Hesperia Station has been completed. The Cooperative Agreement will limit the property rights that Caltrans relinquishes to SBCTA to only that property which is necessary and convenient for the operation and maintenance of the Hesperia Station. The property relinquished from Caltrans to SBCTA will be at zero cost to SBCTA in consideration of the continuing transportation use of the property.

SBCTA did not originally envision being the property owner at the Hesperia Station and the potential liability that accompanies ownership. SBCTA and DXE already have liability shifting provisions under the SGS Lease. Amendment No. 3 to the SGS Lease will add the Hesperia Station property to the leasehold estate and update the lease provisions to address the update to the leasehold estate. When the Board delegated authority to the Executive Director to finalize the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant agreement, SBCTA was only going to be a grant applicant partner passing federal dollars through to DXE for the construction of the High Desert stations, but approval of the Caltrans Cooperative Agreement changes SBCTA's status from simply that of a funding partner and grant administrator to the underlying property owner and landlord for the Hesperia Station, which is a material change to the underlying assumptions when the Board acted in July. However, no material changes to the language of the RAISE Grant agreements themselves result from this action. SBCTA, the Federal Railroad Administration (FRA), and DXE have continued to finalize the RAISE grant agreement and corresponding agreements. The latest version of the RAISE Grant agreement (Contract No. 24-1003080), the corresponding SBCTA sub recipient agreement (Contract No. 24-1003078), and the reimbursement agreement (Contract No. 24-1003079) are attached to this staff report. DXE has expressed that they will request that SBCTA enter into additional agreements with project financing lenders to provide their lenders with lender rights akin to those provided in the SGS Lease agreement, such as, for example, the right for lenders to cure defaults in DXE's stead. At a future date staff will present contract language for Board approval.

Staff continues to work with DXE and the City of Rancho Cucamonga on details concerning the development of the Brightline West Rancho Cucamonga station. Most recently, in July 2025, the Board approved the delegation of authority to the Executive Director to finalize Amendment No. 5 to the three-party Disposition and Development Agreement concerning the sale of a portion of the existing Cucamonga Metrolink Station to DXE for the development of their high-speed rail station. Staff will return to the Board in the coming months for approval of easements necessary to relocate several utility easements encumbering the station site.

Financial Impact:

The recommended action to enter into a Cooperative Agreement with Caltrans has zero financial impact to SBCTA at this time. At the expiration or earlier termination of the lease agreement for the Brightline High Speed Rail Project improvements, costs associated with the ownership and maintenance of property will be incorporated into the then upcoming fiscal year budget, however this is not anticipated to occur for the next 50 or 99 years.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Procurement Manager have reviewed this item and the draft agreement and amendment.

Responsible Staff:

Ryan Aschenbrenner, Right of Way Manager

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Approved
Transit Committee
Date: December 11, 2025
Witnessed By:

Contract No.: 25-1003332 Amendment No.: _____

Contract Class: Payable Department: Transit

Vendor No.: TBD Vendor Name: CALTRANS

Description: CALTRANS COOPERATIVE AGREEMENT FOR HESPERIA STATION

List Any Related Contract Nos.: _____

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

Board of Directors	Date: 1/7/2026	Committee	Item #
Contract Management (Internal Purposes Only)			

Board of Directors

Date: 1/7/2026

Committee

Item #

Contract Management (Internal Purposes Only)

Zero Dollar Contracts

Sole Source? N/A

No Budget Adjustment

Zero Dollar

MOU/COOP/JPA (zero dollar contract)

N/A

[illegible]

Ryan Aschenbrenner

Victor Lopez

Project Manager (Print Name)

Task Manager (Print Name)

Additional Notes: Cooperative Agreement for the relinquishment of state property to SBCTA for zero dollars.

COOPERATIVE AGREEMENT

This Agreement, effective on _____ (date) _____, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

SAN BERNARDINO COUNTY

TRANSPORTATION AUTHORITY, a body politic of the State of California, referred to hereinafter as AUTHORITY.

RECITALS

- A. CALTRANS and AUTHORITY, collectively referred to as PARTIES, pursuant to Streets and Highways Code sections 92, and 146.5 are authorized to enter into a Cooperative Agreement to construct, operate, and maintain fringe and transportation corridor parking facilities along the SHS.
- B. CALTRANS is a public agency with full possession and control of all state highways, property, and rights in property acquired for state highway purposes, and is authorized under sections 90, 91, 91.2(b), 92 and 660 et seq. of the Streets and Highways Code and sections 14000(c) and 14520.3(b) of the Government Code to oversee impacts to and projects on the SHS including the ability to make final agency decisions regarding the use and/or disposition of its assets. Pursuant to sections 14036 and 14038(b) of the Government Code, CALTRANS is charged with the responsibility to prepare a State Rail Plan, which includes passenger rail elements such as the proposed interstate rail service to Las Vegas from southern California.
- C. The AUTHORITY is a county transportation authority pursuant to California Public Utilities Code 130800 et. seq. and is responsible for cooperative regional planning and for furthering an efficient multi-modal transportation system throughout San Bernardino County, California. The AUTHORITY supports freeway construction projects, regional and local road improvements, train and bus transportation, railroad crossings, ridesharing, congestion management efforts, and long-term planning studies. The AUTHORITY's goal is to encourage responsible growth, a sustainable environment, and a high quality of life for everyone who lives, works, and travels in and through San Bernardino County.
- D. CALTRANS and AUTHORITY acknowledge that DesertXpress Enterprises, LLC, which does business as Brightline West ("BLW"), proposes to design, construct, operate, and maintain a private interstate high-speed passenger railroad between Southern California and Las Vegas, Nevada. The passenger-only high-speed rail line will be designed and constructed for operation and maintenance within an approximately 218-mile corridor that will generally follow the Interstate 15 freeway and right-of-way ("I-15") and is proposed to be built primarily in the median of I-15. This passenger-only high-speed rail line will be constructed as two projects, one between Las Vegas, Nevada and Apple Valley, California (the "LV/AV PROJECT") and the other between

Apple Valley and Rancho Cucamonga, California (the "AV/RC PROJECT"). Together, the two projects ("PROJECTS") will form a single system (the "BLW SYSTEM") that will provide high-speed rail service between Rancho Cucamonga and Las Vegas. The Rancho Cucamonga station will be adjacent to the AUTHORITY's existing Metrolink commuter rail station, thereby making it convenient for passengers to transfer between systems and extending connectivity to all locations served by passenger rail in Southern California.

- E. Development of the BLW SYSTEM will provide an opportunity for parking and other adjuncts for the provision of local rail service at a rail station in Hesperia, in between the junction of the I-15 and US 395 and the I-15 Joshua Street interchange, located in the City of Hesperia (the "HESPERIA STATION").
- F. The HESPERIA STATION will be an in-line station with the passenger platform located adjacent to the BLW tracks in the median of the I-15. A surface parking lot, including electric vehicle charging, bike storage, and access connections to other transportation modes such as bus transit and ride sharing, will be located on the west side of the I-15 in between its junction with US 395 and the I-15/Joshua Street interchange, with access between the parking lot and station platform to be provided by a pedestrian bridge above the southbound lanes of the I-15 (See schematic attached hereto as Exhibit A). The local rail service being provided at the HESPERIA STATION will advance the goals that CALTRANS and the AUTHORITY share for reduction of congestion within the I-15 Corridor between the San Bernardino high desert and valley regions, as the population and economic standing of the high desert region continue to grow in the coming decades.
- G. The AUTHORITY is the public sponsor for a \$25 million RAISE grant awarded by the Federal Railroad Administration ("FRA") to BLW in 2023, to develop the BLW SYSTEM stations in Apple Valley and Hesperia. The AUTHORITY has entered into a Local Rail Service Agreement, effective July 3, 2024, with BLW in furtherance of these shared local congestion reduction goals and specifically requiring BLW to construct and operate a station in Hesperia.
- H. CALTRANS has caused to be included in its current State Rail Plan the BLW SYSTEM, including the local rail service to be provided at the HESPERIA STATION, as part of near-term capital rail projects. The BLW SYSTEM is further identified in the Federal Transportation Improvement Program (FTIP).
- I. The FRA is the lead agency for the environmental review of BLW SYSTEM. On July 12, 2023, the FRA completed its National Environmental Policy Act ("NEPA") and related environmental review of the AV/RC PROJECT in the form of a Finding of No Significant Impact in compliance with NEPA, the Counsel on Environmental Quality's implementing regulations, FRA's Environmental Impact and Related Procedures, and other applicable laws, including Section 106 of the National Historic Preservation Act and Section 4(f) of the U.S. Department of Transportation Act of 1966. Previously, as related to the LV/AV PROJECT, the FRA completed its NEPA and related environmental review with the Surface Transportation Board ("STB"), the United States Bureau of Land Management ("BLM"), and the Federal Highway Administration ("FHWA") serving as cooperating agencies. That process concluded with the FRA and

BLM each issuing a Record of Decision ("ROD") in 2011. In November 2011, the California and Nevada Divisions jointly issued the FHWA ROD. In September 2020, the FRA completed a reevaluation and affirmed that a supplemental Environmental Impact Study is not necessary.

- J. For purposes of the State of California documenting compliance with the California Environmental Quality Act ("CEQA") regarding its proprietary use of State property, CALTRANS will document compliance with CEQA for this AGREEMENT by the filing of a Notice of Exemption with the State Clearinghouse of the Office of Planning and Research.
- K. CALTRANS and AUTHORITY mutually desire to cooperate and participate in the construction, maintenance and operation of these adjuncts surrounding the HESPERIA STATION.
- L. CALTRANS and AUTHORITY desire to specify herein the terms and conditions under which the HESPERIA STATION will be constructed, maintained and operated.

AGREEMENT

Now, therefore, the PARTIES agree as follow:

SECTION 1. RECITALS

The recitals set forth above are hereby incorporated into the terms of this AGREEMENT.

SECTION 2. DEFINITIONS

- 2.1. AGREEMENT has the meaning set forth in the preamble.
- 2.2. AUTHORITY has the meaning set forth in the preamble.
- 2.3. AV/RC PROJECT has the meaning set forth in Recital D.
- 2.4. BLW has the meaning set forth in Recital D.
- 2.5. BLW SYSTEM has the meaning set forth in Recital D.
- 2.6. CALTRANS has the meaning set forth in the preamble.
- 2.7. ENCROACHMENT PERMITS are the CALTRANS permits required for the construction of the BLW SYSTEM as it impacts the SHS, as defined in section 660 of the **California Streets and Highways Code**, to ensure that the use by BLW for the construction, operation, and maintenance of the BLW SYSTEM (i) is in the public interest, and (ii) is compatible with and will not impair I-15 or unreasonably interfere with the free and safe flow of traffic on I-15 at its junction with US 395. There may be one or more permits required for construction, including, without limitation, any ENCROACHMENT PERMITS as needed for temporary construction staging,

temporary traffic control measures, for temporary haul roads or temporary rail lines, and for the permanent installation of any necessary railroad appurtenances such as electric substations.

- 2.8. HESPERIA STATION has the meaning set forth in Recital F.
- 2.9. LV/AV PROJECT has the meaning set forth in Recital D.
- 2.10. QUALITY MANAGEMENT ASSESSMENT or QMA means CALTRANS' independent activities performed by CALTRANS, which it will not exercise unreasonably or arbitrarily, to assure and verify, as needed, that the HESPERIA STATION complies with applicable standards, laws, regulations, and policies to the extent they impact the SHS. It is understood and agreed that QMA activities are for the benefit and protection of CALTRANS as the owner and operator of the SHS only, and will not constitute acceptance, approval, or ratification of any work or process, or of the HESPERIA STATION improvements to be constructed by BLW. QMA activities will be focused on the specific potential or real impacts to facilities owned, operated, or maintained by CALTRANS.
- 2.11. SHS is the California State Highway System.

SECTION 3. CALTRANS AGREES:

- 3.1. To perform any QMA of the design engineering and construction of BLW's HESPERIA STATION, subject to its Amended and Restated Design and Construction Agreement with BLW dated [INSERT DATE], and as may be amended from time to time.
- 3.2. To bear at no cost to AUTHORITY any expense of its QMA for the HESPERIA STATION, subject to its Amended and Restated Design and Construction Reimbursement Agreement with BLW, dated [INSERT DATE], and as may be amended from time to time.
- 3.3. To issue to AUTHORITY and BLW all necessary ENCROACHMENT PERMITS to construct the HESPERIA STATION and all its adjuncts, subject to its Amended and Restated Design and Construction Agreement with BLW dated [INSERT DATE], and as may be amended from time to time.
- 3.4. Any ENCROACHMENT PERMITS issued by CALTRANS to BLW to construct the HESPERIA STATION and all its adjuncts will specify that BLW will retain private ownership of or title to all the project elements to be constructed by BLW that will comprise the HESPERIA STATION.
- 3.5. CALTRANS will coordinate the timing of issuing all necessary ENCROACHMENT PERMITS to construct the HESPERIA STATION either in advance of or concurrent with ENCROACHMENT PERMIT issued to BLW for the adjacent segment of the BLW SYSTEM.

- 3.6. To acquire or provide all necessary rights of way for the HESPERIA STATION, in conjunction with CALTRANS' acquisition of rights of way acquired for the SHS.
- 3.7. Caltrans' property for the HESPERIA STATION is identified as that certain property known as Hesperia Station Right of Way Maps in the CALTRANS' State Highway record maps, and as generally shown on Exhibit B attached to this AGREEMENT. Upon completion of construction of the HESPERIA STATION and provision of the survey and any final mapping, CALTRANS and AUTHORITY may amend Exhibit B and CALTRANS' references thereto in the State Highway record maps to accurately describe the property.
- 3.8. After acceptance of the construction of the HESPERIA STATION by CALTRANS, CALTRANS will deed, at no cost to AUTHORITY, the property identified in Exhibit B, for the HESPERIA STATION which is built within Caltrans' property outside the access control designations at the junction of the I-15 and US 395.
- 3.9. Transfer of title will be completed by a Director's Deed package for continued public use pursuant to this AGREEMENT, subject to approval by the California Transportation Commission, and prepared by CALTRANS at no cost to AUTHORITY.
- 3.10. CALTRANS will issue a notice of completion to AUTHORITY, in a mutually agreed form, which recognizes BLW's private ownership of or title to all the project elements that will comprise the HESPERIA STATION (being the recipient of the RAISE grant funds used for the construction). Any notice of completion will allow the operation and maintenance of the HESPERIA STATION to commence, pending transfer of title as specified herein.

SECTION 4. AUTHORITY AGREES

- 4.1. To fund construction for the HESPERIA STATION, subject to its RAISE grant agreement with BLW, dated [INSERT DATE].
- 4.2. To accept title to the Caltrans' property outside the access control designations of the I-15 and US 395, and upon which the HESPERIA STATION will be constructed. Title to said property described in Exhibit B and final Director's Deed Package will convey upon approval of the CTC and recordation of the Director's Deed at the county recorder's office by the AUTHORITY. The land herein described in Exhibit B and the final Director's Deed Package is subject to special assessments, if any, restrictions, reservations, and easements of record.
- 4.3. Upon notice of completion of the HESPERIA STATION, to assume control, operation, and maintenance of the Caltrans' Property (described in Exhibit B) underlying the privately owned HESPERIA STATION, subject to a ground lease agreement with BLW and the aforementioned LOCAL RAIL SERVICE AGREEMENT with BLW, as either may be amended from time to time. For avoidance of doubt, BLW will retain ownership of or title to the project elements and improvements that will compose the HESPERIA STATION upon transfer of the underlying property.

- 4.4. Upon completion and acceptance of title related to the HESPERIA STATION, to continue public ownership of the property identified in Exhibit B, to support the uses for which it was improved so long as the HESPERIA STATION is needed to serve the BLW SYSTEM. Any future change in ownership of the title underlying the HESPERIA STATION shall have prior CALTRANS, FHWA and FRA approval as needed by applicable state or federal law.

SECTION 5. MUTUALLY AGREED

- 5.1. 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).
- 5.2. That all applicable procedures and policies for the use of federal funds and state gas tax funds shall apply notwithstanding other provisions of this AGREEMENT.
- 5.3. That all applicable procedures and policies concerning ride share, commuter (including vanpool/carpool) parking shall apply and the supportive lots for the HESPERIA STATION are not intended for residential, commercial, or long-term parking.
- 5.4. Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by AUTHORITY and/or its agents under or in connection with any work, authority or jurisdiction conferred upon AUTHORITY under this AGREEMENT. It is understood and agreed that AUTHORITY to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of the operation and maintenance of the HESPERIA STATION.
- 5.5. Neither AUTHORITY nor any officer or employee thereof is 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 or under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless AUTHORITY and all of its 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 or 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.
- 5.6. Pursuant to applicable law, the interests of CALTRANS and the AUTHORITY in the property described in Exhibit B is not subject to a lien of any kind. Neither CALTRANS nor AUTHORITY will allow any mortgages, liens, or other encumbrances

Dist-Co-Rte-PM

EA XXXXX

District Agreement XX-XXXX

related to financing from any third party to attach to the fee interest in the Property described in Exhibit B as a result of the financing or construction of the HESPERIA STATION or use of the property as described herein.

- 5.7. This AGREEMENT may be terminated, and provisions contained herein may be altered, changed, or amended only by mutual written consent of the PARTIES.
- 5.8. This AGREEMENT shall terminate upon transfer of title to the property identified in Exhibit B to AUTHORITY; however, the maintenance, ownership, acceptance, and hold harmless clauses shall remain in effect until terminated in writing by mutual consent.

SIGNATURES

PARTIES declare that:

1. Each PARTY is an authorized legal entity under California state law.
2. Each PARTY has the authority to enter into this Agreement.
3. The people signing this agreement have the authority to do so on behalf of their public agencies.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

By: _____
District Director

By: _____
[Title]

APPROVED AS TO FORM AND
PROCEDURE:

APPROVED AS TO FORM:

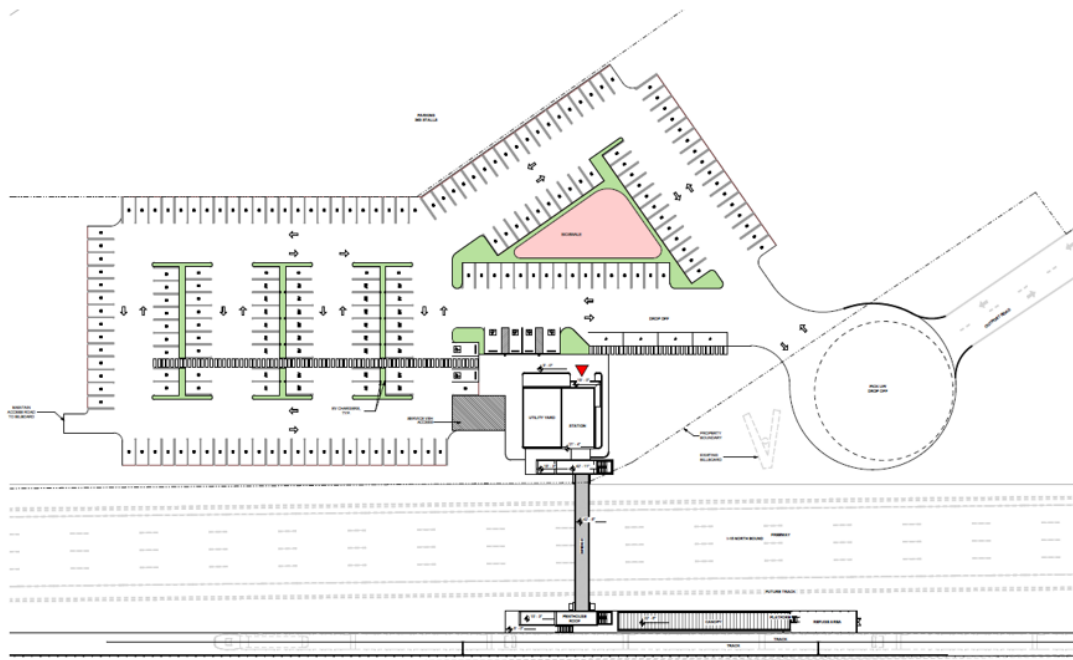
By: _____
Attorney
Department of Transportation

By: _____
[Title]

EXHIBIT A

HESPERIA STATION SITE PLAN

HESPERIA STATION SITE PLAN 2



Dist-Co-Rte-PM
EA XXXXX
District Agreement XX-XXXX

EXHIBIT B

Hesperia Station Director's Deed Package

[something akin to Official Records of San Bernardino County Instrument 2024-0012944,
recorded January 17, 2024, in State Highway Map Book No. 19, Pages 29 to 40, San
Bernardino County

[http://170.164.60.159/WebLink/DocView.aspx?id=10685380&dbid=3&repo=SBCPublicW
orks\]](http://170.164.60.159/WebLink/DocView.aspx?id=10685380&dbid=3&repo=SBCPublicWorks)

DRAFT

General Contract Information

Contract No: 22-1002723 Amendment No.: 3

Contract Class: Receivable Department: Transit

Customer ID: 03635 Customer Name: DESERTXPRESS ENTERPRISES, LLC

Description: San Gabriel Subdivision Lease to Brightline West High Speed Rail Project

List Any Accounts Payable Related Contract Nos.: _____

Dollar Amount							
Original Contract		\$	46.00	Original Contingency		\$	-
Prior Amendments		\$	-	Prior Amendments		\$	-
Prior Contingency Released		\$	-	Prior Contingency Released (-)		\$	-
Current Amendment		\$	-	Current Amendment		\$	-
Total/Revised Contract Value		\$	46.00	Total Contingency Value		\$	-
		Total Dollar Authority (Contract Value and Contingency)				\$	46.00

Contract Authorization

Board of Directors Date: 1/7/2026 Committee _____ Item # _____

Contract Management (Internal Purposes Only)

Local Right of Way – Leases N/A

Accounts Receivable

Total Contract Funding: \$ 46.00 Funding Agreement No: 22-1002723

Beginning POP Date: 3/2/2022 Ending POP Date: 3/1/2072 Final Billing Date: 3/1/2072

Expiration Date: 3/1/2072 Fund Admin: N/A

Sub-						Sub-					
Fund	Prog	Task	Task	Revenue	Total Contract Funding:	Fund	Prog	Task	Task	Revenue	Total Contract Funding:
GL: 1080	30	0313	0360	43021000	46.00	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-
GL:					-	GL:					-

Ryan Aschenbrenner

Project Manager (Print Name)

Victor Lopez

Task Manager (Print Name)

Additional Notes: Amendment No. 3 adds the former Caltrans right-of-way for Hesperia Station to the leasehold estate. Rent \$1/year payable at the date of occupancy. Occupancy anticipated in 2026, original 50-year term ends in 2072, resulting in 46 years of occupancy rent anticipated. Optional Extended Term for an additional 49 years.

**Third Amendment to the San Gabriel Subdivision Lease Agreement
Related to the
Brightline West High-Speed Rail Project**

This Third Amendment to the San Gabriel Subdivision Lease Agreement Related to the Brightline West High-Speed Rail Project ("AMENDMENT No. 3") is made this ____ day of _____, 2025 (the "EFFECTIVE AMENDMENT DATE") by and between DesertXpress Enterprises, LLC, a Nevada limited liability company (together with its successors and permitted assigns) ("LESSEE"), and the San Bernardino County Transportation Authority, a county transportation authority pursuant to California Public Utilities Code §§130800 et. seq ("SBCTA").

RECITALS

- A. Whereas SBCTA and LESSEE (collectively, the "PARTIES") entered into the San Gabriel Subdivision Lease Agreement Related to the Brightline West High-Speed Rail Project effective as of March 2nd, 2022 (the "LEASE"); and
- B. Whereas the PARTIES entered into that certain First Amendment to San Gabriel Subdivision Lease Agreement Related to the Brightline West High-Speed Rail Project, effective as of October 5, 2022 ("AMENDMENT No. 1"); and
- C. Whereas the PARTIES entered into that certain Second Amendment to San Gabriel Subdivision Lease Agreement Related to the Brightline West High-Speed Rail Project, effective as of October 5, 2022 ("AMENDMENT No. 2"); and
- D. Whereas the PARTIES entered into that certain Local Rail Service Agreement made as of July 3, 2024, as required by the terms of the LEASE; and
- E. Whereas the State of California, acting through its Department of Transportation ("CALTRANS") and SBCTA entered into that certain Cooperative Agreement dated _____, 2025, setting forth the terms and conditions under which CALTRANS will participate in the development of the LOCAL RAIL SERVICE (as defined below) at a rail station in Hesperia, at the junction of Interstate 15 ("I-15") and United States Route 395 ("US 395"), located in the City of Hesperia (the "HESPERIA STATION") and will include an in-line station with the passenger platform located adjacent to the Lessee's tracks in the median of the I-15, a surface parking lot, including electric vehicle charging, bike storage, and access connections to other transportation modes such as bus transit and ride sharing, will be located on the west side of the I-15 at its junction with US 395, with access between the parking lot and station platform to be provided by a pedestrian bridge above the southbound lanes of the I-15; and
- F. Whereas the LOCAL RAIL SERVICE being provided at the HESPERIA STATION will advance the goals that CALTRANS and SBCTA share for the reduction of congestion within the I-15 corridor between the San Bernardino County high desert and valley regions, as the population and economic standing of the high desert region continue to grow in the coming decades; and

G. Whereas the PARTIES now wish to further amend the LEASE to include additional property upon the satisfaction of certain obligations and such additional matters and changes as are set forth below in this AMENDMENT No. 3.

AMENDMENT

Now, therefore, in consideration of the facts and circumstances recited above, as well as other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the PARTIES, the PARTIES agree as follows:

1. The recitals set forth above are hereby incorporated into the terms of this AMENDMENT No. 3 as if set forth in full in this provision 1.
2. Section 2.34 to the LEASE is DELETED in its entirety and REPLACED as follows:

2.34. LOCAL RAIL SERVICE AGREEMENT means the construction and operation agreement made by LESSEE and SBCTA, dated July 3, 2024, required by Section 5.2 and attached hereto as Exhibit D.

3. Sections 2.62, 2.63, 2.64, and 2.65 are APPENDED to SECTION 2. DEFINITIONS of the LEASE, following Section 2.61 thereof, as follows:

2.62. CALTRANS means the State of California, acting through its Department of Transportation.

2.63. COOPERATIVE AGREEMENT means that certain Cooperative Agreement dated _____, 2025, entered into by CALTRANS and SBCTA, setting forth the terms and conditions under which Caltrans will participate in the development of a LOCAL RAIL SERVICE at a rail station in Hesperia, at the junction of the I-15 and US 395 (as defined in Amendment No. 3, Recital E), located in the City of Hesperia which will include an in-line station with the passenger platform located adjacent to the Lessee's tracks in the median of the I-15, a surface parking lot, including electric vehicle charging, bike storage, and access connections to other transportation modes such as bus transit and ride sharing, will be located on the west side of the I-15 at its junction with US 395, with access between the parking lot and station platform to be provided by a pedestrian bridge above the southbound lanes of the I-15.

2.64. HSR ROW PROPERTY has the meaning set forth in Section 3.1.1.

2.65. LRS PROPERTY has the meaning set forth in Section 3.1.1.

4. The following paragraph is APPENDED to the end of Section 3.1.1 of the LEASE:

In addition, upon the transfer of the LRS PROPERTY from CALTRANS to SBCTA pursuant to the COOPERATIVE AGREEMENT, SBCTA shall lease to LESSEE, and LESSEE shall lease from SBCTA, for the term commencing on the completion of the HESPERIA STATION, at the rent described in Section 5.5 below, and upon the covenants

and conditions hereinafter set forth, that certain property currently known as Hesperia Station Right of Way Use Area No. XXXXX in the CALTRANS' State Highway record maps, shown on Exhibit B-1 to this LEASE (the "LRS PROPERTY"); and PROPERTY shall thenceforth mean the LRS PROPERTY together with the HSR ROW PROPERTY. The LRS PROPERTY is intended to provide LESSEE with sufficient land for the construction and operation of the HESPERIA STATION pursuant to the terms of the LOCAL RAIL SERVICE AGREEMENT. Upon completion of the construction of the HESPERIA STATION and provision of the survey and final Lease Area Maps required under Section 9.1 of this LEASE, SBCTA and LESSEE will amend Exhibit B-1 and SBCTA references thereto to accurately describe the LRS PROPERTY and Exhibit B-1 to accurately describe the LRS PROPERTY if the boundaries changed during construction. This agreement to adjust the description of the LRS PROPERTY is intended to provide a mechanism to allow for shifts in the HESPERIA STATION alignment based on conditions on the ground or constraints or conditions developed in final design as may be agreed to by SBCTA and LESSEE, but is not to be construed to conflict with the other terms of this LEASE.

5. Section 5.5 is ADDED to the LEASE to read as follows:

5.5 Rent for Hesperia Station. The HESPERIA STATION shall be appraised separately from the remaining portions of the PROPERTY and RENT associated therewith ("HESPERIA RENT") shall also be paid separately from RENT for the remaining portions of the PROPERTY, but both the appraisal and RENT shall otherwise be subject to and consistent with the terms of Sections 5.1 and 5.4 of the AGREEMENT, as modified by the First Amendment to the Agreement. LESSEE shall be entitled to a dollar-for-dollar credit ("LRS CREDIT") against annual HESPERIA RENT equal to LESSEE's anticipated net loss of providing LOCAL RAIL SERVICE for the applicable lease year, including amortization for the construction costs of the HESPERIA STATION and net of any revenues specifically attributable to LOCAL RAIL SERVICE based on historical data and forecasts ("NET LRS LOSS"); provided, however, that in no event shall the LRS CREDIT exceed the annual HESPERIA RENT due for such year (i.e., LESSEE's rental payment to SBCTA may be reduced to zero but shall not be negative). LESSEE shall deliver to SBCTA, within one hundred twenty (120) days after the end of each lease year, an annual reconciliation statement of Net LRS Costs prepared in accordance with Generally Accepted Accounting Principles (GAAP), together with reasonable supporting detail and a check for any underpaid HESPERIA RENT, if applicable. Any overpayment of estimated HESPERIA RENT based on such annual reconciliation shall be credited against the next year's HESPERIA RENT so that SBCTA does not need to come out of pocket for such reconciliation. SBCTA shall have the right, upon not less than ten (10) business days' prior written notice and no more than once per lease year, to audit such reconciliation statement and related books and records during normal business hours, at SBCTA's expense.

6. The following sentence is APPENDED to Section 10.1 of the LEASE:

For avoidance of doubt, RAIL IMPROVEMENTS shall include all the improvements and structures made by LESSEE to the LRS PROPERTY.

7. Exhibit B-1 is attached hereto and incorporated into the LEASE.

8. Except as expressly modified by this AMENDMENT No. 3, all terms and conditions of the LEASE, as previously amended, remain in full force and effect. In the event of a conflict or inconsistency between the terms of the LEASE and this AMENDMENT No. 3, the terms of this AMENDMENT No. 3 will govern.
9. The parties may sign this AMENDMENT No. 3 in counterparts, each of which is deemed an original but all of which together constitute one and the same instrument.

The parties have executed this AMENDMENT No. 3 as of the EFFECTIVE AMENDMENT DATE.

DESERTXPRESS ENTERPRISES, LLC

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____

Sarah Watterson
President
DesertXpress Enterprises, LLC

By: _____

Carolyn Schindler
Executive Director
San Bernardino County
Transportation Authority

Approved as to Form:

Approved as to Form:

By: _____

David Pickett
Associate General Counsel
DesertXpress Enterprises, LLC

By: _____

Julianna K. Tillquist
General Counsel
San Bernardino County
Transportation Authority

U.S. DEPARTMENT OF TRANSPORTATION

GRANT AGREEMENT UNDER THE FISCAL YEAR 2023 RAISE PROGRAM

This agreement is between the United States Department of Transportation (the “USDOT”) and the San Bernardino County Transportation Authority (the “Recipient”).

This agreement reflects the selection of the Recipient to receive a RAISE Grant for the Brightline West High-Speed Intercity Passenger Rail System - High Desert Stations Project.

The parties therefore agree to the following:

ARTICLE 1 GENERAL TERMS AND CONDITIONS.

1.1 General Terms and Conditions.

- (a) In this agreement, “**General Terms and Conditions**” means the content of the document titled “General Terms and Conditions Under the Fiscal Year 2023 RAISE Program: FRA Projects,” dated April 23, 2025, which is attached to this agreement. The General Terms and Conditions reference the information contained in the schedules to this agreement. The General Terms and Conditions are part of this agreement. For convenience, the General Terms and Conditions are also available at <https://www.transportation.gov/BUILDgrants/grant-agreements>, but if there are any differences between the version attached to this agreement and the version available at that hyperlink, only the version attached to this agreement is applicable.
- (b) The Recipient states that it has knowledge of the General Terms and Conditions.
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, terminating of the RAISE Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the USDOT the RAISE Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

ARTICLE 2 SPECIAL TERMS AND CONDITIONS.

Pursuant to the court’s preliminary injunction order in State of California v. Duffy, 1:25-cv-00208-JJM-PAS (D.R.I.) (June 19, 2025), DOT will not impose or enforce the challenged immigration enforcement condition* or any materially similar terms and conditions, to any grant funds awarded, directly or indirectly, to Plaintiff States or local government entities within those States

(collectively referred to as “Plaintiff State Entities”), or otherwise rescind, withhold, terminate, or take other adverse action, absent specific statutory authority, based on the challenged immigration enforcement condition while DOT is subject to an injunction. DOT will not require Plaintiff State Entities to make any certification or other representation related to compliance with the challenged immigration enforcement condition nor will DOT construe acceptance of funding from DOT as certification as to the challenged immigration enforcement condition.

*The challenged immigration enforcement condition:

“[T]he Recipient will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in the enforcement of Federal immigration law.”

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SCHEDULE A ADMINISTRATIVE INFORMATION

1. Application.

Application Title: Brightline West High-Speed Intercity Passenger Rail System - High Desert Stations Project

Application Date: 2/28/2023

2. Recipient's Unique Entity Identifier.

See section 28.3 of the General Terms and Conditions.

3. Recipient Contact(s).

Victor Lopez, P.E.
Director of Transit & Rail Programs
San Bernardino County Transportation Authority
1170 W. 3rd St, 2nd Floor, San Bernardino, CA 92410
(909) 884-8276
vlopez@gosbcta.com

4. Recipient Key Personnel.

None.

5. USDOT Project Contact(s).

Janice Abaray
Project Manager
Federal Railroad Administration
1200 New Jersey Avenue, SE, Washington, DC 20590
(202) 573-1227
janice.abaray@dot.gov

Mariam Ouhamou
Grant Manager
Federal Railroad Administration
1200 New Jersey Avenue, SE, Washington, DC 20590
(202) 493-6437
mariam.ouhamou@dot.gov

6. Payment System.

USDOT Payment System: Delphi eInvoicing System

7. Office for Subaward and Contract Authorization.

USDOT Office for Subaward and Contract Authorization: None

8. Federal Award Identification Number.

See section 28.2 of the General Terms and Conditions.

DRAFT

SCHEDULE B PROJECT ACTIVITIES

1. General Project Description.

The RAISE Grant will fund the final design and construction of two intercity passenger rail stations and associated facilities in Hesperia and Victor Valley on the Brightline West high-speed rail corridor.

2. Statement of Work.

I. BACKGROUND

This agreement between the USDOT's Federal Railroad Administration (FRA) and the San Bernardino County Transportation Authority (SBCTA or Recipient), hereinafter referred to as the "Agreement," provides \$25,000,000 from the Fiscal Year 2023 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program to support the Project - Brightline West Intercity Passenger Rail - High Desert Stations Project. The investment will support the larger Brightline West High-Speed Intercity Passenger Rail System (Brightline West System) Project.

SBCTA is partnering with DesertXpress Enterprises, LLC (d/b/a Brightline West or BLW) to construct stations that will bring high-capacity, high-speed intercity rail to San Bernardino County. SBCTA will provide overall oversight of the grant implementation and BLW, as the Subrecipient, will manage and implement the design and construction components of the Project. BLW is a privately owned and operated passenger rail service provider and will operate the two stations being constructed as part of this Project. As a common rail carrier recognized by the Surface Transportation Board, BLW has the legal authority to build and operate the Brightline West System.

The Project is part of the larger Brightline West System, which is a 218-mile high-speed rail corridor, spanning California and Nevada, that will improve Interstate 15's (I-15) traffic flow and safety and create jobs. The Brightline West System will connect two nationally significant population and economic centers of Southern California and Nevada. The Project is contiguous and intricately tied to the Brightline West System.

All necessary planning, preliminary engineering (PE) and National Environmental Policy Act (NEPA) requirements have been completed.

II. OBJECTIVE

The objective of the Project is to construct two in-line stations within the Brightline West System alignment. The Project supports the design and construction of stops in Apple Valley, California (Victor Valley Station) and Hesperia, California (Hesperia Station). This direct link to downtown Los Angeles, San Bernardino, and Rancho Cucamonga reduces the need to rely on a personal vehicle or limited regional transit options for daily commutes and improves transportation access in the High Desert to regional job opportunities. The stations will also be accessible for Southern

California residents and visitors and provide riders with an alternative transportation mode to Las Vegas.

III. PROJECT LOCATION

The Brightline West System will run along the I-15 corridor, which serves as the primary access route between Southern California and Las Vegas and some of the U.S.'s largest economic and population centers. The Project's High Desert stations, Victor Valley and Hesperia, are within San Bernardino County.

Figure 1: Brightline West Intercity Passenger Rail - High Desert Stations Project



Figure 2: Brightline West High-Speed Intercity Passenger Rail System (System)



IV. DESCRIPTION OF WORK

SBCTA will complete the following Tasks:

Task 1: Detailed Project Work Plan, Budget, and Schedule

The Recipient shall prepare, or cause to prepare, a Detailed Project Work Plan (DPWP), Budget, and Schedule for the following tasks, which may result in amendments to this Agreement. The Detailed Project Budget will be consistent with the Approved Project Budget but will provide a greater level of detail. The DPWP will describe, in detail, the activities and steps necessary to complete the tasks outlined in this Statement of Work. The DPWP will also include information about the project management approach (including team organization, team decision-making, roles and responsibilities and interaction with FRA); specifically, it will describe in detail how SBCTA will oversee the grant and utilize BLW and BLW's contractors/vendors to manage the engineering and construction of the Project. The DPWP will also address quality assurance and quality control procedures. In addition, the DPWP will include the Project Schedule (with Recipient and agency review durations), a detailed Project Budget, and the environmental class of action. Similarly, the DPWP should include agreements governing the construction, operation and maintenance of the Project. The FRA will review and approve the DPWP, Budget, and Schedule.

Unless expressly permitted by pre-award authority in section 5 of schedule D of this agreement, the Recipient shall not begin work on subsequent tasks until (1) the Recipient has completed and submitted to FRA the DPWP, Budget (including estimated costs for Alternate Task, if provided) and (2) the FRA provides the Recipient with written approval to proceed with subsequent tasks. The FRA will not reimburse the Recipient for costs incurred in contravention of this requirement.

Task 1 Deliverables:

Deliverable ID	Deliverable Name	FRA Review Action
1.1	Detailed Project Work Plan, Budget, and Schedule	Approve
1.2	Project Agreements (if applicable)	Acknowledge Receipt

Task 2: Final Design

The Recipient shall provide or cause Subrecipient and/or contractors to provide the final design (FD) plans for the Project, prepared in accordance with all required and relevant regulations and requirements by its subrecipients and/or contractors, and submit the FD plans to FRA for review and approval. The Recipient will provide or cause to be provided by Subrecipient and/or contractors all applicable local, state, and Federal permits to FRA. The FD Plans should include design plan drawings to adequately define the work elements for the project installations.

- Common design elements may include, but are not limited to:
 - Civil, Architectural, structural, mechanical, electrical, and plumbing plans that describe the vertical elements of the Project, along with associated landscape and hardscape plans.

- Basis of Design or Design Criteria
- Existing right-of-way limits
- Proposed track installations
- All required vertical and horizontal clearance requirements
- Typical bridge cross-section and type, size, and location (bridge plan and elevation)
- Drainage plans
- Foundation sizes based on recent geotechnical report
- Boring locations
- Location of all existing utilities and utility relocation plans, if applicable
- Construction phasing detail
- Limits of construction, construction access, and staging areas matching FRA approved NEPA APE/LOD
- Contractor staging area and access roads needed for construction
- Any temporary or permanent easement required for construction
- ADA compliance for station buildings, parking and platform
- Emergency evacuation plan and emergency egress details
- The scale of the drawings typically ranges from one inch = 20 to 500 feet, depending on the complexity of the location.
- Design submittals will include a title sheet identified with a drawing revision number or date; an index identifying various plan sheets comprising the drawing set; a legend of symbols or abbreviations.

Detailed Cost Estimate:

- The Recipient will provide or cause to be provided by Subrecipient and/or contractors an updated detailed and itemized construction cost estimate that will include all of the proposed construction elements with their respective unit cost, quantity, and total cost, and with appropriate level of contingencies to account for unknown conditions. Use FRA Cost Estimating Guidance and FRA Standard Cost Category as much as possible, available at <https://railroads.dot.gov/rail-network-development/training-guidance/capital-cost-estimating-guidance>.

Ready for Construction (RFC) Plans:

- The Recipient will provide or cause to be provided by Subrecipient and/or contractors, Ready for Construction design plan drawings reflecting revisions made between the completion of the final design plans and the start of construction.

Task 2 Deliverables:

Deliverable ID	Deliverable Name	FRA Review Action
2.1	All Applicable Local, State, and Federal Permits	Acknowledge Receipt
2.2	Detailed Final Design Engineering Plans and Cost Estimates	Accept
2.3	RFC Plans	Acknowledge Receipt

Task 3: Construction

Construction will commence only after Task 2 Final Design is completed, is in compliance with local requirements to the extent applicable, and the Recipient receives final acceptance which will be sent by email from FRA. The Recipient will complete, or cause to be completed, construction of the Project in accordance with the environmental document and the Final Design approved by FRA.

The following work elements as part of Task 3:

- Construction of Victor Valley Station
- Construction of Hesperia Station

Civil construction for both stations will include parking, roadway access improvements, drainage, utilities, environmental mitigation obligations, and related improvements. The Project construction activities at both stations will include platforms, platform canopies, mechanical, electrical, plumbing and fire systems, security systems, exterior finishes, and site signage/wayfinding.

Victor Valley Station

The Victor Valley Station construction will include the pedestrian underpass connection under I-15 lanes to an approximately 600-foot-long platform and canopy, an approximately 18,000 square foot station building which includes entry/security check, passenger lounge with a food and beverage venue, public restrooms, back-of house support areas, completion of interior fit-out and installation of elevators and stair connections.

Construction will include, but is not limited to, the following elements:

- Main station building, platform and connecting pedestrian underpass.
- Surface parking lot for 400 cars, driveway paving, bus pick-up/drop-off areas, a kiss and ride area, hardscape, drainage, and other utilities required to support the Victor Valley Station.
- Landscaping, irrigation, and specialty hardscape areas.
- Off-site work required to serve the Victor Valley Station, including construction of public roadways, and drainage improvements.
- Procurement and installation of furniture, fixtures, and equipment (FFE), operating supplies and equipment (OSE), and signage to support the Victor Valley Station.

Hesperia Station

The Hesperia Station construction will include an approximately 200-foot-long platform and canopy in the I-15 median, and a pedestrian bridge connection from the parking lot to the platform. Elevators and egress stairs will facilitate easy, universal access.

Construction will include, but is not limited to, the following elements:

- Pedestrian bridge and platform.
- Surface parking lot (approximately 200 spaces), modest pick-up/drop-off area, area for future bus stop, driveway paving, hardscape, drainage, and other utilities required to support the Hesperia Station.

- Landscaping and irrigation.
- Procurement and installation of FFE, OSE, and signage to support the Hesperia Station.

If there are changes from the accepted final design as submitted in Task 2, the Recipient will notify FRA in writing, prior to commencing construction activities.

Task 3 Deliverables:

Deliverable ID	Deliverable Name	FRA Review Action
3.1	Construction Cost Estimates	Acknowledge Receipt
3.2	Detailed Construction Schedules	Acknowledge Receipt
3.3	Executed Civil Construction Contracts	Acknowledge Receipt
3.4	Notices to Proceed	Acknowledge Receipt

Task 4: Project Management

The Recipient will perform, or cause Subrecipient and/or contractors to perform, project administration activities related to the development and delivery of the Project.

This subtask includes the submittal of administrative and reporting requirements as required under the SOW or this agreement. In particular, the Recipient will submit to FRA for acceptance a Final Performance Report (FRA Form 33). This report must be submitted as required by Section 7.2 of the General Terms and Conditions and should describe the cumulative activities of the Project, including a complete description of the Recipient's achievements with respect to the Project objectives and milestones. The Recipient must submit a Final Performance Report via email to the FRA Grant Manager when the Project funded through this agreement is completed. The Recipient must complete closeout activities and submit reports no later than 120 days after the end of the Project Performance Period for this agreement.

Task 4 Deliverables:

Deliverable ID	Deliverable Name	FRA Review Action
4.1	Final Performance Report	Approve

Task 5: Unallocated Contingency

The Recipient will manage or cause subrecipients and/or contractors to manage unallocated contingency through the final design and construction phases of the Project. The Recipient agrees to obtain prior written approval from FRA for any revisions to the Approved Project Budget that equal or cumulatively exceed 10 percent of a budget line item, including unallocated contingency.

V. PROJECT COORDINATION

The Recipient shall perform, or cause Subrecipient and/or contractors to perform, all tasks required for the Project through a coordinated process, which will involve interested local, state, and federal stakeholders, such as:

- Brightline West
- Nevada Department of Transportation (NDOT)
- FRA
- Caltrans
- First Responders
- Local Agencies, Cities and Counties
- Surface Transportation Board (STB)
- U.S. Army Corps of Engineers (USACOE)
- U.S. Fish and Wildlife Service (USFWS)

VI. PROJECT MANAGEMENT

The Recipient shall facilitate, or cause the Subrecipient or contractors to facilitate, the coordination of all activities necessary for implementation of the Project. Upon award of the Project, the Recipient shall monitor and evaluate the Project's progress through regular meetings scheduled throughout the period of performance. The Recipient, in partnership with the Subrecipient, shall:

- Participate in a project kickoff meeting with FRA
- Complete necessary steps to hire one or more qualified consultant(s)/contractor(s) to perform required Project work, as necessary
- Hold regularly scheduled Project meetings with FRA
- Inspect and approve work as it is completed
- Review and approve invoices as appropriate for completed work
- Perform Project close-out audit to ensure contractual compliance and issue close-out report
- Submit to FRA all required Project deliverables and documentation on-time and according to schedule, including periodic receipts and invoices
- Comply with all FRA Project reporting requirements, including, but not limited to:
 - a. Status of Project by task breakdown and percent complete
 - b. Changes and reason for changes in and updated versions of Detailed Project Work Plan, Budget, and Schedule
 - c. Description of unanticipated problems and any resolution since the immediately preceding progress report
 - d. Summary of work scheduled for the next progress period

- Read and understand the Terms and Conditions of this Agreement
- Notify FRA of changes to this agreement that require written approval or modification to the Agreement

3. Documents Describing Mitigation Activities.

Document Description	Date
Brightline West Cajon Pass High-Speed Rail FONSI and related environmental documents - https://railroads.dot.gov/rail-network-development/environment/environmental-reviews/brightline-west-cajon-pass-high-speed	July 12, 2023
Brightline West - Las Vegas to Victor Valley ROD, Re-evaluations, Programmatic Agreement and related environmental documents - https://railroads.dot.gov/rail-network-development/environment/environmental-reviews/brightline-west-las-vegas-victor-valley	Reevaluation of the 2011 FEIS/ROD completed in September 2020 and September 2023

SCHEDULE C AWARD DATES AND PROJECT SCHEDULE

1. Award Dates.

Budget Period End Date: December 31, 2028

Period of Performance End Date: See section 28.5 of the General Terms and Conditions

2. Estimated Project Schedule.

Milestone	Schedule Date
Planned Station Final Design Completion Date:	Q1 – 2026
Planned Platform Final Design Completion Date:	Q2 – 2026
Planned Construction Completion Date:	Q3 – 2028

3. Special Milestone Deadlines.

None.

**SCHEDULE D
AWARD AND PROJECT FINANCIAL INFORMATION**

1. Award Amount.

RAISE Grant Amount: \$25,000,000

2. Federal Obligation Information.

Federal Obligation Type: Single

3. Approved Project Budget.

Project Budget by Task

Task #	Task Name	RAISE Funds	Non-Federal Funds	Total Cost
1	Detailed Project Work Plan, Budget, and Schedule	\$0	\$0	\$0
2	Final Design	\$836,120	\$1,463,880	\$2,300,000
3	Construction	\$23,073,288	\$40,396,712	\$63,470,000
4	Project Management	\$363,531	\$636,469	\$1,000,000
5	Unallocated Contingency	\$727,061	\$1,272,939	\$2,000,000
Total		\$25,000,000	\$43,770,000	\$68,770,000

Project Budget by Source

Funding Source	Project Contribution Amount	Percentage of Total Project Cost
RAISE Funds	\$25,000,000	36%
Non-Federal Funds	\$43,770,000	64%
Total Eligible Project Costs	\$68,770,000	100%

In ¶ 11 of the agreement cover sheet, the amount listed in the “Federal” column is the “RAISE Funds” amount in this schedule D; the amount listed in the “Non-Federal” column is the sum of the “Other Federal Funds,” and “Non-Federal Funds” in this this schedule D.

4. Cost Classification Table.

Omitted. The Recipient shall provide a project budget by FRA standard cost category with the detailed project budget that is part of Task #1, as described in section 2 of schedule B.

5. Approved Pre-award Costs

On October 23, 2024, the USDOT approved SBCTA's request to allow the following pre-award costs commencing as of June 28, 2023.

Task #	Task Name	RAISE Funds	Non-Federal Funds	Total Cost
2	Final Design	\$1,781,000	\$2,918,000	\$4,699,000
3	Construction	\$255,363	\$419,637	\$675,000
4	Project Administration	\$370,749	\$609,251	\$980,000
Total		\$2,407,111	\$3,946,889	\$6,354,000

The above pre-award costs were necessary for efficient and timely performance of the scope of work in schedule B and were incurred directly pursuant to the negotiation and in anticipation of this agreement.

SCHEDULE E CHANGES FROM APPLICATION

Scope:

None.

Schedule:

The table below compares the Project milestone dates.

Milestone	Application	Agreement
Planned Preliminary Engineering/NEPA Completion Date:	April 30, 2023	September 2023
Planned Final Design Completion Date:	June 30, 2024	June 2026
Planned Construction Substantial Completion Date:	March 31, 2028	September 2028

Budget:

The table below compares the Project costs.

Task	Application	Agreement
Task 2 – Final Design	\$4,699,000	\$2,300,000
Task 3 – Construction	\$51,552,500	\$63,470,000
Task 4 – Project Management	\$3,920,000	\$1,000,000
Task 5 – Contingency	\$5,911,000	\$2,000,000
Total	\$66,082,500	\$68,770,000

Other:

None.

**SCHEDULE F
RAISE PROGRAM DESIGNATIONS**

1. Urban or Rural Designation.

Urban-Rural Designation: Rural

2. Capital or Planning Designation.

Capital-Planning Designation: Capital

3. Historically Disadvantaged Community or Area of Persistent Poverty Designation.

HDC or APP Designation: No

4. Funding Act.

Funding Act: IIJA FY2023

5. Security Risk Designation.

Security Risk Designation: Low

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SCHEDULE G
RAISE PERFORMANCE MEASUREMENT INFORMATION

Study Area: The Brightline West System – Hesperia and Victor Valley Stations

Baseline Measurement Date: 9/30/2028

Baseline Report Date: 12/31/2028

Table 1: Performance Measure Table

Measure	Category and Description	Measurement Frequency
12/31/2028	<p>Economic Competitiveness/State of Good Repair</p> <p>Total annual intercity passenger ridership represented in total tickets sold or trips completed for passengers boarding and alighting (departing and arriving) at each station</p>	Annual

SCHEDULE H LABOR AND WORK

1. Efforts to Support Good-Paying Jobs and Strong Labor Standards

The Recipient states that rows marked with “X” in the following table are accurate:

X	The Recipient or a project partner promotes robust job creation by supporting good-paying jobs directly related to the project with free and fair choice to join a union. <i>(Describe robust job creation and identify the good-paying jobs in the supporting narrative below.)</i>
X	The Recipient or a project partner will invest in high-quality workforce training programs such as registered apprenticeship programs to recruit, train, and retain skilled workers, and implement policies such as targeted hiring preferences. <i>(Describe the training programs in the supporting narrative below.)</i>
X	The Recipient or a project partner will partner with high-quality workforce development programs with supportive services to help train, place, and retain workers in good-paying jobs or registered apprenticeships including through the use of local and economic hiring preferences, linkage agreements with workforce programs, and proactive plans to prevent harassment. <i>(Describe the supportive services provided to trainees and employees, preferences, and policies in the supporting narrative below.)</i>
X	The Recipient or a project partner will partner and engage with local unions or other worker-based organizations in the development and lifecycle of the project, including through evidence of project labor agreements and/or community benefit agreements. <i>(Describe the partnership or engagement with unions and/or other worker-based organizations and agreements in the supporting narrative below.)</i>
X	The Recipient or a project partner will partner with communities or community groups to develop workforce strategies. <i>(Describe the partnership and workforce strategies in the supporting narrative below.)</i>
X	The Recipient or a project partner has taken other actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards. <i>(Describe those actions in the supporting narrative below.)</i>
	The Recipient or a project partner has not yet taken actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i>
	The Recipient or a project partner has not taken actions related to the Project to improve good-paying jobs and strong labor standards and will not take those actions under this award.

2. Supporting Narrative.

The Recipient and project partners will use commercially reasonable efforts to facilitate good-paying jobs and strong labor actions and ensure subrecipients and contractors take efforts to implement these actions related to the Project. The System has the potential to directly create over 10,000 good-paying union jobs over the construction period and anticipates ~900 permanent, full-time union jobs during operations. MOUs with labor organizations have been executed and will ultimately turn into Project Labor Agreements (PLAs) by contractors. The MOUs with unions substantiate that the Project will be constructed with PLAs, allowing laborers the free and fair choice to join a union, and employ union labor once operations commence. Through the PLAs with California and Southern Nevada Building Trades, a workforce that is local to the Project will be available through their ~600K members, including ~80K apprentices. Accordingly, as part of the development of the Project, steps will be put in place to ensure that union building trades have apprentice programs and strategies in place to support the development of the needed labor skillsets for the Project. Dedicated work hours across the entire Project will be performed by apprentices.

Additionally, the development of the Project will include local and economically focused hiring preferences in coordination with the various building trades crafts to create high quality workforce training. This will be done through facilitating meetings and outreach sessions with union trades and contractors to ensure workforce training and development is coordinated with local educational institutions, community groups, and workforce stakeholders. The investment in high-quality workforce development programs will target local youth and adults to train, place, and retain diverse talent. Implementation of the workforce training and development will include unique and innovative approaches to connect with communities and workforce stakeholders along the corridor.

U.S. DEPARTMENT OF TRANSPORTATION
EXHIBITS TO FRA GRANT AGREEMENTS UNDER THE
FISCAL YEAR 2023 RAISE PROGRAM

April 23, 2025

EXHIBIT A

APPLICABLE FEDERAL LAWS AND REGULATIONS

By entering into this agreement for a FY 2023 RAISE Grant, the Recipient assures and certifies, with respect to this Grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Recipient and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

General Federal Legislation

- a. Davis-Bacon Act - 40 U.S.C. § 3141 et seq.
- b. Federal Fair Labor Standards Act - 29 U.S.C. § 201 et seq.
- c. Hatch Act - 5 U.S.C. § 1501 et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - 42 U.S.C. § 4601 et seq.
- e. Section 106 of the National Historic Preservation Act of 1966 - 54 U.S.C. § 306108
- f. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. §§ 312501–312508
- g. Native American Graves Protection and Repatriation Act - 25 U.S.C. § 3001 et seq.
- h. Clean Air Act, Pub. L. No. 90-148, as amended – 42 U.S.C. § 7401 et seq.
- i. Section 404 of the Clean Water Act, as amended - 33 U.S.C. § 1344
- j. Section 7 of the Endangered Species Act, Pub. L. No. 93-205, as amended – 16 U.S.C. § 1536
- k. Coastal Zone Management Act, Pub. L. No. 92-583, as amended – 16 U.S.C. § 1451 et seq.
- l. Flood Disaster Protection Act of 1973, Section 102(a) – 42 U.S.C. § 4012a
- m. Age Discrimination Act of 1975 - 42 U.S.C. § 6101 et seq.
- n. American Indian Religious Freedom Act, Pub. L. No. 95-341, as amended
- o. Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq.
- p. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Pub. L. No. 91-616, as amended - 42 U.S.C. § 4541 et seq.
- q. Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2
- r. Architectural Barriers Act of 1968 - 42 U.S.C. § 4151 et seq.
- s. Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701 et seq.
- t. Copeland Anti-kickback Act, as amended - 18 U.S.C. § 874 and 40 U.S.C. § 3145
- u. National Environmental Policy Act of 1969 - 42 U.S.C. § 4321 et seq.
- v. Wild and Scenic Rivers Act, Pub. L. No. 90-542, as amended – 16 U.S.C. § 1271 et seq.
- w. Federal Water Pollution Control Act, as amended - 33 U.S.C. §§1251–1376
- x. Single Audit Act of 1984 - 31 U.S.C. § 7501 et seq.
- y. Americans with Disabilities Act of 1990 - 42 U.S.C. § 12101 et seq.
- z. Title IX of the Education Amendments of 1972, as amended - 20 U.S.C. §§ 1681–1683 and §§ 1685–1687
- aa. Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. § 794
- bb. Title VI of the Civil Rights Act of 1964 - 42 U.S.C. § 2000d et seq.
- cc. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and

- Financial Transactions – 31 U.S.C. § 1352
- dd. Freedom of Information Act - 5 U.S.C. § 552, as amended
- ee. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. § 1801 et seq.
- ff. Farmland Protection Policy Act of 1981 – 7 U.S.C. § 4201 et seq.
- gg. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. § 661 et seq.
- hh. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 - 33 U.S.C. §§ 401 and 525
- ii. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303
- jj. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended – 42 U.S.C. §§ 9601–9657
- kk. Safe Drinking Water Act – 42 U.S.C. §§ 300f to 300j-26
- ll. The Wilderness Act – 16 U.S.C. §§ 1131–1136
- mm. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. § 6901 et seq.
- nn. Migratory Bird Treaty Act 16 U.S.C. § 703 et seq.
- oo. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. No. 109–282, as amended by section 6202 of Pub. L. No. 110–252)
- pp. Cargo Preference Act of 1954 – 46 U.S.C. § 55305
- qq. Section 889 of the John D. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232
- rr. Build America, Buy America Act – Pub. L. No. 117-58, div. G §§ 70901–70927
- ss. Bringing in and harboring certain aliens – 8 U.S.C. 1324
- tt. Aiding or assisting certain aliens to enter – 8 U.S.C. 1327

Executive Orders

- a. Executive Order 11990 – Protection of Wetlands
- b. Executive Order 12372 – Intergovernmental Review of Federal Programs
- c. Executive Order 12549 – Debarment and Suspension
- d. Executive Order 14005 – Ensuring the Future is Made in All of America by All of America’s Workers
- e. Executive Order 14025 – Worker Organizing and Empowerment
- f. Executive Order 14149, Restoring Freedom of Speech and Ending Federal Censorship
- g. Executive Order 14154, Unleashing American Energy
- h. Executive Order 14151, Ending Radical and Wasteful Government DEI Programs and Preferencing
- i. Executive Order 14168 Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government
- j. Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity

General Federal Regulations

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 CFR Parts 200, 1201
- b. Non-procurement Suspension and Debarment – 2 CFR Parts 180, 1200
- c. Procedures for predetermination of wage rates – 29 CFR Part 1
- d. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States – 29 CFR Part 3
- e. Labor standards provisions applicable to contracts governing federally financed and

assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) – 29 CFR Part 5

- f. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 CFR Parts 60 et seq.
- g. New Restrictions on Lobbying – 49 CFR Part 20
- h. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 CFR Part 21, including any amendments thereto.
- i. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 CFR Part 24
- j. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 CFR Part 25
- k. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 CFR Part 27
- l. DOT's implementation of DOJ's ADA Title II regulations compliance procedures for all programs, services, and regulatory activities relating to transportation under 28 CFR Part 35
- m. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 CFR Part 28
- n. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 CFR Part 30
- o. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 CFR Part 32
- p. DOT's implementing ADA regulations for transit services and transit vehicles, including the DOT's standards for accessible transportation facilities in Part 37, Appendix A – 49 CFR Parts 37 and 38

Specific assurances required to be included in the FY 2023 RAISE Grant agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into this agreement.

EXHIBIT B
ADDITIONAL STANDARD TERMS

[The remainder of this page intentionally left blank.]

TERM B.1
TITLE VI ASSURANCE
(Implementing Title VI of the Civil Rights Act of 1964, as amended)

**ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY-ASSISTED
PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL
FINANCIAL ASSISTANCE**

(Implementing the Rehabilitation Act of 1973, as amended, and the Americans With Disabilities Act, as amended)

49 CFR Parts 21, 25, 27, 37 and 38

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

By signing and submitting the Technical Application and by entering into this agreement under the FY 2023 RAISE Program, the Recipient **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Railroad Administration (FRA), it is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21, including any amendments thereto (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 CFR section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT, including FRA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FY 2023 RAISE Program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR Part 21, including any amendments thereto will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with the FY 2023 RAISE Grant and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The Recipient, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing FRA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by FRA. You must keep records, reports, and submit the material for review upon request to FRA, or its designee in a timely, complete, and accurate way.

Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FY 2023 RAISE Program. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FY 2023 RAISE Program.

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Railroad Administration (FRA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21, including any amendments thereto.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or FRA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or FRA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or FRA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant

thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or FRA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Specific Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Recipient will accept title to the lands and maintain the project constructed thereon in accordance with the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (Dec. 29, 2022), 49 U.S.C. § 6702, the Regulations for the Administration of the FY 2023 RAISE Program, and the policies and procedures prescribed by the Federal Railroad Administration (FRA) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, including any amendments thereto, pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Recipient, its successors and assigns.

The Recipient, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the Recipient will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, including any amendments thereto, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Recipient pursuant to the provisions of Specific Assurance 7(a):

- A. The (Recipient, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (Recipient, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Recipient pursuant to the provisions of Specific Assurance 7(b):

- A. The (Recipient, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (Recipient, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Recipient will there upon revert to and vest in and become the absolute property of Recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21, including any amendments thereto.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 et seq).

TERM B.2
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS

2 CFR Parts 180 and 1200

These assurances and certifications are applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FRA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

By signing and submitting the Technical Application and by entering into this agreement under the FY 2023 RAISE Program, the Recipient is providing the assurances and certifications for First Tier Participants and Lower Tier Participants in the FY 2023 RAISE Grant, as set out below.

1. Instructions for Certification – First Tier Participants:

- a. The prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "civil judgment," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to

the participant who has entered into a covered transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions,” provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment, including a civil settlement, rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FRA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. The prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms “covered transaction,” “civil settlement,” “debarred,” “suspended,” “ineligible,” “participant,” “person,” “principal,” and “voluntarily excluded,” as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered

transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

TERM B.3

REQUIREMENTS REGARDING DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW

As required by sections 744 and 745 of Title VII, Division E of the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (Dec. 29, 2022), and implemented through USDOT Order 4200.6, the funds provided under this award shall not be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that:

- (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or
- (2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government.

The Recipient therefore agrees:

1. **Definitions.** For the purposes of this exhibit, the following definitions apply:

“Covered Transaction” means a transaction that uses any funds under this award and that is a contract, memorandum of understanding, cooperative agreement, grant, loan, or loan guarantee.

“Felony Conviction” means a conviction within the preceding 24 months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the United States Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. 3559.

“Participant” means the Recipient, an entity who submits a proposal for a Covered Transaction, or an entity who enters into a Covered Transaction.

“Tax Delinquency” means an unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

2. **Mandatory Check in the System for Award Management.** Before entering a Covered Transaction with another entity, a Participant shall check the System for Award Management (the “SAM”) at <http://www.sam.gov/> for an entry describing that entity.

3. **Mandatory Certifications.** Before entering a Covered Transaction with another entity, a Participant shall require that entity to:

- (1) Certify whether the entity has a Tax Delinquency; and
- (2) Certify whether the entity has a Felony Conviction.

4. **Prohibition.** If

- (1) the SAM entry for an entity indicates that the entity has a Tax Delinquency or a Federal Conviction;
- (2) an entity provides an affirmative response to either certification in section 3; or
- (3) an entity’s certification under section 3 was inaccurate when made or became inaccurate after being made

then a Participant shall not enter or continue a Covered Transaction with that entity unless the USDOT has determined in writing that suspension or debarment of that entity are not necessary to protect the interests of the Government.

5. **Mandatory Notice to the USDOT.**

- (a) If the SAM entry for a Participant indicates that the Participant has a Tax Delinquency or a Felony Conviction, the Recipient shall notify the USDOT in writing of that entry.
- (b) If a Participant provides an affirmative response to either certification in section 1, the Recipient shall notify the USDOT in writing of that affirmative response.
- (c) If the Recipient knows that a Participant’s certification under section 1 was inaccurate when made or became inaccurate after being made, the Recipient shall notify the USDOT in writing of that inaccuracy.

6. **Flow Down.** For all Covered Transactions, including all tiers of subcontracts and subawards, the Recipient shall:

- (1) require the SAM check in section 2;
- (2) require the certifications in section 3;
- (3) include the prohibition in section 4; and

- (4) require all Participants to notify the Recipient in writing of any information that would require the Recipient to notify the USDOT under section 5.

TERM B.4

RECIPIENT POLICY TO BAN TEXT MESSAGING WHILE DRIVING

(a) *Definitions.* The following definitions are intended to be consistent with the definitions in DOT Order 3902.10, Text Messaging While Driving (Dec. 30, 2009) and Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009). For clarification purposes, they may expand upon the definitions in the executive order.

For the purpose of this Term B.4, “**Motor Vehicles**” means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for use on a local, State or Federal roadway, but does not include a military design motor vehicle or any other vehicle excluded under Federal Management Regulation 102-34-15.

For the purpose of this Term B.4, “**Driving**” means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic congestion, a traffic signal, a stop sign, another traffic control device, or otherwise. It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this Term B.4, “**Text messaging**” means reading from or entering data into any handheld or other electronic device (including, but not limited to, cell phones, navigational tools, laptop computers, or other electronic devices), including for the purpose of Short Message Service (SMS) texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless this practice is prohibited by State or local law. The term also does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this Term B.4, the “**Government**” includes the United States Government and State, local, and tribal governments at all levels.

(b) *Workplace Safety.* In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009) and DOT Order 3902.10, Text Messaging While Driving (Dec. 30, 2009), the Recipient, subrecipients, contractors, and subcontractors are encouraged to:

- (1) adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving—
 - (i) Company-owned or -rented vehicles or Government-owned, leased or rented vehicles; or
 - (ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as—

- (i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
- (ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(c) *Subawards and Contracts*. To the extent permitted by law, the Recipient shall insert the substance of this exhibit, including this paragraph (c), in all subawards, contracts, and subcontracts under this award that exceed the micro-purchase threshold, other than contracts and subcontracts for the acquisition of commercially available off-the-shelf items.

SUBRECIPIENT AGREEMENT

for the

BRIGHTLINE WEST HIGH-SPEED INTERCITY PASSENGER RAIL SYSTEM - HIGH DESERT STATIONS PROJECT

Dated _____, 2025

by and between

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

and

DESERTXPRESS ENTERPRISES, LLC D/B/A BRIGHTLINE WEST

Subrecipient Unique Identifier: D36ZJBWRKJK1

Federal Award Identification Number (FAIN): [to be added after FRA grant execution]

Federal Award Date: July 20, 2023

Subaward Budget Period Start and End Date: Effective Date until October 31, 2028

Subaward Period of Performance Start and End Date: Effective Date until October 31, 2028

Total Amount of Federal Funds Obligated and Committed: The Amount of Agreement

Federal Funds (as defined in the Grant Agreement)

Award Not for Research & Development

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EXHIBITS

1. DEFINITIONS
2. GRANT AGREEMENT

SUBRECIPIENT AGREEMENT

This RAISE Grant Subrecipient Agreement for the Brightline West High-Speed Intercity Passenger Rail System Project - High Desert Stations Project (this “**Agreement**”) is entered into as of _____, 2025:

BETWEEN:

1. San Bernardino County Transportation Authority, a county transportation authority pursuant to California Public Utilities Code §§130800 et. seq. (“**SBCTA**”); and
 2. DesertXpress Enterprises, LLC, d/b/a Brightline West, a limited liability company organized under the laws of the State of Nevada (the “**Subrecipient**”),
- (each a “**Party**” and, together, the “**Parties**”).

RECITALS

- (a) The Subrecipient is designing, constructing, operating, and maintaining a private intercity high-speed passenger railroad between Southern California and Las Vegas, Nevada known as the Brightline West High-Speed Intercity Passenger Rail System (the “**BLW System**”). The dedicated passenger-only electric high-speed rail line will be designed and constructed for operation and maintenance within an approximately 218-mile corridor that will generally follow the Interstate 15 freeway and right-of-way (“**I-15**”) and is proposed to be built primarily in the median of I-15 in California and Nevada.
- (b) SBCTA is responsible for cooperative regional planning and for furthering an efficient multi-modal transportation system throughout San Bernardino County, California. SBCTA supports freeway construction projects, regional and local road improvements, train and bus transportation, railroad crossings, ridesharing, congestion management efforts, and long-term planning studies. SBCTA's goal is to encourage responsible growth, a sustainable environment, and a high quality of life for everyone who lives, works, and travels in and through San Bernardino County.
- (c) As part of the BLW System, Subrecipient is designing, constructing, operating, and maintaining passenger stations for the BLW System located in Hesperia and Victor Valley together known as the Brightline West High-Speed Intercity Passenger Rail System - High Desert Stations Project (as more fully described in the Grant Agreement, the “**Project**”).
- (d) SBCTA partnered with the Subrecipient, at the Subrecipient’s request, to file the application, *Brightline West High-Speed Intercity Passenger Rail-High Desert Stations Project* in January 2023, for a grant under the Fiscal Year 2023 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program (the “**Program**”) on January 28, 2023.

- (e) On July 20, 2023, USDOT announced that it selected the Project and intends to award to SBCTA a grant of \$25,000,000 (the “**Grant**”) under the Program in support of the Project.
- (f) SBCTA and USDOT will, following the execution of this Agreement, enter into that certain agreement attached hereto as Exhibit 2 (*Grant Agreement*) (as the same may be amended from time to time in accordance with the terms hereof and thereof, the “**Grant Agreement**”), in connection with the Project.
- (g) (i) SBCTA and the Subrecipient have entered into (A) that certain San Gabriel Subdivision Lease Agreement Related to the Brightline West High-Speed Rail Project effective as of March 2, 2022 (as the same may be amended from time to time) and (B) that certain Local Rail Service Agreement dated July 3, 2024 (as the same may be amended from time to time), and (ii) SBCTA, Subrecipient, and the City of Rancho Cucamonga, a California municipal corporation, entered into that Disposition and Development Agreement dated as of October 5, 2022, (as the same may be amended from time to time) (collectively, the “**Existing Agreements**”).
- (h) It is the intent of the Parties, as further described herein, that the Subrecipient, as the developer, owner, and financier of the Project, shall be responsible for all aspects of the design, construction, completion, operation, and maintenance of the Project as required by the Grant Agreement and Applicable Law, and that SBCTA shall (i) be responsible for grant administration as required by the Grant Agreement, and (ii) otherwise not be financially liable to the Subrecipient except as expressly provided herein.
- (i) The Parties desire to set forth the terms pursuant to which the Subrecipient will perform the Subrecipient Obligations (as defined herein) in consideration of SBCTA providing a subaward of the Grant to the Subrecipient and performing the SBCTA Retained Obligations (as defined herein), as further described herein.

AGREEMENT

Now, therefore, the Parties agree as follows:

PART A - PRELIMINARY

1. DEFINITIONS, INTERPRETATION, AND PRECEDENCE

1.1 Definitions

Unless the context otherwise requires, capitalized terms and acronyms used in this Agreement have the meanings set forth in Exhibit 1 (*Definitions*).

1.2 Interpretation

- (a) In this Agreement:
- (i) headings are for convenience only and do not affect interpretation;
 - (ii) unless otherwise stated, a reference to any agreement, instrument, or other document is to such agreement, instrument, or other document as amended or supplemented from time to time;
 - (iii) a reference to this Agreement or any other agreement includes all exhibits, schedules, forms, appendices, addenda, attachments, or other documents attached to or otherwise expressly incorporated in this Agreement or any such other agreement (as applicable);
 - (iv) a reference in the main body of this Agreement to an Exhibit, schedule, form, or appendix is to the Exhibit, schedule, form, or appendix in or attached to this Agreement, unless expressly provided otherwise;
 - (v) a reference in the main body of this Agreement, or in an Exhibit, to an Article, Section, subsection, or clause is to the Article, Section, subsection, or clause of the main body of this Agreement, or of that Exhibit (as applicable);
 - (vi) a reference to a Person includes such Person's permitted successors and permitted assigns;
 - (vii) a reference to a singular word includes the plural and vice versa (as the context may require);
 - (viii) the words "including", "includes", and "include" mean "including, without limitation", "includes, without limitation" and "include, without limitation", respectively;
 - (ix) an obligation to do something "promptly" means an obligation to do so within a reasonable period of time after the circumstances permit, avoiding any delay; and
 - (x) in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" mean "to and including".
- (b) This Agreement is not to be interpreted or construed against the interests of a Party merely because that Party proposed this Agreement or some provision of it, or because that Party relies on a provision of this Agreement to protect itself.

1.3 Order of Precedence

- (a) Except as otherwise expressly provided in this Section 1.3 (Order of Precedence), if there is any conflict, ambiguity or inconsistency between the provisions of this Agreement (including all Exhibits), the order of precedence will be as follows, from highest to lowest:
 - (i) amendments to the provisions of the main body of this Agreement;
 - (ii) the provisions of the main body of this Agreement and Exhibit 1 (Definitions); and
 - (iii) subject to clause (b) below, the provisions of the Exhibits to this Agreement, as amended, other than Exhibit 1 (Definitions).
- (b) In the event of any ambiguity or inconsistency between this Agreement and the Grant Agreement, as between SBCTA and the Subrecipient, this Agreement shall prevail, except where it would result in a breach of the Grant Agreement. The parties acknowledge that there are terms in this Agreement that are not included in the Grant Agreement and are deemed not to be in conflict with the Grant Agreement. In all cases, the parties will work in good faith to harmonize the Grant Agreement and this Agreement.

1.4 Discretions

Except as otherwise expressly provided in this Agreement, all determinations, consents, or approvals of SBCTA or the Subrecipient under this Agreement must not be unreasonably withheld, conditioned, or delayed.

2. PURPOSE OF AGREEMENT; PROJECT; TERM

2.1 Purpose of Agreement

The purpose of this Agreement is to set forth the roles, responsibilities, and obligations of SBCTA and the Subrecipient and for SBCTA to provide a subaward of the Grant for the Project to the Subrecipient.

The Project is more particularly described in Exhibit 2 (Grant Agreement).

2.2 Project

- (a) The Subrecipient agrees to finance, design, construct, operate, maintain, and Complete the Project in accordance with all Applicable Laws, Good Industry Practice, the terms and conditions of this Agreement, and the terms and conditions of the Grant Agreement.
- (b) Exhibit 2 (Grant Agreement) describes the scope of work to be performed by the Subrecipient and provides the schedule for the completion of the Project. The Project scope in Exhibit 2 (Grant Agreement) identifies the ultimate project deliverables. Deliverables for requisition, payment, and

invoice purposes will be the incremental progress made toward completion of the Project scope elements. All Project activities must be consistent with the scope described in Exhibit 2 (Grant Agreement). The Parties will execute an amendment to this Agreement if required to conform the scope of work described in Exhibit 2 (Grant Agreement) to the scope of work for which reimbursement is authorized in the Grant Agreement. Thereafter, any amendments to the Project scope elements approved by USDOT pursuant to the Grant Agreement shall automatically amend the Project scope defined in Exhibit 2 (Grant Agreement) attached hereto. The Subrecipient shall promptly notify SBCTA in writing of any material changes in the Project activities or schedule of which SBCTA is required to notify USDOT, and, to the extent applicable and reasonably feasible, at least fifteen (15) days prior to the date by which SBCTA is required to notify USDOT of such material change under the Grant Agreement (and in no event later than three (3) Business Days prior to such date), and the Subrecipient shall cooperate with SBCTA in seeking any required modifications to the Grant Agreement.

- (c) SBCTA shall not agree to any amendment, modification, or supplement of the Grant Agreement affecting the Subrecipient Obligations (except as the same may be amended unilaterally by USDOT in accordance with Section 20.3 (USDOT Unilateral Modifications) of the General Terms and Conditions attached to the Grant Agreement), or any termination of the Grant Agreement, unless the Subrecipient has consented in writing to such amendment, modification, supplement, or termination. SBCTA shall promptly request amendments, modifications, or supplements to the Grant Agreement and deliver notices requested by the Subrecipient, including those under Section 5.3 (Schedule Changes) of the General Terms and Conditions attached to the Grant Agreement and Section 5.4 (Budget Changes) of the General Terms and Conditions attached to the Grant Agreement. To the extent USDOT unilaterally amends the terms and conditions of the Grant Agreement in accordance with Section 20.3 (USDOT Unilateral Amendments) of the General Terms and Conditions attached to the Grant Agreement, such amendment shall automatically be binding on the Parties for purposes of this Agreement. SBCTA shall promptly provide the Subrecipient with a copy of all amendments to the Grant Agreement.

2.3 Term

Except with respect to this Section 2.3 (Term) and the provisions of this Agreement necessary for the interpretation of this Section 2.3 (Term), this Agreement (and all of the rights and obligations under this Agreement) will come into effect on the date on which:

- (a) Each Party has executed and delivered this Agreement; and

- (b) USDOT and SBCTA have executed and delivered the Grant Agreement in the form attached as Exhibit 2 (Grant Agreement);

(such date, the “**Effective Date**”) and shall continue until the Termination Date (the “**Term**”). This Agreement shall automatically terminate with no liability of either Party to the extent the Effective Date does not occur by the second anniversary of the date of this Agreement.

3. REPRESENTATIONS AND WARRANTIES

3.1 Subrecipient Representations and Warranties

The Subrecipient represents and warrants to SBCTA as follows:

(a) **Existence**

The Subrecipient is a limited liability company duly organized and validly existing under the laws of the State of Nevada.

(b) **Good Standing and Qualification**

The Subrecipient is in good standing and is qualified to do business under the laws of Nevada and the laws of California.

(c) **Power and Authority**

The Subrecipient has full power and authority to finance, execute, deliver, and perform its obligations under each Project Document.

(d) **Authorization**

(i) The execution, delivery, and performance of each Project Document has been duly authorized by all necessary limited liability company action of the Subrecipient.

(ii) Each Person executing each Project Document on behalf of the Subrecipient has been duly authorized to execute and deliver each such document on behalf of the Subrecipient.

(e) **Execution**

Each Project Document has been duly executed and delivered by the Subrecipient.

(f) **Enforceability**

Each Project Document constitutes a legal, valid, and binding obligation of the Subrecipient, enforceable against the Subrecipient in accordance with its terms, subject to applicable bankruptcy, insolvency, and similar laws affecting the enforceability of the rights of creditors generally and the general principles of equity.

(g) No Contravention

The execution, delivery, and performance by the Subrecipient of each Project Document does not (and at the time of execution will not) conflict with or result in a default under or a material violation of:

- (i) the Subrecipient's organizational documents; or
- (ii) any Applicable Law.

(h) No Litigation

There is no action, suit, proceeding, investigation, or litigation pending or, to the Subrecipient's knowledge, threatened, that:

- (i) could reasonably be expected to have a material adverse effect on the ability of the Subrecipient to perform its obligations under each Project Document;
- (ii) challenges (A) the Subrecipient's authority to execute, deliver, or perform or (B) the validity or enforceability of any Project Document; or
- (iii) challenges the authority of any Subrecipient representative executing any Project Document.

(i) Solvency

The Subrecipient is financially solvent and able to pay its debts as they mature.

(j) Application

- (i) All representations and warranties made by SBCTA with respect to the Project based on information provided by the Subrecipient in the Federal System for Awards Management ([SAM.gov](https://www.sam.gov)) and in the Application are true and correct.
- (ii) All material statements of fact in the Application based on information provided by the Subrecipient were accurate when:
 - (A) the Application was submitted; and
 - (B) as of the Effective Date, except as set forth in Schedule E of the Grant Agreement.

(k) **Project Documents**

None of the Project Documents has been terminated or rescinded, and there exists no default or event of default under any of them.

(l) **Project Completion**

- (i) The Subrecipient has the legal authority to receive the subaward of the Grant under this Agreement.
- (ii) The Subrecipient has the legal authority to Complete the Project.
- (iii) The Subrecipient has (or, in the case of financial capacity, will have as of the closing of the Project Financing), the capacity, including legal, technical, institutional, managerial, and financial capacity, to comply with its obligations under this Agreement and Complete the Project on behalf of SBCTA.
- (iv) The Subrecipient has the funds or will procure funds sufficient to ensure the Agreement Non-Federal Funds listed in Schedule D (*Award and Project Financial Information*) of the Grant Agreement are committed to fund the Project.
- (v) The Subrecipient has the funds or will procure funds sufficient to ensure that equipment and infrastructure funded under the Grant Agreement will be operated and maintained in compliance with the Grant Agreement and Applicable Federal Law.
- (vi) The Subrecipient has the funds or will procure funds sufficient to ensure that operations funded under the Grant Agreement will be conducted in compliance with the Grant Agreement and Applicable Federal Law.

3.2 **SBCTA Representations and Warranties**

SBCTA represents and warrants to the Subrecipient that:

(a) **Existence, Power, and Authority**

SBCTA is a county transportation authority pursuant to California Public Utilities Code §§130800 et. seq., is validly existing in the State of California, and has the full power and authority to carry on its present activities and to execute, deliver, and perform (i) its obligations under this Agreement and (ii) its obligations under the Grant Agreement (subject to the representations and warranties in Section 3.1(l)(Project Completion) being true and correct, and it being understood that certain of its obligations have been delegated hereunder).

(b) **Authorization**

- (i) The execution, delivery, and performance of this Agreement and the Grant Agreement by SBCTA, and the performance of its obligations contemplated by each such agreement, have been (or, with respect to the Grant Agreement, as of the Effective Date will have been) duly authorized by all necessary action of SBCTA.
- (ii) Each Person executing this Agreement and the Grant Agreement on behalf of SBCTA has been (or, with respect to the Grant Agreement, as of the Effective Date will have been) duly authorized to execute and deliver each such document on behalf of SBCTA.

(c) **Execution**

This Agreement has been duly executed and delivered by SBCTA.

(d) **Enforceability**

Each of this Agreement and the Grant Agreement constitutes a legal, valid, and binding obligation of SBCTA, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and the general principles of equity.

(e) **No Contravention**

The execution, delivery, and performance by SBCTA of this Agreement and the Grant Agreement do not (and at the time of execution will not) conflict with or result in a default under or a material violation of any Applicable Law.

(f) **No Litigation**

There is no action, suit, proceeding, investigation, or litigation pending or, to SBCTA's knowledge threatened, that:

- (i) could reasonably be expected to have a material adverse effect on the ability of SBCTA to perform its obligations under this Agreement or the Grant Agreement;
- (ii) challenges (A) SBCTA's authority to execute, deliver, or perform or (B) the validity or enforceability of this Agreement or the Grant Agreement; or
- (iii) challenges the authority of any SBCTA official executing this Agreement or the Grant Agreement.

(g) **Pass-Through Entity**

- (i) With respect to the Grant, SBCTA is a “Pass-Through Entity” as defined in 2 C.F.R. § 200.1 (*Definitions*).
- (ii) With respect to the Grant and the Subrecipient, SBCTA has satisfied each of the requirements set forth in 2 C.F.R. parts 200 and 1201, including 2 C.F.R. §§ 200.331–200.332.

3.3 Limitation on Representations and Warranties

The representations and warranties of the Subrecipient and SBCTA contained herein are made solely as of the Effective Date.

4. DESIGNATED REPRESENTATIVES

Each Party shall designate an individual or individuals who will be authorized to make decisions and bind the Parties on matters relating to this Agreement (the “**SBCTA Representative**” and “**Subrecipient Representative**,” respectively). The initial SBCTA Representative is Carolyn Schindler. The initial Subrecipient Representative is Sarah Watterson. Either Party may change the designation of its representative by a subsequent notice in writing delivered to the other Party in accordance with Section 24.9 (*Notices and Communications*).

PART B – SUBAWARD; GRANT AGREEMENT; SUBRECIPIENT OBLIGATIONS; EQUIVALENT PROJECT RELIEF

5. SUBAWARD; GRANT AGREEMENT

5.1 Subaward

- (a) Subject to clause (c) of this Section 5.1 (*Subaward*), SBCTA hereby subawards a grant to the Subrecipient in the amount that is the amount of the Agreement Federal Funds (RAISE Grant Amount) set forth in Section 1 of Schedule D of the Grant Agreement.
- (b) This Agreement obligates for the Budget Period (as defined in the General Terms and Conditions attached to the Grant Agreement) the amount that is the amount of the Agreement Federal Funds in Section 1 of Schedule D of the Grant Agreement.
- (c) Subject to Section 11.8(b) (*Timing of Project Costs*), the Budget Period for this subaward begins on the Effective Date and ends on the end date that is listed in Section 5 on the cover sheet of the Grant Agreement, except for the pre-award costs as set forth in Schedule D of the Grant Agreement.
- (d) The Period of Performance (as defined in the General Terms and Conditions attached to the Grant Agreement) for this subaward is listed in Section 4 on the cover sheet of the Grant Agreement.

5.2 Grant Agreement

- (a) SBCTA shall maintain its eligibility to receive the Grant from USDOT under the Grant Agreement prior to the Termination Date.
- (b) Where USDOT has the right under the Grant Agreement to exercise any discretion, grant or refuse to grant an approval, accept or refuse to accept a request or submission, make any determination or confirm its satisfaction under the Grant Agreement in respect of any matter, and USDOT has exercised its rights in a particular manner, such action shall be binding on the Parties hereunder as it relates to the Subrecipient Obligations, in each case subject to Article 7 (*Equivalent Project Relief*).

6. SUBRECIPIENT OBLIGATIONS AND SBCTA RETAINED OBLIGATIONS

6.1 Subrecipient Obligations and SBCTA Retained Obligations

- (a) The Subrecipient shall complete and deliver the Project pursuant to SBCTA's obligations under the Grant Agreement on a back-to-back basis, subject to the terms of the Grant Agreement and this Agreement (such obligations, the "**Subrecipient Obligations**"); *provided* that the Subrecipient Obligations shall exclude (a) the SBCTA Monitoring Obligations and (b) SBCTA's administrative functions otherwise required by the Grant Agreement to be performed by SBCTA, including any obligations that can be performed only by a public entity or a pass-through entity, including the monitoring and oversight functions imposed on SBCTA under the Grant Agreement (including under Article 22 (*Monitoring, Financial Management, Controls, and Records*) of the General Terms and Conditions attached to the Grant Agreement and Section 15.6 (*Pass-Through Entity Responsibilities*) of the General Terms and Conditions attached to the Grant Agreement) (such excluded obligations, the "**SBCTA Retained Obligations**").

The Subrecipient constitutes a subrecipient for purposes of 2 C.F.R. § 200.331. In the performance of the Subrecipient Obligations, the Subrecipient shall comply with all Applicable Law and applicable regulations, policies, and requirements.

- (b) The Subrecipient acknowledges that:
 - (i) the terms and conditions of this Agreement impose obligations on the Subrecipient and the Subrecipient's non-compliance with such terms and conditions may result in remedial action by USDOT under the Grant Agreement, including terminating the Grant Agreement and disallowing costs incurred for the Project; and
 - (ii) the requirements of this Agreement apply to the entire Project, including Project costs satisfied from sources other than Agreement Federal Funds.

- (c) The Subrecipient shall not take or knowingly permit any action that deprives it of any rights or powers necessary to its performance of the Subrecipient Obligations under this Agreement without the prior written approval of SBCTA.
- (d) SBCTA will comply with Section 3.5(b) (*Rights and Powers Affecting the Project*) of the General Terms and Conditions attached to the Grant Agreement. The Subrecipient shall act promptly to cooperate with SBCTA (to the extent SBCTA is required to act under Section 3.5(b) (*Rights and Powers Affecting the Project*) of the General Terms and Conditions attached to the Grant Agreement) to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with the Subrecipient's performance of the Subrecipient Obligations under this Agreement.
- (e) SBCTA will promptly provide the Subrecipient with a copy of any notice received from USDOT under the Grant Agreement, including: (i) a notice of acceptance or rejection under Section 5.5 (*USDOT Acceptance of Changes*) of the General Terms and Conditions attached to the Grant Agreement, (ii) a notice of noncompliance or final determination under Article 16 (*Noncompliance and Remedies*) of the General Terms and Conditions attached to the Grant Agreement, (iii) a notice of suspension under Article 16.2 (*Remedies*) of the General Terms and Conditions attached to the Grant Agreement, and (iv) a notice of termination under Article 17.1 (*USDOT Termination*) of the General Terms and Conditions attached to the Grant Agreement.
- (f) To the extent USDOT establishes processes for SBCTA to submit reports required by the Grant Agreement, SBCTA will promptly notify the Subrecipient of such processes and the Subrecipient shall use the processes required by USDOT (or provide reports in such form as is reasonably required by SBCTA in order for SBCTA to use the processes required by USDOT).
- (g) In connection with SBCTA's reporting obligations under Article 7 (*Progress and Financial Reporting*) of the Grant Agreement, SBCTA may request any certifications from the Subrecipient with respect to the Subrecipient Obligations as may be reasonably necessary for SBCTA to comply with such reporting obligations. The Subrecipient will reasonably cooperate and assist SBCTA so that SBCTA can comply with its obligation to monitor the activities of the Subrecipient and maintain Project records in accordance with Article 22 (*Monitoring, Financial Management, Controls, and Records*) of the Grant Agreement.
- (h) The Subrecipient shall reimburse SBCTA for costs incurred in administering the Grant in accordance with the terms of the Reimbursement Agreement.

- (i) Except as otherwise provided herein, the Subrecipient shall have no obligation to perform the Subrecipient Obligations following the termination of this Agreement; *provided* that the Subrecipient shall reasonably cooperate with SBCTA to perform or cause to be performed services on behalf of SBCTA to the extent that USDOT requests SBCTA to perform such services following a termination of the Grant Agreement.

7. EQUIVALENT PROJECT RELIEF

7.1 Equivalent Project Relief

- (a) In accordance with the terms of this Article 7 (*Equivalent Project Relief*), SBCTA shall enforce all rights, entitlements, remedies, and/or defenses under the Grant Agreement for the benefit of the Subrecipient in respect of the Subrecipient Obligations or any other obligation of the Subrecipient under this Agreement (the “**SBCTA Rights**”) and the Subrecipient shall be entitled to receive the benefit of such SBCTA Rights in accordance with and subject to the provisions of this Article 7 (*Equivalent Project Relief*), including SBCTA Rights in respect of:
 - (i) any contribution, indemnification, compensation, damages, or other additional compensation or payment of any kind;
 - (ii) any relief (including time extensions) from the performance of its obligations under, or from termination of, this Agreement;
 - (iii) any certificate, consent, or approval provided for under the Grant Agreement in regard to any matter relating to the Subrecipient Obligations, including any entitlement of SBCTA to request or apply for such certificate, consent, or approval from USDOT or to enforce USDOT’s obligations under the Grant Agreement in respect of the same; and
 - (iv) any provision of or entitlement of the Subrecipient under this Agreement in respect of which this Agreement states that Equivalent Project Relief is to apply.

The Subrecipient’s entitlement to the benefit of SBCTA Rights in connection with the Subrecipient Obligations and/or this Agreement are referred to in this Agreement as “**Equivalent Project Relief.**”

- (b) The Subrecipient shall be entitled to the benefit of any Equivalent Project Relief to the extent that SBCTA is or becomes entitled to such benefit under the Grant Agreement, as applicable, as provided in this Article 7 (*Equivalent Project Relief*).
- (c) If an event or circumstance occurs which entitles the Subrecipient to claim or receive the benefit of any Equivalent Project Relief, the Subrecipient may, upon the occurrence of such event or circumstance, give notice (an

“Equivalent Claim Notice”) of the same to SBCTA. Such Equivalent Claim Notice shall include full details of the relevant event or circumstance and such supporting documentation and information as USDOT may require under the Grant Agreement. The Subrecipient shall provide such information to SBCTA regarding the contents of an Equivalent Claim Notice as the Subrecipient possesses and SBCTA may reasonably request in order to assess the impact of the relevant event or circumstance on SBCTA’s obligations under the Grant Agreement. The Subrecipient shall give the relevant Equivalent Claim Notice to SBCTA as soon as reasonably practicable after it becomes aware of the fact that an event or circumstance gives rise to the relevant claim for Equivalent Project Relief (having regard to any time limit for submission of such claim for Equivalent Project Relief under this Agreement, if any).

- (d) If the Subrecipient gives an Equivalent Claim Notice to SBCTA in accordance with clause (c) above, then:
 - (i) SBCTA shall, promptly following receipt of such Equivalent Claim Notice, submit to USDOT a claim (each an **“Equivalent Claim”**) reflecting the Subrecipient’s Equivalent Claim Notice;
 - (ii) the Subrecipient shall provide such additional details and/or information as may be reasonably requested by USDOT in accordance with the Grant Agreement through SBCTA in relation to the Equivalent Claim;
 - (iii) SBCTA shall authorize representatives of the Subrecipient to manage the relevant Equivalent Claim with USDOT, to the extent and in the manner permitted by USDOT (a written request having been made to USDOT at the time of submitting an Equivalent Claim pursuant to Section 7.1(d)(i) to acknowledge the status of the Subrecipient’s representatives to pursue such claim), in the name and on behalf of SBCTA, and:
 - (A) except as expressly provided in this Agreement, the Subrecipient shall: (i) bear all of its own internal and external costs and expenses (including legal costs, expert witness fees and expenses, witness expenses, and court, adjudicators’, mediators’, experts’ or arbitrators’ fees and expenses) in the pursuit of such Equivalent Claim; (ii) keep SBCTA informed at all times (including providing copies of any relevant documentation) of the progress and outcome of such Equivalent Claim; and (iii) comply with all applicable provisions of this Agreement;
 - (B) (i) SBCTA shall ensure that its representatives are present to the extent of elements of the Equivalent Claim that were not in the Subrecipient’s Equivalent Claim Notice, (ii) the

Subrecipient shall take direction from SBCTA with respect to all aspects of the Equivalent Claim that were not in the Subrecipient's Equivalent Claim Notice, and (iii) the Subrecipient shall bear SBCTA's reasonable and documented external costs and expenses (including legal costs, expert witness fees and expenses, witness expenses, and court, adjudicators', mediators', experts' or arbitrators' fees and expenses), except to the extent such costs and expenses arise due to a breach by SBCTA of the SBCTA Retained Obligations, in which case the same shall be borne by SBCTA; and

- (C) if USDOT does not permit the Subrecipient to manage the relevant Equivalent Claim, then SBCTA shall pursue and manage the Equivalent Claim with USDOT as described in Section 7.1(d)(iv), *provided* that (i) the Subrecipient shall provide all assistance which SBCTA, acting reasonably, considers necessary in connection with the pursuit of those elements of the Equivalent Claim that are in the Subrecipient's Equivalent Claim Notice, including the collection of information and details relating to such elements of the relevant Equivalent Claim as USDOT may request in accordance with the Grant Agreement and the making available of personnel to assist SBCTA in the pursuit of such elements of the Equivalent Claim and (ii) the Subrecipient shall keep SBCTA informed at all times of any matter relevant to the pursuit of those elements of the Equivalent Claim that are in the Subrecipient's Equivalent Claim Notice of which the Subrecipient becomes aware (including through the timely provision of any updates to the Equivalent Claim Notice that are required pursuant to the terms of this Agreement).
- (iv) If SBCTA is required to pursue the Equivalent Claim pursuant to Section 7.1(d)(iii)(C):
 - (A) unless USDOT expressly refuses to permit representatives of the Subrecipient to attend meetings between USDOT and SBCTA at which the Equivalent Claim is to be discussed, representatives of the Subrecipient shall be entitled, and may be required by SBCTA, to attend any meetings between USDOT and SBCTA at which any element of the Equivalent Claim that is in the Subrecipient's Equivalent Claim Notice is to be discussed and the Subrecipient may, at its sole cost and expense, appoint its own counsel and technical advisors for such purpose;

- (B) if USDOT expressly refuses to permit representatives of the Subrecipient to attend meetings between USDOT and SBCTA at which the Equivalent Claim is to be discussed, then SBCTA shall consult with the Subrecipient prior to attendance at each such meeting as to the matters to be discussed at such meeting and will take direction from the Subrecipient as to the position to be presented at such meeting with respect to any element of the Equivalent Claim that is in the Subrecipient's Equivalent Claim Notice and will brief the Subrecipient as soon as is reasonably practicable following each such meeting as to the matters discussed therein;
- (C) SBCTA shall consult with and use Reasonable Efforts to agree with the Subrecipient with respect to the appointment of counsel (other than the Subrecipient's own counsel and technical advisors appointed by the Subrecipient pursuant to Section 7.1(d)(iv)(A)) and other third party advisors by SBCTA, *provided* that SBCTA shall have sole discretion in such appointments after such consultation, and *provided further* that in all cases the Parties will use Reasonable Efforts to agree upon a plan and scope of work and a reasonable budget for the services of such counsel and advisors (provided that the Parties will act reasonably in considering and authorizing any increases in any agreed budget and/or changes in any agreed scope);
- (D) the Subrecipient shall bear and discharge on a current basis, and shall indemnify SBCTA against, all claims, losses, proceedings, damages, liabilities, costs, and expenses (including reasonable legal costs, expert witness fees and expenses, witness expenses, and court, adjudicators', mediators', experts' or arbitrators' fees and expenses) reasonably incurred or borne by SBCTA pursuing the Equivalent Claim in accordance with this Section 7.1(d)(iv), not including the internal costs of SBCTA's own personnel (but including any out of pocket expenses of such personnel and including costs and expenses of USDOT or other Persons where the Subrecipient or SBCTA becomes liable to pay the same); and
- (E) SBCTA shall not be entitled to settle any Equivalent Claim or waive any SBCTA Right related to an Equivalent Claim without the prior written consent of the Subrecipient.
- (v) if the Subrecipient pursues the Equivalent Claim in the name and on behalf of SBCTA pursuant to Section 7.1(d)(iii):

- (A) SBCTA shall be entitled to attend any meetings between USDOT and the Subrecipient at which the Equivalent Claim is to be discussed and SBCTA may, at its sole cost and expense, appoint its own counsel and technical advisors for such purpose; and
 - (B) the Subrecipient shall be entitled to settle any Equivalent Claim, or waive any SBCTA Right related to an Equivalent Claim under the Grant Agreement, without the prior written consent of SBCTA, unless such settlement or waiver would reasonably be expected to adversely affect an SBCTA Retained Obligation.
- (e) The Subrecipient shall not be entitled to receive any entitlement, benefit, payment or relief in respect of any Equivalent Project Relief under this Article 7 (Equivalent Project Relief) unless and until SBCTA has received such entitlement, benefit, payment or relief from USDOT. In the event of any dispute between the Parties regarding amounts to be paid or relief to be conferred as Equivalent Project Relief under this Section 7.1(e), until that dispute is resolved, SBCTA shall pay or otherwise accord to the Subrecipient the undisputed portion of the payment or relief to which the Subrecipient is entitled only if SBCTA has received such payment or relief from USDOT.
- (f) Following agreement or final determination of the Subrecipient's Equivalent Project Relief as provided in Section 7.1(a) through Section 7.1(e), the Subrecipient shall comply with such agreement or final determination, and:
 - (i) where such Equivalent Project Relief consists of relief from performance of obligations under the Grant Agreement, the Subrecipient shall be relieved from the performance of its obligations under this Agreement to the same extent;
 - (ii) where such Equivalent Project Relief consists of an extension of time under the Grant Agreement, the Subrecipient shall be entitled to a like extension of time under this Agreement; and
 - (iii) where such Equivalent Project Relief consists of a positive adjustment to payments due to SBCTA under the Grant Agreement or the payment of a lump sum by USDOT to SBCTA, as the case may be, except as otherwise provided in this Agreement, SBCTA shall pay to the Subrecipient its share of the amount of such entitlement with respect to Subrecipient Obligations already performed by the Subrecipient no later than ten (10) Business Days, after receipt of the corresponding payment from USDOT, or on such other basis as SBCTA and the Subrecipient may agree, in each case in accordance with the provisions of Section 7.1(e).

- (g) Pending the determination, agreement, or resolution of the Subrecipient's entitlement to Equivalent Project Relief, each Party shall continue to perform its obligations under this Agreement and shall take no steps to enforce any right under this Agreement whether by set-off against sums otherwise payable to the other Party, by commencing proceedings of any kind, by counterclaiming in any proceedings or otherwise howsoever, to the extent that, pursuant to the terms of this Agreement, such right depends upon or is related to the relevant agreement or determination of Equivalent Project Relief. Notwithstanding the foregoing, the Parties agree that nothing contained in this Section 7.1(g) will preclude either Party from commencing legal proceedings in federal district or state courts of the State of California if such proceedings are necessary to preserve any rights or remedies otherwise time barred by an applicable limitation period.
- (h) Upon final determination, agreement, or resolution of the Subrecipient's entitlement to the benefit of any Equivalent Project Relief, the Subrecipient shall be conclusively deemed to have waived any rights under or in connection with such Equivalent Claim in excess of those arising from such determination, agreement or resolution, except insofar as such rights arise from or as a result of any failure on the part of SBCTA to comply with its obligations under this Agreement. Accordingly, except as provided in the preceding sentence, the Subrecipient shall not take any steps, under the Dispute Resolution Procedures or otherwise, to claim that the Subrecipient is entitled under or in connection with this Agreement to any benefit or relief arising out of the Equivalent Claim other than the Subrecipient's entitlement to the benefit of any Equivalent Project Relief according to such final determination, agreement or resolution, and the Subrecipient hereby waives any right to make such a claim.

7.2 **Communication with USDOT and Third Parties**

- (a) Each Party will forward to the other Party without undue delay and in any event no later than five (5) Business Days after receipt or transmittal of the same (or such earlier date based on the requirements of USDOT), any communication that it receives from USDOT or any third party representing or communicating on behalf of USDOT, or transmits to USDOT, that relates to the Grant Agreement or the Subrecipient Obligations.
- (b) To the extent that any written notice, information, consent, claim, request, response, submission, or other communication (a "**Communication**") is required or permitted to be given or made by the Subrecipient directly to USDOT or any other third party under this Agreement, the Subrecipient will provide a copy of the same to SBCTA at the same time as giving or making the Communication to USDOT or such third party.
- (c) Except as otherwise specifically set out in this Agreement, SBCTA hereby gives permission to the Subrecipient to provide all Communications directly to USDOT, including SBCTA in each communication.

- (d) SBCTA will make all Communications required to be made by SBCTA to the Subrecipient under this Agreement in a timely manner so as to permit the Subrecipient to comply with its obligations under this Agreement and will include Subrecipient in respect of all Communications with USDOT.
- (e) The Subrecipient will make all Communications required to be made by the Subrecipient to SBCTA under this Agreement in a timely manner so as to permit SBCTA to comply with its obligations under this Agreement.

8. ACCESS AND INSPECTION RIGHTS

8.1 Access and Inspection Rights for SBCTA and Other Persons

- (a) The Subrecipient acknowledges that SBCTA (and any Person authorized by SBCTA) may, at reasonable times and upon reasonable prior written notice, enter the Project Site for the purpose of:
 - (i) observing or inspecting the Project;
 - (ii) monitoring compliance by the Subrecipient with its obligations under this Agreement, the Grant Agreement, and all Applicable Law and Governmental Approvals; or
 - (iii) exercising any right or performing any obligation that SBCTA has under this Agreement or the Grant Agreement.
- (b) When exercising the rights described in Section 8.1(a) (*Access and Inspection Rights for SBCTA and Other Persons*), SBCTA shall do so (and shall ensure that any other Person authorized by SBCTA does so) in a manner that:
 - (i) does not unreasonably interfere with the Subrecipient's performance of its obligations or exercise of its rights under this Agreement; and
 - (ii) complies with the Subrecipient's reasonable site access and work, health, and safety policies and procedures.
- (c) The Subrecipient shall use Reasonable Efforts to provide SBCTA (and any Person authorized by SBCTA) with every reasonable facility and other assistance necessary for any inspection by such parties, including providing access to any relevant systems, registers, manuals, records (including financial records), plans, and programs.
- (d) The Parties agree and acknowledge that, notwithstanding anything to the contrary in this Agreement, the Subrecipient shall have no liability to SBCTA with respect to SBCTA's access to the Project Site, except in the event of Subrecipient's gross negligence or willful misconduct.
- (e) The Subrecipient agrees that the rights and obligations of the Subrecipient and SBCTA that are set forth in this Section 8.1 (*Access and Inspection*

Rights for SBCTA and Other Persons) shall not limit the rights and obligations that the Subrecipient or SBCTA may have under any other agreement between the Parties (including any right of way occupancy permit issued by SBCTA).

9. GOVERNMENTAL APPROVALS

9.1 Compliance with Governmental Approvals

The Subrecipient shall at all times perform its obligations under this Agreement in compliance with all Governmental Approvals.

9.2 Responsibility for Governmental Approvals

The Subrecipient is solely responsible for obtaining all Governmental Approvals (including any application, revision, modification, amendment, supplement, renewal, or extension related thereto) required in connection with its performance of this Agreement.

9.3 Cooperation with Respect to Governmental Approvals

- (a) If requested by the Subrecipient, SBCTA shall use Reasonable Efforts to cooperate with the Subrecipient in relation to any application by the Subrecipient for a Governmental Approval and shall, at the reasonable request of the Subrecipient, and where necessary to obtain, renew, replace, extend the validity of, or arrange necessary amendments to, any Governmental Approval:
 - (i) execute such documents as can only be executed by SBCTA;
 - (ii) make such applications as required by Applicable Law, either in its own name or jointly with the Subrecipient, as can only be made by SBCTA jointly by the Subrecipient and SBCTA, as applicable; and
 - (iii) attend meetings with appropriately qualified staff and cooperate with such Governmental Entity as reasonably requested by the Subrecipient,

in each case, within a reasonable period of time of being requested to do so by the Subrecipient.

- (b) Except to the extent provided otherwise under any lease or land use agreement between the Subrecipient and SBCTA, if SBCTA provides any assistance to the Subrecipient pursuant to Section 9.3(a) (*Cooperation with Respect to Governmental Approvals*), then the Subrecipient shall reimburse SBCTA for SBCTA's costs of such assistance in accordance with the Reimbursement Agreement.

10. APPLICABLE LAW

10.1 General

The Subrecipient shall at all times in carrying out the Subrecipient Obligations comply, and require its Contractors to comply, with all Applicable Law and the applicable requirements of the Grant Agreement.

10.2 Assistance with Reporting Requirements

The Subrecipient shall use Reasonable Efforts to provide all assistance reasonably requested by SBCTA in connection with any reporting requirements SBCTA must comply with under any Applicable Law and implementing regulations set out in Section 10.1 (General).

10.3 Conflicting Provisions

If there is any conflict between any Applicable Law and the other requirements of this Agreement, Applicable Law will prevail and take precedence over any such conflicting provisions.

PART C – PAYMENTS

11. INVOICES AND PAYMENTS

11.1 Requests for Reimbursement

(a) In order to obtain any of the funds available from SBCTA under this Agreement, the Subrecipient will file with SBCTA its request for reimbursement and any other information regarding the Project and the Project accounts required to justify and support the payment request. SBCTA will request approval from USDOT for reimbursement payments of Eligible Costs associated with the Project.

(b) Payment requests must include a certification, signed by an official who is authorized to legally bind the Subrecipient, which reads as set forth below:

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”

11.2 Deliverables and Supporting Documentation

The Subrecipient will submit invoices to SBCTA for the actual costs incurred for the Project (including indirect costs, if applicable) including design, contract labor,

equipment, materials, and project management used in relation to the Project. Requests for reimbursement by the Subrecipient will include supporting documentation for costs incurred in a format acceptable to USDOT (the “**Reimbursement Application**”). Requests for payment shall also include all other USDOT reporting requirements noted in the Grant Agreement, all of which shall be certified by the Subrecipient prior to submittal to SBCTA, as provided in Section 11.1(b) (*Requests for Reimbursement*).

11.3 Final Invoice

The Subrecipient shall submit its last Reimbursement Application for the Project to SBCTA no later than ninety (90) days after the earlier of (i) the expiration of the Budget Period, or (ii) completion of the Project. As part of the closeout of this Agreement, the Subrecipient shall liquidate all obligations of federal funds in accordance with Section 19.1 (*Liquidation of Recipient Obligations*) of the General Terms and Conditions attached to the Grant Agreement. The Parties agree that the provisions of this Section 11.3 (*Final Invoice*) are in furtherance of the requirements of 2 C.F.R. § 200.332(b)(6).

11.4 Payments

- (a) Subject to the other provisions of this Agreement, the Parties will follow the process described in this Section 11.4 (*Payments*) for the submission and payment of invoices. Upon receipt, SBCTA will begin its review of a Reimbursement Application from the Subrecipient. No later than fifteen (15) days after receipt of a Reimbursement Application from the Subrecipient, SBCTA will submit a request for reimbursement to USDOT. Within seven (7) Business Days after receiving funds from USDOT, SBCTA will reimburse the Subrecipient, subject to SBCTA’s right of offset as set forth in clause (f) of this Section 11.4 (*Payments*). No more than two (2) invoices may be submitted in any calendar month.
- (b) If SBCTA disputes an invoice or cost within a Reimbursement Application, SBCTA will proceed with the reimbursement process described above for any undisputed amount and will, no later than ten (10) days after receipt of the Reimbursement Application, notify the Subrecipient of the disputed amount and request supporting documentation to verify the accuracy and sufficiency of the disputed invoice or cost. No later than ten (10) days after receipt of documentation to justify the disputed invoice or cost, SBCTA will proceed with the reimbursement process described above for the resolved invoice or cost; *provided that* all comments have been addressed to SBCTA’s reasonable satisfaction.
- (c) For avoidance of doubt, and notwithstanding any other provision of this Agreement, SBCTA may decline to make a payment if USDOT declines to make a payment pursuant to the Grant Agreement following a determination of noncompliance after a reasonable opportunity to cure by the Subrecipient.

- (d) In furtherance of the requirements of 2 C.F.R. § 200.332(b)(1)(xii), SBCTA shall identify, for each disbursement made to the Subrecipient, the dollar amount made available under the Grant and the Assistance Listings Number (Number 20.933, National Infrastructure Investments) together with any “backup” provided by USDOT that identifies the disbursement’s Assistance Listings Number.
- (e) To the extent that the Subrecipient fails to pay amounts due and owing to SBCTA pursuant to this Agreement or the Reimbursement Agreement and such amounts are thirty (30) days or more past due, SBCTA may offset such amount against further reimbursement payment to be made to the Subrecipient pursuant to this Section 11.4 (*Payments*), to the extent permitted by the Grant Agreement.

11.5 Financial Obligations of SBCTA

SBCTA’s payment of funds for the Project is contingent on SBCTA receiving funds from USDOT under the Grant Agreement. If USDOT reduces the amount of funds available for the Grant award or otherwise fails to pay part of the cost or expense of the Project, then only outstanding incurred costs within the limits of financial assistance provided by USDOT will be eligible for reimbursement from federal funds.

11.6 Limitation of Federal Subaward Amount

The Subrecipient acknowledges and agrees that SBCTA will not provide funding in an amount greater than the amount as provided in Section 5.1(c) (*Subaward*). The Subrecipient acknowledges that neither USDOT nor SBCTA is liable for payments exceeding that amount, and the Subrecipient will not request reimbursement of costs exceeding that amount.

11.7 Project Costs

The Subrecipient acknowledges and agrees that the subaward is subject to the cost principles at 2 C.F.R. part 200, subpart E, including provisions on determining allocable costs and determining allowable costs.

11.8 Timing of Project Costs

- (a) The Subrecipient will not charge to this subaward costs that are incurred after the Budget Period.
- (b) The Subrecipient will not charge to this subaward costs that were incurred before the Effective Date unless those costs are identified in Section 5 (*Approved Pre-Award Costs*) of Schedule D of the Grant Agreement as “pre-award” costs, and such costs would have been allowable if incurred during the Budget Period. This limitation applies to pre-award costs under 2 C.F.R. § 200.458.

- (i) This Agreement hereby terminates and supersedes any previous approval for the Subrecipient to incur costs under this subaward for the Project.
- (ii) The Subrecipient acknowledges and agrees that Section 5 (Approved Pre-Award Costs) of Schedule D of the Grant Agreement is the exclusive USDOT approval of allowable costs incurred before the Effective Date.

11.9 Subrecipient Recovery of Federal Funds

The Subrecipient will make all reasonable efforts, including initiating litigation, if necessary, to recover Federal funds if SBCTA or USDOT determine that those funds have been spent fraudulently, or misused in violation of Federal laws.

11.10 Unexpended Agreement Federal Funds

The Subrecipient acknowledges and agrees that any Agreement Federal Funds that are obligated but not expended on allocable, allowable costs remain the property of the United States under the Grant Agreement.

11.11 Interest Earned

The Subrecipient acknowledges and agrees that interest earned on advances of Agreement Federal Funds (if any) is not program income under the Grant Agreement. Without limitation, in the event that the Subrecipient receives advanced payments as described in 2 CFR 200.305 (*Federal Payment*), the Subrecipient agrees to comply with the applicable provisions of 2 CFR 200.305 (*Federal Payment*).

11.12 Timing of Payments to the Subrecipient

- (a) Reimbursement is the payment method.
- (b) The Subrecipient will not request reimbursement of a cost before the Subrecipient has entered into an obligation for that cost.

11.13 Payment Method

- (a) SBCTA will use the DELPHI e-Invoicing System (<https://www.dot.gov/cfo/delphi-einvoicing-system.html>) to request reimbursement under the Grant.
- (b) The Subrecipient will submit payment requests to SBCTA in a form reasonably requested by SBCTA based on USDOT requirements, presently the DELPHI e-Invoicing System.

11.14 Information Supporting Expenditures

- (a) When requesting reimbursement of costs incurred, the Subrecipient will electronically submit the SF 270 (Request for Advance or Reimbursement) and will submit supporting cost detail to document clearly all costs incurred. As supporting cost detail, the Subrecipient will include a detailed breakout of all costs incurred and classify all costs by task and by Agreement Federal Funds and Agreement Non-Federal Funds.
- (b) Unless the Parties and USDOT agree otherwise in writing, the Subrecipient will ensure that the proportion of expenditure of Agreement Federal Funds to Agreement Non-Federal Funds is not more than the maximum percent of total Project cost USDOT will contribute identified in Section 3 (Approved Project Budget) of Schedule D of the Grant Agreement or aligns with any different percentage allowed by the Grant Agreement. The Subrecipient will ensure the proportional expenditure of funds is reflected in the detailed breakout of costs supporting the SF 270.

11.15 Reimbursement Request Timing Frequency

The Subrecipient will request reimbursement as needed to maintain cash flow sufficient to timely Complete the Project. The Subrecipient will not submit any single payment request exceeding \$99,999,999.99. The Subrecipient will not submit a payment request exceeding \$50,000,000.00 unless the Subrecipient notifies SBCTA ten (10) days before submitting the request. SBCTA shall promptly, and in any event no later than the deadline set forth in Section 18.9 (Reimbursement Request Timing Frequency) of the General Terms and Conditions attached to the Grant Agreement, submit a corresponding notice to USDOT.

11.16 Indirect Cost Rate

The Subrecipient has elected to seek reimbursement for actual direct expenses, and therefore there is no indirect cost rate.

11.17 Segregated Account.

SBCTA agrees that the funds provided by USDOT to SBCTA pursuant to a Reimbursement Application shall be deposited in a **separate segregated account** owned and controlled by SBCTA prior to the disbursement by SBCTA to the Subrecipient.

PART D – CLAIMS AND POST-TERMINATION CLAIMS; INDEMNIFICATION; LIMITATIONS ON LIABILITY

12. CLAIMS AND POST-TERMINATION CLAIMS; INDEMNITY FROM THE SUBRECIPIENT

12.1 Claims, Post-Termination Claims, and Indemnity

Subject to Section 12.2 (*Exclusions from Indemnity*), to the fullest extent permitted by Applicable Law, the Subrecipient shall release, defend, indemnify and hold harmless SBCTA, the State of California, and their directors, officers, employees, contractors, and agents from and against any and all (i) Claims and (ii) Post-Termination Claims.

12.2 Exclusions from Indemnity

The Subrecipient shall not be responsible nor be obliged to release, defend, indemnify, or hold harmless SBCTA with respect to any liability, Claim, or Post-Termination Claim under Section 12.1 (*Indemnity*) to the extent that the same arise as a direct result of:

- (a) an SBCTA Default as defined in Section 14.2 (*SBCTA Default*); or
- (b) an SBCTA Fault.

12.3 Conduct of Claims and Post-Termination Claims

- (a) If SBCTA receives any notice, demand, letter, or other document concerning any Claim or Post-Termination Claim for which it appears that SBCTA is, or may become, entitled to indemnification or compensation under this Agreement under Section 12.1 (*Indemnity*), SBCTA shall give notice in writing to the Subrecipient as soon as reasonably practicable (and in any event, with sufficient time to give the Subrecipient a reasonable period to respond taking into account any time limits set forth in the Grant Agreement).
- (b) If notice is given as provided in clause (a) above, then the Subrecipient shall be entitled to dispute the claim or respond to the relevant notice in the name of SBCTA at the Subrecipient's own expense and take over conduct of any response, defense, dispute, compromise, or appeal of such claim and of any incidental negotiations, in each case in consultation with the SBCTA Attorney (or its designee). SBCTA shall give (and request that the SBCTA Attorney give) the Subrecipient all reasonable cooperation, access, and assistance for the purposes of considering and resisting such claim and will maintain the confidentiality of all communications between SBCTA or SBCTA Attorney and the Subrecipient concerning such defense.
- (c) If defending any claim as described in this Section 12.3 (*Conduct of Claims and Post-Termination Claims*) in which there is a conflict of interest

between the Subrecipient and SBCTA, SBCTA or the SBCTA Attorney may appoint independent legal counsel in respect of such claim and, if it is determined that SBCTA is entitled to indemnification by or compensation from the Subrecipient, all reasonable external costs and expenses incurred by SBCTA in so doing will be included in the indemnity or compensation from the Subrecipient.

- (d) With respect to any claim conducted by the Subrecipient pursuant to this Section 12.3 (Conduct of Claims and Post-Termination Claims):
 - (i) the Subrecipient shall keep the SBCTA Attorney and SBCTA reasonably informed and consult with each of them about material elements of the conduct of the Claim or Post-Termination Claims, as applicable; and
 - (ii) with respect to a settlement that adversely impacts the SBCTA Retained Obligations, the Subrecipient shall not settle such aspect of such Claim or such aspect of the Post-Termination Claim, as applicable, without the consent of SBCTA, such consent not to be unreasonably withheld or delayed.
- (e) SBCTA (or the SBCTA Attorney on its behalf) may take over conduct of any defense, dispute, compromise, or appeal of the Claim or Post-Termination Claim, as applicable, and of any incidental negotiations if the Subrecipient (i) notifies SBCTA and the SBCTA Attorney that the Subrecipient does not intend to take over conduct of the Claim or Post-Termination Claim, as applicable, (ii) fails to notify SBCTA or the SBCTA Attorney of the Subrecipient's intention to take over conduct of the relevant claim within thirty (30) days of the notice from SBCTA under clause (a) of this Section 12.3 (Conduct of Claims and Post-Termination Claims), or (iii) fails to comply in any material respect with clause (d) of this Section 12.3 (Conduct of Claims and Post-Termination Claims).
- (f) With respect to any claim conducted by SBCTA (or the SBCTA Attorney on its behalf) pursuant to this Section 12.3 (Conduct of Claims and Post-Termination Claims):
 - (i) SBCTA (or the SBCTA Attorney on its behalf) shall keep the Subrecipient reasonably informed and consult with it about material elements of the conduct of the Claim or Post-Termination Claim, as applicable; and
 - (ii) except to the extent the Subrecipient has notified SBCTA and the SBCTA Attorney that the Subrecipient does not intend to take over conduct of the Claim or Post-Termination Claim, as applicable, SBCTA shall not settle such Claim or Post-Termination Claim, as applicable, without the consent of the Subrecipient.

13. LIMITATIONS ON LIABILITY

13.1 Limitations on Liability of Subrecipient

- (a) The maximum aggregate liability of the Subrecipient under this Agreement, including for default, breach, negligence, performance of obligations, indemnity obligations, or otherwise in connection with the Subrecipient Obligations, and at law or in equity, shall be limited to: (i) an amount equal to the amount of the Grant that the Subrecipient has actually received from SBCTA pursuant to this Agreement and (ii) the reasonable and documented costs and expenses of SBCTA in complying with its obligations under Article 7 (Equivalent Project Relief) and Section 12.3 (Conduct of Claims and Post-Termination Claims) that have not been reimbursed under the Grant Agreement, this Agreement, or the Reimbursement Agreement.
- (b) The limitation of liability in Section 13.1(a) does not apply to, nor shall the calculation thereof include:
 - (i) liabilities that arise out of the gross negligence, willful misconduct, or fraud of the Subrecipient or the bankruptcy of the Subrecipient;
 - (ii) fines and penalties under any Applicable Law or any costs incurred by the Subrecipient in complying with obligations that arise out of any failure by the Subrecipient to comply with any Applicable Laws;
 - (iii) fines and penalties under any Applicable Law incurred by SBCTA as a result of a failure by the Subrecipient to comply with any Applicable Laws; or
 - (iv) any costs and expenses incurred by the Subrecipient in the performance of the Subrecipient Obligations.

13.2 Limitations on Liability of SBCTA

- (a) The maximum aggregate liability of SBCTA under this Agreement, including for default, breach, negligence, performance of obligations, indemnity obligations or otherwise in connection with its obligations hereunder, and at law or in equity, shall be limited to payment of Eligible Costs allowed by USDOT in an amount not to exceed the amount of the Grant that SBCTA has then (i) actually received pursuant to the Grant Agreement but (ii) not remitted to the Subrecipient.
- (b) The limitation of liability in Section 13.2(a) does not apply to, nor shall the calculation thereof include, any costs and expenses incurred by SBCTA in the performance of the SBCTA Retained Obligations.

PART E - TERMINATION AND CURE RIGHTS

14. TERMINATION FOR SBCTA DEFAULT

14.1 SBCTA Breach

- (a) If the Subrecipient becomes aware of any breach of this Agreement by SBCTA, then the Subrecipient will give timely notice thereof to SBCTA, (a) specifying that such notice is a notice of breach of this Agreement, and (b) describing such breach in detail that is sufficient for SBCTA to understand the scope and nature of such breach. For a period of sixty (60) Business Days following SBCTA's receipt of such notice (or for such longer period as agreed by the Parties), subject to (i) Section 17.1 (Noncompliance Event under Grant Agreement), (ii) Section 17.2 (Subrecipient Cure Rights), and (iii) any limitation in the Grant Agreement on curing such breach, each of the Parties shall cooperate with the other and shall use its Reasonable Efforts, at its own expense, to take, or cause to be taken, all actions reasonably necessary to cure such breach.
- (b) Following the period of time described in clause (a) above, to the extent such breach has not been cured, the Subrecipient may exercise its remedies permitted hereunder with respect to such breach, including specific performance pursuant to Section 22.10 (Specific Performance).

14.2 SBCTA Default

The occurrence of any one or more of the following will constitute a "**SBCTA Default**" except if caused directly by a Subrecipient Fault:

- (a) any termination of the Grant Agreement by USDOT due to any default by the Recipient under the Grant Agreement (other than a default by Recipient arising due to SBCTA's breach of any of the representations in clauses (2) through (5) (inclusive) of Section 3.2 (Statements on Authority and Capacity) of the General Terms and Conditions attached to the Grant Agreement;
- (b) any termination of the Grant Agreement by SBCTA without the consent of the Subrecipient; or
- (c) SBCTA fails to comply with Section 21.3 (Assignment by SBCTA).

14.3 Termination for SBCTA Default

- (a) If an SBCTA Default occurs, the Subrecipient may deliver a notice to SBCTA electing to terminate this Agreement ("**Subrecipient Termination Notice**") at any time.
- (b) A Subrecipient Termination Notice must specify the type of SBCTA Default that has occurred entitling the Subrecipient to terminate.

- (c) This Agreement will terminate on the date that is thirty (30) days after the date SBCTA receives a Subrecipient Termination Notice.

14.4 Compensation on Termination

If this Agreement is terminated pursuant to this Article 14 (Termination for SBCTA Default), SBCTA shall owe compensation to the Subrecipient in the amount of the portion of the Grant then due and payable by SBCTA to the Subrecipient pursuant to this Agreement, so long as SBCTA has then received such amount from USDOT.

15. TERMINATION FOR SUBRECIPIENT DEFAULT

15.1 Subrecipient Breach

- (a) If SBCTA becomes aware of any breach of this Agreement by the Subrecipient, then SBCTA will give timely notice thereof to the Subrecipient, (i) specifying that such notice is a notice of breach of this Agreement, and (ii) describing such breach in detail that is sufficient for the Subrecipient to understand the scope and nature of such breach. For a period of sixty (60) Business Days following the Subrecipient's receipt of such notice (or for such longer period as agreed by the Parties), subject to (i) Section 17.1 (Noncompliance Event under Grant Agreement) and (ii) any limitation in the Grant Agreement on curing such breach, each of the Parties shall cooperate with the other and shall use its Reasonable Efforts, at its own expense, to take, or cause to be taken, all actions reasonably necessary to cure such breach.
- (b) Following the period of time described in clause (a) above, to the extent such breach has not been cured, SBCTA may exercise its remedies permitted hereunder with respect to such breach, including specific performance pursuant to Section 22.10 (Specific Performance).

15.2 Subrecipient Default

The occurrence of any one or more of the following will constitute a "**Subrecipient Default**" except if caused directly by an SBCTA Fault:

- (a) there occurs any final, non-appealable suspension or debarment that precludes SBCTA from maintaining this Agreement with the Subrecipient without a replacement subrecipient being provided pursuant to the terms of any Lenders' Direct Agreement; or
- (b) any termination of the Grant Agreement by USDOT due to any Subrecipient Fault.

15.3 Termination for Subrecipient Default

- (a) If a Subrecipient Default occurs, then SBCTA may serve a Termination Notice ("**SBCTA Termination Notice**") on the Subrecipient at any time.
- (b) An SBCTA Termination Notice must specify the Subrecipient Default that has occurred entitling SBCTA to terminate.
- (c) This Agreement will terminate on the date that is thirty (30) days after the date the Subrecipient receives an SBCTA Termination Notice.

15.4 Compensation on Termination

If this Agreement is terminated in accordance with this Article 15 (*Termination for Subrecipient Default*), SBCTA shall only owe compensation to the Subrecipient in the amount of the portion of the Grant then due and payable by SBCTA to the Subrecipient pursuant to this Agreement, so long as SBCTA has then received such amount from USDOT. Subrecipient may, however, owe SBCTA indemnity compensation pursuant to Section 12.1 (*Claims, and Post-Termination Claims and Indemnity*).

16. EXCLUSIVE TERMINATION RIGHTS

This Part E (*Termination and Cure Rights*) contains the entire and exclusive rights of SBCTA and the Subrecipient to terminate this Agreement, and any and all other rights to terminate under Applicable Law are waived to the maximum extent permitted by Applicable Law.

17. NONCOMPLIANCE EVENT/SUBRECIPIENT CURE RIGHTS

17.1 Noncompliance Event under Grant Agreement

If SBCTA is notified of, or receives, a notice of a proposed determination under Section 16.1 (*Noncompliance Determination*) of the General Terms and Conditions attached to the Grant Agreement (the "Notice of Proposed Determination"), then SBCTA will provide such notice to the Subrecipient within two (2) Business Days of notification or receipt thereof. The Subrecipient shall deliver a response (the "Response Notice") to SBCTA no later than four (4) Business Days from the date of the Notice of Proposed Determination for SBCTA's review. SBCTA and the Subrecipient shall work together to finalize the Response Notice to allow SBCTA to deliver the Response Notice no later than seven (7) calendar days from the receipt of the Notice of Proposed Determination. SBCTA and the Subrecipient shall continue to work together in order to comply with the provisions of Article 16 (*Noncompliance Determinations*) of the General Terms and Conditions attached to the Grant Agreement until the noncompliance event is resolved or until USDOT issues a final determination of noncompliance (the "Notice of Final Determination") that does not allow a curative action by SBCTA or Subrecipient.

17.2 Subrecipient's Right to Cure

If the Subrecipient reasonably believes that action is required because SBCTA is in breach or default of the Grant Agreement or is not taking action as required under the Grant Agreement or this Agreement (including in connection with any notice received by SBCTA under Article 16 (Noncompliance Determinations) of the General Terms and Conditions attached to the Grant Agreement), then, to the fullest extent permitted by any Applicable Law and to the extent not prohibited by the Grant Agreement or written notice to SBCTA from USDOT regarding SBCTA Monitoring Obligations, the Subrecipient may (or, to the extent such SBCTA breach, default, or failure to take action relates to any SBCTA Monitoring Obligations (as defined herein), may cause a Third-Party Monitor (as defined herein) to) take action in accordance with this Article 17 (Noncompliance Event/Subrecipient Cure Rights). In the event a Lenders' Direct Agreement is executed, SBCTA will acknowledge the lender's cure rights provided therein.

17.3 Notice to SBCTA

If Section 17.2 (Subrecipient's Right to Cure) applies and the Subrecipient wishes to take action (or, to the extent the relevant SBCTA breach, default, or failure to take action relates to any SBCTA Monitoring Obligations, wishes to cause a Third-Party Monitor to take action), then, the Subrecipient shall notify SBCTA and USDOT in writing of the following:

- (a) the desired action;
- (b) the reason for such action;
- (c) the desired date of commencement of such action;
- (d) the time period which it believes will be necessary for such action;
- (e) to the extent practicable, the effect on SBCTA during the period such action is being taken; and
- (f) to the extent the relevant SBCTA breach, default, or failure to take action relates to any SBCTA Monitoring Obligations, the identity of the Third-Party Monitor that will carry out such action on behalf of SBCTA.

17.4 Required Action by the Subrecipient or Third-Party Monitor

- (a) Following service of notice under Section 17.3 (Notice to SBCTA) and SBCTA's failure to adequately address the requested action within a reasonable time;
 - (i) the Subrecipient or the Third-Party Monitor, as applicable, may take any action as notified or otherwise permitted under Section 17.3 (Notice to SBCTA) and any consequential additional actions it reasonably believes are necessary (each a "**Required Action**"); *provided that to the extent the relevant SBCTA breach, default, or*

failure to take action relates to any SBCTA Monitoring Obligations, only the Third-Party Monitor (and not the Subrecipient) shall be permitted to take any such Required Action on behalf of SBCTA; and

- (ii) SBCTA shall use Reasonable Efforts to give all assistance requested by the Subrecipient or Third-Party Monitor, as applicable, while such party is taking any Required Action.
- (b) The Subrecipient shall (or, if applicable, shall cause the Third-Party Monitor to) provide SBCTA with notice of completion of any Required Action. The Subrecipient shall also use Reasonable Efforts to provide (or, if applicable, use Reasonable Efforts to cause the Third-Party Monitor to provide) SBCTA with notice of anticipated completion as far in advance as is reasonably practicable.
- (c) The Subrecipient shall (or, if applicable, shall cause the Third-Party Monitor to) undertake any Required Action in accordance with Good Industry Practice.

17.5 Relief Due to Exercise of Cure Rights

If the Subrecipient or Third-Party Monitor takes Required Action in accordance with Section 17.4 (*Required Action by the Subrecipient or Third-Party Monitor*), for so long as, and to the extent that, such Required Action is being taken and it prevents SBCTA from performing any of its obligations under this Agreement, SBCTA will be relieved from performing such obligations under this Agreement.

PART F - MISCELLANEOUS

18. Maintenance and Inspection of Records

- (a) The Subrecipient shall:
 - (i) keep and maintain all its books, records and documents relating to the Project and the Subrecipient Obligations (including, for the avoidance of doubt, copies); and
 - (ii) notify SBCTA where such books, records and documents are kept.
- (b) The Subrecipient shall make all of its books, records, and documents available for inspection by SBCTA, USDOT, or either agency's representatives, at the Subrecipient's project office (or such other location as approved by SBCTA in writing, in its absolute discretion) at all times during normal business hours, without charge. SBCTA, USDOT, or either agency's representatives may conduct any such inspection upon forty-eight (48) hours' prior written notice, or unannounced and without prior notice where there is Good Faith suspicion of fraud or criminal activity. When conducting any inspection, SBCTA, USDOT, or either agency's

representatives may make extracts and take notes, subject to its confidentiality obligations under this Agreement.

- (c) The Subrecipient shall provide copies of its books, records, and documents to SBCTA, USDOT, or either agency's representatives, as and when reasonably requested by SBCTA or USDOT.
- (d) The Subrecipient shall (i) retain all of its books, records, and documents until the end of the Term and (ii) retain all of its books, records, and documents it produces or receives (if any) regarding the Project for three (3) years following the end of the Term. If any provision of this Agreement specifies any longer time period for retention of particular records, such time period will prevail.
- (e) Despite clause (d) of this Article 18 (*Maintenance and Inspection of Records*), all records that relate to disputes being processed or actions brought under the Dispute Resolution Procedures must be retained and made available until any later date that such disputes and actions are finally resolved. The Subrecipient reserves the right to assert exemptions from disclosure of information that would be exempt under Applicable Law from disclosure or introduction into evidence in legal actions.

19. PROJECT DATA AND INTELLECTUAL PROPERTY

As between the Parties, the Project Data, and all Intellectual Property encompassed in the Project Data is, and remains, the property of the Subrecipient and its licensors, despite the Subrecipient making that Project Data available to SBCTA or USDOT. The Subrecipient agrees to the standard patent rights clauses issued by the Department of Commerce at 37 C.F.R. Part 401, as applicable.

20. CONFIDENTIALITY AND PUBLIC DISCLOSURE

20.1 Confidentiality

- (a) In this Section 20.1 (*Confidentiality*), "**Information**" means all information relating to the other Party which is supplied by or on behalf of the other Party (whether before or after the Effective Date), in writing, including all analyses, compilations, studies, and other documents whether prepared by or on behalf of a Party which contain or otherwise reflect or are derived from such information.
- (b) To the extent permitted by law, each Party will maintain the confidentiality of any Information, except that Information may be disclosed or provided:
 - (i) by either Party to its and its affiliates' directors, officers, employees, consultants and agents, including accountants, legal counsel and other advisors;
 - (ii) by the Subrecipient:

- (A) to the Lenders to the extent that such Information is reasonably required by the Lenders in connection with arranging Project Debt or that the Subrecipient is obligated to supply by the terms of the Finance Documents; and
- (B) to any Contractor to the extent such Information is necessary for the performance by the Subrecipient of its obligations under this Agreement; and
- (iii) by either Party to the extent that:
 - (A) it is required to disclose such Information pursuant to (i) an Applicable Law or (ii) a subpoena or similar legal process;
 - (B) the other Party confirms in writing that such Information is not required to be treated as confidential (such confirmation not to be unreasonably withheld or delayed); or
 - (C) such Information is or comes into the public domain in a manner other than through any disclosure prohibited by this Agreement.
- (c) In the case of a disclosure under Section 20.1(b)(i) (Confidentiality), or Section 20.1(b)(ii) (Confidentiality), the Persons to whom such disclosure is made will be (i) informed of the confidential nature of such Information and (ii) provided such Information subject to the same or similar requirements to maintain confidentiality as contained in this Agreement.

20.2 Public Record Act

SBCTA shall promptly notify the Subrecipient to the extent it receives a public records request with respect to any of the Subrecipient's documents, information, or other records. SBCTA will consider any assertion by Subrecipient that such records are exempt from disclosure under the California Public Records Act, but Subrecipient cannot prevent or control SBCTA from disclosing records that SBCTA determines are not exempt from disclosure. The Subrecipient shall be entitled, at its own expense, to seek a protective order against disclosure of any Subrecipient documents, information, or other records Subrecipient considers exempt or confidential under public records laws to the extent permitted under Applicable Law. Should SBCTA withhold such records from disclosure and the requestor initiates litigation, the Subrecipient shall indemnify SBCTA from and against, any and all costs and expenses arising out of or related to such third-party claim, action, or lawsuit.

21. ASSIGNMENT AND TRANSFER; SECURITY

21.1 Assignment by the Subrecipient; Sale of Project

- (a) Subject to Section 21.2 (Security) and Section 21.1(b), the Subrecipient shall not assign, transfer, pledge, mortgage or otherwise encumber any of its rights or obligations under this Agreement without the prior written consent of SBCTA.
- (b) Subject to any Lenders' Direct Agreement then in effect:
 - (i) the Subrecipient shall not sell substantially all of the assets constituting the Project prior to the earlier of Project Closeout without the prior written consent of SBCTA; and
 - (ii) In connection with a sale of substantially all of the assets constituting the Project by the Subrecipient, the Subrecipient shall require the buyer thereof to assume the Subrecipient's rights and obligations hereunder.

21.2 Security

- (a) Notwithstanding anything in this Agreement to the contrary, the Subrecipient may, without the consent of SBCTA, grant a security interest in and collaterally assign, to and for the benefit of any Lender, all or any portion of its right, title, and interest in and to this Agreement and any right of the Subrecipient hereunder.
- (b) To the extent that SBCTA obtains any state interest, lien, restriction, or encumbrance (a "**Grantor Interest**") on any portion of the Project, whether by statute or regulation or otherwise related to the Grant Agreement, SBCTA hereby agrees to subordinate, to the fullest extent permitted by Applicable Law or any agreement to which SBCTA is a party as of the Effective Date and would not impair or supersede the SBCTA Reserved Rights, any Grantor Interest in the Project to any security interest described in clause (a) of this Section 21.2 (Security).
- (c) In furtherance of clauses (a) and (b) of this Section 21.2 (Security), SBCTA hereby agrees to provide such cooperation reasonably requested by the Subrecipient and its Lenders in connection with the Subrecipient's debt financing efforts and to execute and deliver one or more Lenders' Direct Agreements and such further instruments and documents as are reasonably requested by the Subrecipient and one or more Lenders from time to time; provided that it shall be a condition of such cooperation that SBCTA receive copies of the final drafts of the Security Documents for its review and the Security Documents shall not impair or supersede the SBCTA Reserved Rights.

21.3 Assignment by SBCTA

SBCTA shall not assign all or any portion of its rights, title, and interests in and to this Agreement or the Grant Agreement without the prior written consent of the Subrecipient. Any such purported assignment without the prior written consent of the Subrecipient shall be void *ab initio*.

22. DISPUTE RESOLUTION

22.1 Disputes Subject to Equivalent Project Relief and Claims and Post-Termination Claims

Notwithstanding anything to the contrary in this Article 22 (*Dispute Resolution*), the Parties agree that (i) any dispute between the Parties that is subject to Equivalent Project Relief shall be governed by the terms of Article 7 (*Equivalent Project Relief*), and (ii) the defense of any Claim or Post-Termination Claim shall be as set forth in Article 12 (*Indemnity from the Subrecipient*).

22.2 Consultation

Except as set forth in Section 22.1 (*Disputes Subject to Equivalent Project Relief Claims and Post-Termination Claims*), the Parties agree to use Reasonable Efforts to resolve promptly any dispute pursuant to the terms of this Article 22 (*Dispute Resolution*). If any dispute arises in relation to any aspect of the Project and/or the work, the Parties shall consult in good faith in an attempt to come to an agreement. The Parties agree to mitigate any issue, whether caused by SBCTA, the Subrecipient, a third party or an intervening event.

22.3 Informal Resolution as Condition Precedent

As a condition precedent to the right to have any dispute resolved pursuant to the procedures described in Section 22.5 (*Right to Litigate Dispute*) through Section 22.9 (*Right to Continue to Work*) or by the Superior Court of San Bernardino County, California, or the United States District Court, Central District Court of California, the claiming Party must first attempt to resolve the dispute directly with the other Party through the informal resolution procedures described in Section 22.4 (*Informal Resolution Procedures*) (collectively, the “**Informal Resolution Procedures**”).

22.4 Informal Resolution Procedures

- (a) A Party desiring to pursue a dispute against the other Party shall initiate the Informal Resolution Procedures by submitting a written notice to the other Party. The notice shall contain a concise statement describing:
 - (i) the date of the act, inaction or omission giving rise to the dispute;
 - (ii) an explanation of the dispute, including a description of its nature, circumstances and cause;

- (iii) a reference to any pertinent provisions of this Agreement;
 - (iv) the claiming Party's desired resolution of the dispute; and
 - (v) any other information the claiming Party considers relevant.
- (b) If the responding Party agrees with the claiming Party's position and desired resolution of the dispute, it shall so state in a written response. The notice of the dispute and such response shall suffice to evidence the Parties' resolution of the subject dispute unless either Party requests further documentation. Upon either Party's request, no later than five (5) Business Days after the claiming Party's receipt of the responding Party's response in agreement, the Parties shall state the resolution of the dispute in writing as appropriate, and thereafter each Party shall then promptly perform its respective obligations in accordance with the agreed resolution of the dispute.
- (c) The Party asserting the dispute shall not be prejudiced by its initial statement of the dispute and shall have the ability at any time to modify its statement of the dispute.
- (d) Commencing no later than ten (10) Business Days after the notice of dispute is served and concluding twenty (20) Business Days after the notice of dispute is served (the "**Initial Resolution Period**"), the President of the Subrecipient and the Director of Transit & Rail of SBCTA (or their respective delegated senior executives) shall meet and confer, in good faith, to seek to resolve the dispute raised in the claiming Party's notice of dispute.
- (e) Commencing no later than five (5) Business Days after the expiration of the Initial Resolution Period, if such dispute is not then resolved, and concluding thirty-five (35) Business Days after the expiration of the Initial Resolution Period, the President of the Subrecipient and the Executive Director of SBCTA (or their respective delegated senior executives) shall meet and confer, in good faith, to seek to resolve the dispute raised in the claiming Party's notice of dispute. If they succeed in resolving the dispute, the Parties shall memorialize the resolution in writing, and thereafter each Party shall then promptly perform its respective obligations in accordance with the agreed resolution of the dispute.
- (f) If an issue is not resolved through the Informal Resolution Procedures, the Parties may mutually agree to abandon the issue, or any Party may escalate the issue through the procedures described in Section 22.5 (Right to Litigate Dispute) through Section 22.9 (Right to Continue to Work).

22.5 Right to Litigate Dispute

The Parties agree that the Informal Resolution Procedures are a condition precedent to either Party having the right to proceed to litigation of such unresolved

dispute; *provided* that (i) either Party may at any time seek specific performance of any obligation under this Agreement or injunctive relief in accordance with Section 22.10 (Specific Performance) and (ii) such condition shall not apply if there is a good faith determination by the disputing Party that a statute of limitations would expire pending any such process.

22.6 **Costs of Dispute Resolution**

Each Party shall bear its own attorneys' fees and its own consultants' fees in any dispute or litigation arising from this Agreement, and no Party shall seek or accept an award of attorneys' fees or costs or consultants' fees or costs. Each Party shall otherwise pay an equal share of the costs incurred to conduct the resolution of any dispute pursuant to this Article 22 (Dispute Resolution).

22.7 **Provisional Remedies**

Neither the Subrecipient nor SBCTA shall be precluded by the terms of this Agreement from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy to protect its rights that may be necessary and that is not otherwise available under this Agreement or to enforce or execute upon a judgment entered in accordance with this Agreement, including temporary, preliminary and permanent injunctive relief and restraining orders, writs of mandamus, and the appointment of a receiver or receiver and manager in connection with the collection and retention of the Grant.

22.8 **Tolling**

If a Party receiving a notice of breach, noncompliance, or default under this Agreement contests, disputes or challenges the propriety of such notice by making application to the dispute resolution procedure in this Article 22 (Dispute Resolution), any cure period that applies to such breach, noncompliance, or default shall be tolled for the time period between such application and the issuance of a final determination pursuant to the resolution procedures under this Article 22 (Dispute Resolution).

22.9 **Right to Continue Work**

The pendency of any dispute resolution under this Article 22 (Dispute Resolution) shall not preclude the Parties from undertaking work on the Project, whether or not such work is the subject of such dispute resolution.

22.10 **Specific Performance**

Each of the Parties acknowledges that money damages would be both incalculable and an insufficient remedy for any breach of such Party's performance obligations under this Agreement and that any such breach would cause the other Party irreparable harm. Accordingly, each Party also agrees that in the event of any breach or threatened breach of such Party's performance obligations under this Agreement by such Party, the other Party shall be entitled to equitable relief

without the requirement of posting a bond or other security, including in the form of injunctions and orders for specific performance. Any and all remedies herein expressly conferred upon any Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, including any monetary damages provided for herein (but excluding any interest thereon), or by law or equity upon such Party, and the exercise by a Party of any one remedy will not preclude the exercise of any other remedy. Each of the Parties hereby agrees not to raise any objections to the availability of the equitable remedy of specific performance to prevent or restrain breaches or threatened breaches of such Party's performance obligations under this Agreement, and to specifically enforce the terms and provisions of this Agreement to prevent breaches or threatened breaches of, or to enforce compliance with, the performance obligations of such Party under this Agreement.

For clarity, and notwithstanding the preceding paragraph, nothing in this Section 22.10 (Specific Performance) or otherwise shall entitle the Subrecipient to require SBCTA to procure funding for the Project other than funding pursuant to the Grant Agreement.

22.11 **No Double Recovery**

Despite any other provisions of this Agreement to the contrary, neither Party will be entitled to recover compensation or make a claim under this Agreement with respect to any loss that it has incurred to the extent that it has already been compensated with respect to that loss pursuant to this Agreement or otherwise.

23. **GOVERNING LAW**

23.1 **Governing Law**

This Agreement shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and by the internal laws of the State of California, if and to the extent such federal laws are not applicable. Nothing herein is meant to be or will be interpreted to be a waiver of principles of legal preemption or preclusion that may apply to the Subrecipient because of its status as a common carrier regulated by the federal government.

23.2 **Venue**

SBCTA and the Subrecipient each irrevocably and unconditionally submits, to the fullest extent permitted by Applicable Law, to the exclusive jurisdiction of the Superior Court of San Bernardino County, California, or the United States District Court, Central District Court of California, for the settlement of any dispute in connection with this Agreement or any transaction contemplated hereby. SBCTA and the Subrecipient each also irrevocably and unconditionally waive, to the fullest extent permitted by Applicable Law, any objection that it may have now or hereafter to the laying of venue in such courts on the grounds of inconvenient forum or

otherwise in relation to proceedings in connection with this Agreement or any transaction contemplated hereby.

23.3 **Waiver of Jury Trial**

THE PARTIES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THAT ANY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, PROCEEDING, COUNTERCLAIM OR DEFENSE BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN ANY CONNECTION WITH THIS AGREEMENT, OR WITH RESPECT TO ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL PARTIES ENTERING INTO THIS AGREEMENT. THIS PROVISION APPLIES ONLY TO SUITS BETWEEN THE PARTIES ARISING OUT OF OR RELATED TO THIS AGREEMENT AND DOES NOT APPLY TO THIRD PARTY CLAIMS OR SUITS BY OR ON BEHALF OF THE PARTIES FOR PROJECT PROPERTY ACQUISITION AND/OR CONSTRUCTION CONTRACT CLAIMS AND DEFENSES. Each of the Parties acknowledges that it has been induced to enter into this Agreement in part by the mutual waivers in this Section 23.3 (*Waiver of Jury Trial*).

24. **OTHER**

24.1 **Amendments**

Except as provided in clause (b) and clause (c) of Section 2.2 (*Project*), this Agreement can only be amended or replaced by a written instrument duly executed by the Parties.

24.2 **Waiver**

- (a) No waiver of any term, covenant or condition of this Agreement will be valid unless in writing and executed by the obligee Party.
- (b) Either Party's waiver of any breach or failure to enforce any of the terms, covenants, conditions or other provisions of this Agreement at any time will not in any way limit or waive that Party's right to subsequently enforce or compel strict compliance with every term, covenant, condition or other provision of this Agreement, despite any course of dealing or custom of the trade (other than the waived breach or failure in accordance with the terms of such waivers).
- (c) If the Parties make and implement any interpretation of this Agreement without documenting such interpretation by an instrument in writing signed by both Parties, such interpretation and implementation will not be binding in the event of any future disputes.

24.3 Independent Contractor; No Agent, Joint Venture or Partnership

- (a) The Subrecipient is neither a contractor (as is defined in 2 C.F.R. § 200.1), nor an independent contractor of SBCTA, under this Agreement or otherwise.
- (b) The Parties agree that:
 - (i) nothing in this Agreement is intended or will be construed to create any partnership, joint venture, agency, landlord-tenant, lessor-lessee of real property, optionor-optionee, vendor-purchaser, mortgagor-mortgagee or similar relationship between SBCTA and the Subrecipient; and
 - (ii) in no event will either Party take a position in any tax return, insurance application or questionnaire, financial statement, financial report, regulatory filing, securities filing, loan document, or other writing of any kind that there exists any relationship described in clause (i) of this Section 24.3(b).
- (c) In no event will the relationship between SBCTA and the Subrecipient be construed as creating any relationship whatsoever between SBCTA and the Subrecipient's employees.
- (d) Neither the Subrecipient nor any of its employees is or shall be deemed to be an employee of SBCTA.
- (e) Except as otherwise expressly provided in this Agreement, the Subrecipient has sole authority and responsibility to employ, discharge and otherwise control its employees.

24.4 No Personal Liability

No officer, agent, representative, or employee of SBCTA or the Subrecipient will be personally liable under any provision of this Agreement, or because of the execution or attempted execution of this Agreement, or because of any breach of this Agreement.

24.5 Taxes

The Subrecipient is solely responsible for the payment of taxes accrued or arising out of the performance of its obligations or the exercise of its rights pursuant to this Agreement.

24.6 Successors and Assigns

This Agreement is binding upon and will inure to the benefit of SBCTA and the Subrecipient and their respective successors and permitted assigns.

24.7 Survival

Article 3 (*Representations and Warranties*); Article 22 (*Dispute Resolution*); Article 12 (*Indemnity from the Subrecipient*); the express obligations of the Parties following the Termination Date; any obligations to pay amounts under this Agreement; Article 19 (*Intellectual Property*); Article 24 (*Other*); and all other provisions which by their inherent character should survive expiration or Early Termination of, or completion of the Subrecipient Obligations under, this Agreement, will survive the expiration or Early Termination of, or the completion of the Subrecipient Obligations under, this Agreement.

24.8 Limitation on Third Party Beneficiaries

Nothing contained in this Agreement is intended or will be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the Parties toward, any Person not a party to this Agreement, except for the Lender or as otherwise expressly provided herein.

24.9 Notices and Communications

- (a) Any communication, notice, or demand of any kind whatsoever that a Party may be required or may desire to give to or serve upon the other Party must be in writing and delivered by personal service (including express or courier service) or by registered or certified mail, postage prepaid, return receipt requested, or by a nationally recognized overnight delivery service, in each case addressed as follows:

- (i) If to the Subrecipient:

DesertXpress Enterprises, LLC
Attn: Sarah Watterson, President
8329 W. Sunset Road, Suite 150
Las Vegas, NV 89113

With a copy to:

David Pickett
Associate General Counsel
DesertXpress Enterprises, LLC
8923 W. Sunset Road, Suite 150
Las Vegas, NV 89113

- (ii) If to SBCTA:

San Bernardino County Transportation Authority
Attn: Carolyn Schindler, Executive Director
1170 West 3rd Street, 2nd Floor
San Bernardino, CA 92410

With a copy to:

Julianna Tillquist
General Counsel
San Bernardino County Transportation Authority
1170 West 3rd Street, 2nd Floor
San Bernardino, CA 92410

- (b) Without requiring an amendment to this Agreement, either Party may change its address for notice by written notice given to the other Party in the manner provided in this Section. Any such communication, notice, or demand will be deemed to have been duly given or served on the date personally served, if by personal service; three (3) days after being placed in the U.S. Mail, if mailed; or one (1) day after being delivered to an overnight delivery service, if sent by overnight delivery.

24.10 Integration of this Agreement

The Parties agree and expressly intend that this Agreement (including all Exhibits) constitute a single, non-severable, integrated agreement whose terms are interdependent and non-divisible, such that, among other things, no part of this Agreement could be separated from any other part for the purposes of assumption or rejection under Section 365 of Title 11 of the United States Bankruptcy Code.

24.11 Entire Agreement

This Agreement provides for the funding of the Grant and the terms of each Existing Agreement set forth the specific terms for the matters set forth therein. This Agreement contains the entire understanding of the Parties with respect to the subject matter of this Agreement (except for the Grant Agreement and any Lenders' Direct Agreement) and supersedes all prior agreements, understandings, statements, representations and negotiations between the Parties with respect to the subject matter of this Agreement.

24.12 Severability

- (a) If any clause, provision, Section, subsection or part of this Agreement is ruled invalid by a court having proper jurisdiction, then the Parties shall:
 - (A) promptly (and in any event no later than ten (10) Business Days) after such ruling or order meet and negotiate a substitute for such clause, provision, Article, Section or part, which will, to the greatest extent legally permissible, effect the original intent of the Parties; and
 - (B) if necessary or desirable, apply to the court or other decision maker (as applicable) which declared such invalidity or

preemption for an interpretation of the invalidated or preempted portion to guide the negotiations.

- (b) The invalidity, preemption, or unenforceability of any clause, provision, Article, Section, subsection or part will not affect the validity or enforceability of the balance of this Agreement, which will be construed and enforced as if this Agreement did not contain such invalid or unenforceable clause, provision, Article, Section, subsection or part.

24.13 Counterparts

This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

24.14 Federal Government Not a Party

The Parties acknowledge that the United States government is not a party to this Agreement and no reference in this Agreement to USDOT, or any representatives of the federal government, makes the United States a party to this Agreement.

24.15 No Authority to Operate Railroad

The Subrecipient agrees that nothing herein requires SBCTA to operate a railroad within the meaning of California law or otherwise requires SBCTA to design, construct, finance, operate, or maintain the Project.

24.16 Not a Debt of the SBCTA

The obligation of SBCTA to pay any amount to the Subrecipient hereunder does not constitute a debt or pledge of SBCTA.

24.17 Nature of Rights

- (a) It is the express intent and agreement of the Parties that this Agreement will in no way be deemed to constitute a lease to the Subrecipient of any right, title, interest or estate in the project right-of-way or of any assets incorporated into, appurtenant to, or in any way connected with the Project, that, in each case, is owned by SBCTA.
- (b) The Subrecipient's rights under this Agreement are derived solely from its status as the Subrecipient as described in this Agreement, and not as a tenant, lessee, easement holder, optionee, lienor, mortgagee, purchaser, or owner of any other interest in real property owned by SBCTA.

[Signature page follows]

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Agreement as of the date first written above.

**DesertXpress Enterprises, LLC
d/b/a Brightline West**

**San Bernardino County
Transportation Authority**

By: _____
Sarah Watterson
President

By: _____
Carolyn Schindler
Executive Director

Approved as to legality and form:

Approved as to legality and form:

By: _____
Kolleen Cobb
General Counsel

By: _____
Julianna K. Tillquist
General Counsel

DRAFT

Attachment: 24-1003078 (11764 : Brightline West Hesperia Station - Caltrans Coop Agreement and Amendment to Lease Agreement)

[Signature Page to Subrecipient Agreement]

EXHIBIT 1

DEFINITIONS

Capitalized terms and acronyms used in this Agreement have the meanings given in this Exhibit 1 (*Definitions*).

“Agreement” means this Agreement (including all its Exhibits), as amended from time to time.

“Agreement Federal Funds” is Raise Grant Amount as defined in Section 4.1 (*Federal Award Amount*) of the general terms and Conditions attached to the Grant Agreement and listed in Section 1 of Schedule D of the Grant Agreement.

“Agreement Non-Federal Funds” are listed in the “Project Budget by Source” table in Section 3 of schedule D of the Grant Agreement.

“Applicable Federal Law” is defined in the Grant Agreement.

“Applicable Law” means any statute, law, code, regulation, ordinance, rule, common law, judgment, judicial or administrative order, decree, directive, or other requirement having the force of law or other governmental restriction (including those resulting from the initiative or referendum process) or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by, SBCTA or any Governmental Entity which is applicable to the Project, the Subrecipient Obligations, or any relevant Person, whether taking effect before or after the Effective Date. Applicable Law excludes Governmental Approvals.

“Application” is defined as the Technical Application in the Grant Agreement.

“Business Day” means any day that is not a Saturday, a Sunday, or a federal or State of California public holiday.

“Claim” means any claim or loss arising as a result of (a) a Subrecipient Fault, or (b) a Subrecipient Default.

“Communication” is defined in Section 7.2(b).

“Complete the Project” means, with respect to the Project, achievement of each of the following (including the acceptance of the following by any Person with a right of acceptance thereof): (a) the substantial completion of the Project’s construction of the Project; and (b) received any certification of occupancy required by applicable law obtained by the Subrecipient.

“Contract” means any contract, subcontract or other form of agreement to perform any part of the Subrecipient Obligations or provide any materials, equipment or supplies for any part of the Subrecipient Obligations, or any such agreement, supplement or amendment at a lower tier, between a Contractor and its lower tier Contractor or a Supplier and its lower tier Supplier, at all tiers.

Exhibit 1-1

SBCTA Agreement No. 24-1003078

“Contractor” means any Person with whom the Subrecipient has entered into any Contract to perform any part of the Subrecipient Obligations or provide any materials, equipment or supplies for the Project, on behalf of the Subrecipient, and any other Person with whom any Contractor has further subcontracted any part of the Subrecipient Obligations, at all tiers.

“Dispute Resolution Procedures” means the procedures for resolving disputes in Article 22 (*Dispute Resolution*).

“Dollars” or **“\$”** means the lawful money of the United States of America.

“Early Termination” means the termination of this Agreement for any reason prior to the Expiry Date.

“Early Termination Date” means the effective date of termination of this Agreement for any reason prior to the Expiry Date, as specified in the relevant provisions of Article 14 (*Termination for SBCTA Default*) or Article 15 (*Termination for Subrecipient Default*).

“Effective Date” is defined in Section 2.3 (*Term*).

“Eligible Costs” means costs that are eligible for reimbursement under the Grant.

“Equivalent Claim” is defined in Section 7.1(d)(i) (*Equivalent Project Relief*).

“Equivalent Claim Notice” is defined in Section 7.1(c) (*Equivalent Project Relief*).

“Equivalent Project Relief” is defined in Section 7.1(a) (*Equivalent Project Relief*).

“Existing Agreements” is defined in the recitals.

“Expiry Date” means the date on which the Grant Agreement expires by its terms.

“Finance Documents” means the Funding Agreements and the Security Documents.

“Funding Agreements” means: (i) any loan agreement, funding agreement, account maintenance or control agreement, premium letter, insurance or reimbursement agreement, intercreditor agreement, participation agreement, subordination agreement, trust indenture, agreement from any shareholder, member, partner, or joint venture in favor of any Lender, hedging agreement, interest rate swap agreement, guaranty, indemnity agreement, agreement between any Contractor and any Lender, or other agreement by, with, or in favor of any Lender pertaining to Project Debt other than Security Documents; (ii) any note, bond, or other negotiable or non-negotiable instrument evidencing the indebtedness of the Subrecipient for Project Debt; and (iii) any amendment, supplement, variation, or waiver of any of the foregoing agreements or instruments.

“Good Faith” means observance of reasonable commercial standards of fair dealing in a given trade or business.

“Good Industry Practice” means the exercise of the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from time to time from a skilled and experienced designer, engineer, constructor, maintenance contractor or operator or developer seeking in Good Faith to comply with its contractual obligations, Applicable Law and Governmental Approvals, using accepted standards and criteria for design, construction, operations, and maintenance normally used on similar projects, and engaged in the same type of undertaking under similar circumstances and conditions, including environmental conditions.

“Governmental Approval” means all approvals (including environmental approvals), permits, permissions, consents, licenses, certificates (including sales tax exemption certificates) and authorizations (whether statutory or otherwise) which are required from time to time in connection with the Project to be issued by SBCTA or any Governmental Entity.

“Governmental Entity” means the government of the United States of America, the State of California, the cities and counties within the State and any other agency, or subdivision of any of the foregoing, including any federal, state, or municipal government, and any court, agency, special district, department or other authority exercising executive, legislative, judicial, regulatory, administrative or taxing functions of, or pertaining to, the government of the United States of America, the par State or the cities and counties within the State of California.

“Grant” is defined in the recitals.

“Grant Agreement” is defined in the recitals.

“Grantor Interest” is defined in Section 21.2(b) (*Security*).

“Informal Resolution Procedures” is defined in Section 22.3 (*Informal Resolution as Condition Precedent*).

“Information” is defined in Section 20.1(a) (*Confidentiality*).

“Initial Resolution Period” has the meaning in Section 22.4(d) (*Informal Resolution Procedures*).

“Intellectual Property” means any and all patents, trademarks, service marks, copyright, database rights, moral rights, rights in a design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United States or any other part of the world together with all or any goodwill relating or attached thereto which is created, brought into existence, acquired, used or intended to be used by the Subrecipient for the purposes of carrying out the Subrecipient Obligations or otherwise for the purposes of this Agreement.

“Lender” means:

- (a) any Person that provides Project Debt, together with their successors and assigns; and
- (b) any Person that is appointed by any Person referred to in clause (a) as its agent or trustee in connection with the Project Debt.

“Lenders’ Direct Agreement” means a direct agreement in a form reasonably approved by Recipient and Subrecipient which provides for the consent of Recipient (i) to the grant of an interest security by Subrecipient to its lenders that provide financing to the Subrecipient (the “Subrecipient’s Lenders”) to partially fund the costs of the Project (and any additional financings or refinancings) in the property related to or used in connection with the Project, the proceeds of any transfer thereof, and certain other property of the Subrecipient to secure the obligations of the Subrecipient to the Subrecipient’s Lenders; (ii) collaterally assign its rights in this Agreement to the Subrecipient’s Lenders and (iii) that Subrecipient’s Lenders have certain rights under the Subrecipient Agreement following an event of default under the loan documents evidencing the loan made by the Subrecipient’s Lenders, including cure rights.

“Party” or “Parties” is defined in the preamble.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, trust company, unincorporated organization or governmental authority.

“Post-Termination Claim” means any claim arising on or after the Termination Date from (i) the Subrecipient’s or the Project’s violation of Applicable Law or (ii) as a result of the USDOT disallowing costs that the USDOT reimbursed before termination pursuant to Section 17.3 (*Post-Termination Adjustments*) of the General Terms and Conditions attached to the Grant Agreement.

“Project” is defined in the recitals.

“Project Closeout” is defined in the General Terms and Conditions attached to the Grant Agreement.

“Project Data” means any other information, documents or data acquired or brought into existence or used in relation to the Subrecipient Obligations that is used by or on behalf of the Subrecipient in connection with the performance of the Subrecipient Obligations.

“Project Debt” means all outstanding obligations from time to time pursuant to the Finance Documents.

“Project Documents” means, collectively, the Grant Agreement, and the Existing Agreements.

“Project Financing” means the financing or refinancing to fund, in whole or in part, the costs of the Project and may enter into additional financings or refinancings.

“Project Site” means the right of way acquired, leased, or otherwise accessed by the Subrecipient for purposes of financing, designing, constructing, operating and maintaining the Project.

Exhibit 1-4

“Reasonable Efforts” means all those steps (if any) in the power of the relevant Party that are capable of producing the desired result, being steps which a prudent, determined and commercially reasonable Person desiring to achieve that result would take; *provided that* “Reasonable Efforts” does not mean that, subject to its other express obligations under this Agreement, the relevant Party is required to expend funds, except for those necessary to meet the reasonable costs reasonably incidental or ancillary to the steps to be taken by the relevant Party (including its reasonable travel expenses, correspondence costs and general overhead expenses).

“Reimbursement Agreement” is that certain reimbursement agreement entered into by SBCTA and Subrecipient dated [REDACTED], 2025.

“Reimbursement Application” is defined in Section 11.2 (*Invoices and Payments*).

“Required Action” is defined in Section 17.4(a) (*Required Action by SBCTA or Third-Party Monitor*).

“Response Notice” is defined in the Grant Agreement.

“SBCTA” is defined in the preamble.

“SBCTA Attorney” means the SBCTA General Counsel.

“SBCTA Default” is defined in Section 14.2 (*SBCTA Default*).

“SBCTA Fault” means (a) a breach by SBCTA of this Agreement (including any SBCTA Retained Obligation), (b) the failure of SBCTA to comply with Applicable Law, and/or (c) SBCTA’s fraud, gross negligence, recklessness, bad faith, or willful misconduct; *provided that* SBCTA’s breach of any of the representations in clauses (2) through (5) (inclusive) of Section 3.2 (*Statements on Authority and Capacity*) of the General Terms and Conditions attached to the Grant Agreement shall not be an SBCTA Fault.

“SBCTA Monitoring Obligations” means any obligations to be performed by SBCTA under the Grant Agreement relating to clauses (b), (c), (d), (e), (g), or (h) of 2 C.F.R. § 200.332.

“SBCTA Representative” is defined in Article 4 (*Designated Representatives*).

“SBCTA Reserved Rights” means any of SBCTA’s inherent powers, police powers, prerogatives, or rights under Applicable Law, required by SBCTA to perform its duties as a state department of transportation.

“SBCTA Retained Obligations” is defined in Section 6.1(a) (*Subrecipient Obligations and SBCTA Retained Obligations*).

“SBCTA Rights” is defined in Section 7.1(a) (*Equivalent Project Relief*).

“SBCTA Termination Notice” is defined in Section 15.3(a) (*Termination for Subrecipient Default*).

“Security Documents” means any mortgage, deed of trust, pledge, lien, indenture, trust agreement, hypothecation, assignment, collateral assignment, financing statement under the Uniform Commercial Code or any jurisdiction, notice to perfect interests in accounts, security instrument or other charge or encumbrance of any find, including any lease in the nature of a security instrument, given to any lender as security for Project Debt or the Subrecipient’s obligations pertaining to Project Debt and encumbering the Subrecipient’s Interests.

“Subrecipient” is defined in the preamble.

“Subrecipient Default” is defined in Section 15.2 (*Subrecipient Default*).

“Subrecipient Fault” means (a) a breach by the Subrecipient of this Agreement (including any Subrecipient Obligation), (b) the failure of the Subrecipient to comply with Applicable Law or Good Industry Practice, and/or (c) the Subrecipient’s negligence or willful misconduct.

“Subrecipient Obligations” is defined in Section 6.1(a) (*Subrecipient Obligations and SBCTA Retained Obligations*).

“Subrecipient Representative” is defined in Article 4 (*Designated Representatives*).

“Subrecipient Termination Notice” is defined in Section 14.3(a) (*Termination for SBCTA Default*).

“Subrecipient’s Interest” means all right, title and interest of the Subrecipient in, to or derived from this Agreement.

“Subrecipient’s Lenders” is defined in the definition of Lenders’ Direct Agreement.

“Supplier” means any Person not performing work at or on the Project which supplies machinery, equipment, materials, hardware, software, systems or any other appurtenance to the Project to the Subrecipient or to any Contractor in connection with the performance of the Subrecipient Obligations. Persons who merely transport, pick up, deliver or carry materials, personnel, parts or equipment or any other items or Persons to or from the Project will not be deemed to be performing work at the Project.

“Term” is defined in Section 2.3 (*Term*).

“Termination Date” means:

- (a) the Expiry Date; or
- (b) if applicable, the Early Termination Date.

“Termination Notice” means any termination notice delivered under the terms of this Agreement, including an SBCTA Termination Notice and Subrecipient Termination Notice.

“Third-Party Monitor” means a third party monitor appointed by the Subrecipient to take Required Action with respect to SBCTA Monitoring Obligations on behalf of SBCTA in accordance with Article 17 (Noncompliance Event/ Subrecipient Cure Rights).

“USDOT” is defined in the recitals.

DRAFT

EXHIBIT 2
GRANT AGREEMENT

[Attached]

DRAFT

Attachment: 24-1003078 (11764 : Brightline West Hesperia Station - Caltrans Coop Agreement and Amendment to Lease Agreement)

REIMBURSEMENT AGREEMENT FOR GRANT ADMINISTRATION SERVICES

This Reimbursement Agreement for Grant Administration Services (this “**Agreement**”) dated on _____, 2025, (the “**Effective Date**”) by and between the San Bernardino County Transportation Authority (“**SBCTA**”), and DesertXpress Enterprises, LLC, dba Brightline West (previously dba XpressWest), a Nevada limited liability company (“**BLW**”).

RECITALS

A. BLW proposes to design, finance, construct, operate, and maintain an electrified private interstate high-speed passenger railroad between Southern California and Las Vegas, Nevada. The dedicated passenger-only rail line will be designed and constructed for operation and maintenance within an approximately two hundred eighteen (218) mile corridor that will generally follow the Interstate 15 freeway and right-of-way (“**I-15**”) and will be built primarily in the median of the I-15. Approximately one hundred eighty-five (185) miles of the railroad line will be constructed in California.

B. SBCTA is responsible for cooperative regional planning and for furthering an efficient multi-modal transportation system throughout San Bernardino County, California. SBCTA supports freeway construction projects, regional and local road improvements, train and bus transportation, railroad crossings, ridesharing, congestion management efforts, and long-term planning studies. SBCTA's goal is to encourage responsible growth, a sustainable environment, and a high quality of life for everyone who lives, works, and travels in and through San Bernardino County.

C. SBCTA, in partnership with BLW, has been awarded a \$25,000,000 federal grant (the “**Grant**”) through the U.S. Department of Transportation’s (“**USDOT**”) Rebuilding American Infrastructure with Sustainability and Equity (RAISE) program (the “**Program**”) for the design and construction of passenger stations in Hesperia and Victor Valley, California (the “**Project**”).

D. This Agreement is intended to establish a collective process to recoup all costs of SBCTA's Grant Administration Services (as defined in Article I, Section 1 below.) The Grant Administration Services include SBCTA tasks associated with its role as the recipient and administrator of the Grant awarded to SBCTA and BLW for the Project.

E. The parties agree that all direct and indirect costs (functional and administrative overhead) resulting from SBCTA's provision of Grant Administration Services of the Project will be reimbursed by BLW in the manner set forth herein.

Now, therefore, the parties agree as follows:

ARTICLE I BLW RESPONSIBILITIES

1. BLW agrees to fund and pay one hundred percent (100%) of the Grant

Administration Services performed by SBCTA, which will include but not be limited to, all activities undertaken by SBCTA, either directly or through contracted consultants, which consultants are to be selected in SBCTA's reasonable discretion after consultation with BLW, as a result of the successful application for the Grant from the Program. Such Grant Administration Services include but are not limited to:

- a. Project oversight; and
 - b. Grant Administration to include invoicing from BLW, Federal reporting requirements, legal support, and other SBCTA staff support as required; and
 - c. Completion of all other SBCTA tasks required under the grant agreement or SBCTA and BLW subrecipient agreement; and
 - d. Dispute resolution or legal challenges, including without limitation, costs of defense and indemnification of SBCTA that may arise from Grant Administration Services. BLW will not fund such challenges if caused by SBCTA gross negligence or willful misconduct.
2. The terms of payment will be via monthly reimbursement invoices from SBCTA to BLW detailing expenditures for Grant Administration Services.
 3. SBCTA will be paid within thirty (30) calendar days of a postmarked invoice that is complete, correct, and undisputed by BLW.
 4. BLW will have fourteen (14) calendar days after postmark of an invoice to dispute any or all of the charges on that invoice. The undisputed amount will be paid to SBCTA within thirty (30) calendar days of the date of postmark. The disputed amount will be negotiated and resolved in good faith by both parties hereto and paid within ten (10) calendar days after the date the corrected invoice is received by BLW or is approved by both parties hereto for payment. In the event that the USDOT takes exception to an invoice after the expiration of the fourteen-day period for review described in this Section, the parties will work together in good faith to satisfactorily address the USDOT exception.

ARTICLE II SBCTA RESPONSIBILITIES

1. SBCTA agrees to perform Grant Administration Services as required by the FRA for activities that cannot be assigned to BLW as a subrecipient of the Grant.
2. To provide the scope of the work of any third-party consultant that SBCTA may hire to BLW for input and comment with respect to the reasonableness and extent of the Grant Administration Services work to be performed by SBCTA's third-party consultants. SBCTA understands that BLW has the right to question and seek justification from SBCTA's third-party consultants for work that does not have potential or real impacts on the Project. The activities to be provided to SBCTA or by a third-party consultant for Grant Administration Services will be, in part, i) those that cannot be assigned to BLW as a subrecipient and ii) certain work assigned to SBCTA under the grant agreement and subrecipient agreement.

ARTICLE III MISCELLANEOUS

1. The term of this Agreement will be from the Effective Date, through the agreed-to close-out period for Grant Administration Services with the USDOT in accordance with the grant agreement.

2. The Grant Administration Services for the Project are for reimbursement only pursuant to this Agreement.

3. Without waiving any other rights or remedies in equity or law, in the event SBCTA does not receive payment from BLW per Article I, SBCTA may withhold providing services on the Project.

4. This Agreement may be terminated upon thirty (30) calendar days' written notice by mutual consent of both parties. The parties agree to sign a closure statement to terminate this Reimbursement Agreement. However, all indemnification, document retention, audit, claims, and legal challenge articles shall survive until the expiration of the applicable statute of limitations, unless earlier terminated or modified in writing by mutual agreement. The closure statement will mean and refer to the document that verifies the completion of all Grant Administration Services work performed by SBCTA related to the Project and evidences a final account of that work.

5. Should this Agreement be terminated at the request of BLW prior to completion of the Grant Administration Services work performed by SBCTA on the Project, BLW will reimburse SBCTA for all unpaid costs incurred up to the point of Agreement termination, and all costs incurred by SBCTA because of the Agreement termination.

6. If BLW decides to cancel the Project for any reason, BLW will be responsible for the costs of the Grant Administration Services work performed by SBCTA on the Project that is incurred prior to the cancellation date.

7. All notices or other communications required or permitted to be given under this Agreement will be in writing and will be deemed to have been duly given if delivered personally in hand or mailed by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth below:

FOR SBCTA: San Bernardino County Transportation Authority
Attn: Transit and Rail Programs
1170 West 3rd Street, 2nd Floor
San Bernardino, CA 92410

With a copy to:

Julianna Tillquist
General Counsel
San Bernardino County Transportation Authority
1170 West 3rd Street, 2nd Floor
San Bernardino, CA 92410

FOR BLW: Adrian B. Share, PE (Florida)
 DesertXpress Enterprises
 LLC d/b/a Brightline West
 8329 W. Sunset Road, Suite 150
 Las Vegas, NV 89113
 Phone: (407) 496-5483
 Email: ashare@brightlinewest.com

With a copy to:

David Pickett
 Associate General Counsel
 DesertXpress Enterprises
 LLC d/b/a Brightline West
 8329 W. Sunset Road, Suite 150
 Las Vegas, NV 89113
 Phone: (916) 705-4618
 Email: dpickett@brightlinewest.com

8. BLW agrees to hold SBCTA and its directors, officers, employees, contractors, and agents harmless of all incidents arising from any performance by SBCTA of Grant Administration Services related to the Project to the extent permitted by law. It is understood and agreed that BLW will fully defend, indemnify, and save harmless SBCTA, and its directors, officers, employees, contractors, and agents from all claims, suits, or actions of every name, kind, and description brought forth under this Agreement, including but not limited to, tortious, contractual, equitable, environmental, 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, or its agents under this Agreement, unless caused by the gross negligence or willful misconduct of SBCTA or any of its directors, officers, contractors, agents or employees.

9. Neither party will be liable to the other for punitive damages in relation to its performance or alleged breach of this Agreement. Further, in no event will either party be liable to the other party for any indirect, special, or consequential damages (including, but not limited to, loss of profits, interest, earnings, or use) whether arising in contract, tort, or otherwise.

10. Any waiver, modification, consent, or acquiescence with respect to any provision of this Agreement must be set forth in writing and duly executed by or on behalf of the party to be bound by it. No waiver by either party of any breach will be deemed a waiver of any other or subsequent breach.

11. Except on subjects preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of the State of California. Venue for any litigation arising in relation to this Agreement will be exclusively in the state or federal courts having jurisdiction in San Bernardino County, California.

12. If any provision of this Agreement, or the application of a provision to any person, place, or circumstance, is held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, such provision will be enforced to the maximum extent possible so as to effect the intent of the parties; or, if incapable of such enforcement or unable to achieve the intent of the parties, will be deemed to be deleted, and the remainder of this Agreement and such provisions as applied to other persons, places, and circumstances will remain in full force and effect. In such an event, the parties agree to negotiate an amendment to replace or modify any invalid or illegal or unenforceable provision and related provisions with valid, legal, and enforceable provisions that most closely and reasonably approximate the intent and economic effect of the invalid, illegal, or unenforceable provision.

13. This Agreement is for the exclusive benefit of the parties to it and not for the benefit of any third party.

14. Each party agrees to keep and maintain under generally accepted accounting principles (subject to 2 C.F.R part 200) full, true, and complete records and documents pertaining to this Agreement and present, at any reasonable time, such information for inspection, examination, review, audit, and copying at any office where such records and documentation are maintained. Such records and documentation will be maintained for three (3) years after final payment is made.

15. Each party is and will at all times be and remain independent from the other party and will not be deemed an agent, fiduciary, partner, joint-venturer, employee, or employer of the other party. Nothing contained herein will have the effect of creating a trust, joint venture, partnership, or employment relationship between the parties. Neither of the parties has any right or power to obligate or bind the other party in any manner whatsoever.

16. Neither party will assign, transfer, or delegate any rights, obligations, or duties under this Agreement without the prior written consent of the other party, which consent will not be unreasonably withheld, conditioned, or delayed.

17. The parties acknowledge that pursuant to the California Public Records Act, California Government Code sections 7920.000 et seq., information or documents related to the Project that are in the possession or control of SBCTA may be open to public inspection and copying. Should SBCTA receive any requests for disclosure of documents related to the Project, SBCTA will provide BLW with sufficient notice of the request prior to disclosure to enable BLW an opportunity to seek any available and applicable protections for the documents. BLW will respond regarding its intent in relation to any such notice within a reasonable time to enable SBCTA to comply with its statutory obligations.

18. Each party will keep confidential all information, in whatever form, produced, prepared, observed, or received by that party to the extent that such information is confidential by law or otherwise required by this Agreement.

19. This Agreement constitutes the entire agreement of the parties and such are

intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement, signed by both parties, specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement will be construed consistent with the terms of this Agreement. No modification or amendment to this Agreement will be binding upon the party unless the same is in writing and signed by the respective parties hereto.

20. Each individual executing this Agreement affirms that he or she has the capacity set forth on the signature pages and has full power and authority to execute this Agreement and, through his or her execution, bind the party on whose behalf he or she is executing the Agreement.

[Signature Page Follows]

DRAFT

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

BLW:

DesertXpress Enterprises, LLC

By: _____
Sarah Watterson
President

SBCTA:

San Bernardino County Transportation Authority

By: _____
Carolyn Schindler
Executive Director

Approved as to legal form:

By: _____
David M. Pickett
Associate General Counsel

Approved as to legality and form:

By: _____
Julianna K. Tillquist
General Counsel

DRAFT

Minute Action

AGENDA ITEM: 6

Date: December 11, 2025

Subject:

Enhanced Frequency Service Ad Hoc Recommendation

Recommendation:

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

- A. Receive an update on the Enhanced Frequency Service Ad Hoc Committee recommendation.
- B. Direct staff to advance the development of the Pomona-North to Rancho Cucamonga Metrolink Shuttle Service and prepare a Project Study Report.

Background:

On September 3, 2025, the San Bernardino County Transportation Authority (SBCTA) Board of Directors (Board) approved reallocating the funding previously allocated to the Gold Line, in the amount of \$37,199,643, to enhance frequency service to Montclair via Metrolink or other alternatives recommended by an established Ad Hoc Committee. The Board President, Rick Denison (Town of Yucca Valley), appointed the following Board Members to participate in an Ad Hoc Committee which include: John Dutrey (City of Montclair), Alan Wapner (City of Ontario), L. Dennis Michael (City of Rancho Cucamonga), Joe Baca Sr. (City of Rialto), Larry McCallon (City of Highland), and Mario Saucedo (City of Redlands). The Ad Hoc Committee met on October 21, 2025, to receive the presentation attached to this report and to discuss a recommendation to the Transit Committee.

As noted in the presentation, in October 2024, Metrolink implemented a major schedule change, introducing 30-minute bidirectional service from LA Union Station to Montclair during peak periods and hourly service the rest of the day. Furthermore, the Southern California Optimized Rail Expansion (SCORE) projects along the San Bernardino Line will allow Metrolink to implement 30-minute all-day bidirectional service by 2028. To further increase service to Montclair, the Ad Hoc Committee discussed two options. The first option is to provide a shuttle service that operates between the Pomona-North and Rancho Cucamonga Metrolink stations. The shuttle service would operate at 30-minute frequency, and when combined with the proposed Metrolink 30-minute bidirectional service, will provide 15-minute train frequency between Pomona-North and Rancho Cucamonga. The shuttle service would require two trainsets to operate, which could be provided using Multiple Unit trains similar to those used to operate the Arrow service, including Diesel Multiple Units and Zero-Emission Multiple Units. To provide the shuttle service, there are additional infrastructure improvements that are needed between Pomona-North and Rancho Cucamonga, which include:

- Turn around tracks close to the Pomona-North Station and the Ranch Cucamonga Station
- Approximately 4.6 miles of double track between Montclair Station and Rancho Cucamonga Station
- Modifications to approximately 12 grade crossings
- New bridge over Cucamonga Creek
- Upland Station crossovers, platform improvements, and possible undercrossing

Entity: San Bernardino County Transportation Authority

Transit Committee Agenda Item

December 11, 2025

Page 2

The other option discussed by the Ad Hoc Committee was for SBCTA to complete the Gold Line segment within San Bernardino County. Concerns over this option remained the same as previously discussed at the Transit Committee and Board, including that SBCTA would continue to be responsible for funding Metrolink while also funding duplicate service on the Gold Line with no representation in those service decisions.

The recommendation from the Ad Hoc Committee is to continue to develop the shuttle service option that provides enhanced Metrolink service between Pomona-North and Rancho Cucamonga. The cost estimate for this option is approximately \$150 million and is estimated to take approximately six years to complete, which includes approximately 18 months to prepare the final design and 30 months to complete construction. There are no anticipated right-of-way acquisitions, and the planning level estimate assumes the project could qualify for a California Environmental Quality Act (CEQA) Categorical Exemption and a Categorical Exclusion under the National Environmental Policy Act (NEPA). However, the CEQA/NEPA environmental clearance approach and permitting requirements will need to be further evaluated during the next phase, as the environmental clearance will be determined based on the refined project design, including the location of the new tracks, platforms, and station improvements. The next step in the project development is to develop a Project Study Report (PSR). The PSR is intended to further define the project scope, including preparing a conceptual design for the proposed improvements and validating some of the assumptions made for the planning-level cost estimate and schedule.

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2025/2026.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee.

Responsible Staff:

Victor Lopez, Director of Transit & Rail Programs

Approved
Transit Committee
Date: December 11, 2025

Witnessed By:



Enhanced Transit Service to Montclair Options

Victor Lopez, PE
Director of Transit and Rail Programs



cta
San Bernardino County
Transportation Authority

Agenda

1. Metro A Line and Metrolink San Bernardino Line Services
2. Two options to improve rail connectivity to Montclair and within San Bernardino County
3. Potential fleets: Multiple Unit (MU) trains for SBCTA Arrow Service
4. Infrastructure improvement needs
5. DMU/ZEMU trains modification needs
6. Planning level cost estimates
7. Implementation schedule
8. Project cost and schedule risks
9. Next steps

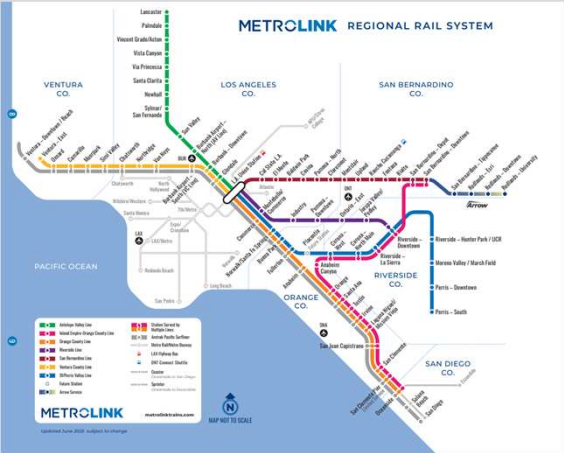


Agenda

Existing and Future Metrolink SBL Service

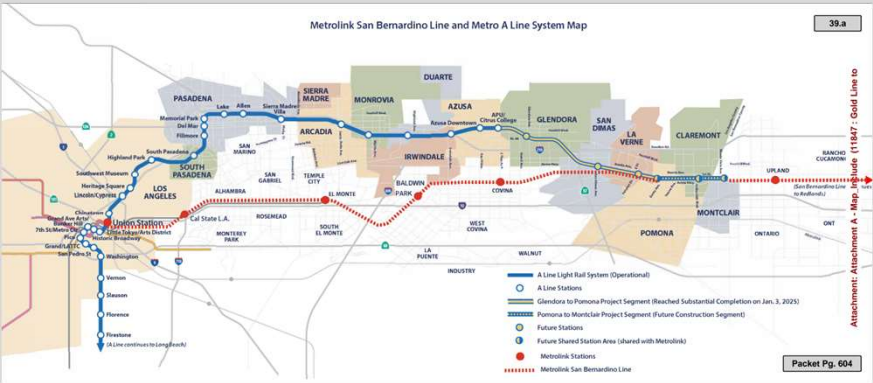
- Since October 2024:
- 30-minute bidirectional services in the peak period from LA Union Station to Montclair
 - Hourly service in both directions for the rest of the day

Increase to 30-minute bidirectional services all day by 2028.



Metrolink System Map

Existing and Future Metrolink SBL Service



Metro A Line Extension

Attachment: Enhanced Transit Service to Montclair PDF (12056 : Enhanced Frequency Service Ad Hoc Recommendation)

Two (2) Options to Improve Rail Connectivity to Montclair and Within San Bernadino County



Option 1: Train Shuttle Service between Pomona North and Rancho Cucamonga Concept



- 11-mile segment (Pomona to Rancho Cucamonga)



Option 1

Attachment: Enhanced Transit Service to Montclair PDF (12056 : Enhanced Frequency Service Ad Hoc Recommendation)

Option 1: Train Shuttle Service between Pomona North and Rancho Cucamonga Concept

- Service Frequency:**
- Metrolink San Bernardino Line: 30-min bidirectional service
 - Pomona North ↔ Rancho Cucamonga: 30-min bidirectional service
 - Combined 15-min service frequency Pomona North ↔ Rancho Cucamonga

Fleet Options and Operating Time:

Fleet option	End to End Runtime	Required No. of Train Sets
Metrolink bi-level trains	23 minutes	2
Stadler DMU/ZEMU	14 to 16 minutes	2

Stadler DMU/ZEMU trains



Metrolink locomotive and coach



Option 1

Option 1: Multiple Unit (MU) trains for SBCTA Arrow Service

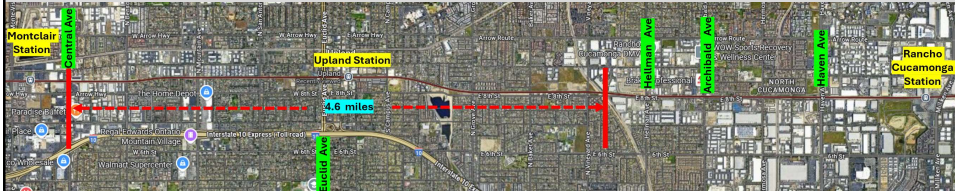
- Operates between San Bernardino ↔ Redlands
- DMU: Powered by an on-board low-emission, clean diesel engine
- ZEMU: Uses a hybrid hydrogen and battery technology to propel the train and power onboard electrical systems.
- Smaller, quieter, more efficient, and cheaper to operate
- Works on the same track as Metrolink and freight trains
- Level boarding at the station platforms
- Capacity: 116 seating and 120 standing passengers
- Space for up to eight wheelchair passengers
- Storage hooks for up to 12 bicycles



Option 1

Option 1: Infrastructure Improvements

- Turn around tracks at Pomona North Station and Ranch Cucamonga Station
- Approximately 4.6 miles of double track between Montclair Station and Ranch Cucamonga Station
- Approximately 12 grade crossings
- Bridge over Cucamonga Creek
- Upland Station crossovers, platform improvements, and possible undercrossing



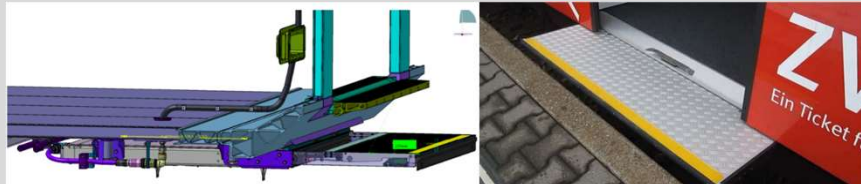
Note: Metrolink is currently developing the Rancho Cucamonga Siding Extension Project, which extends the existing siding track north/west of the main track 4,600 feet to complete by 2028.



Option 1

Option 1: DMU/ZEMU trains modification needs

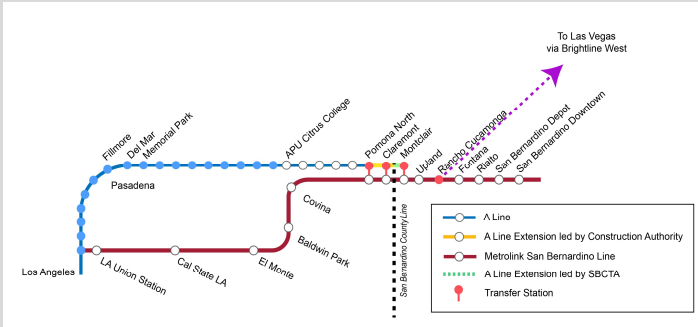
- Platform height (from the top of the rail) difference:
- Arrow stations: 23.5"
- Metrolink Stations: 8"
- DMU retrofitted with retractable sliding steps, allowing able bodied passengers to enter the vehicle with the steps
- Mini-high platforms with manually deployed bridge plates will be used for ADA level-entry boarding



Option 1

Option 2: Metro A Line Extension in San Bernardino County Delivery by SBCTA

- SBCTA delivers the final design and construction for the light rail extension from the County Line to Metrolink Montclair Station (0.65 miles) and the new LRT Station



Option 2


Planning Level Cost and Schedule Estimates



Planning Level Cost Estimates

	Cost Estimate	Miles of new track in SBC (excluding turnback)
Option 1: Pomona North to Rancho Cucamonga Train Shuttle Service	\$123-150 M*	11-mile segment 4.6 mile second Metrolink track, 12 grade crossings
Option 2: SBC Segment of A Line Extension by SBCTA	\$169-285 M**	0.65 mile two LRT tracks + 1 New LRT Station
SBC Segment of A Line Extension by Foothill Gold Line Construction Authority	\$145-244 M	

*Escalated to mid-year of construction (2029). Includes the Upland station underpass and the second platform.
** Used Construction Authority's estimate escalated using Design-Bid-Build Delivery Method.



Cost and Schedule Estimates


Implementation Schedule

Option 1: Train Shuttle Service between Pomona North and Rancho Cucamonga

	2025			2026			2027			2028			2029			2030			2031	
Project Phase	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Project Study Report (PSR) - 5%																				
Environmental Clearance (CEQA and/or NEPA)																				
Final Design (30%, 60%, 90%, 100%)																				
Construction (Testing/Commissioning)																				
Vehicle Procurement																				

Option 2: SBC Segment of A Line Extension by SBCTA

	2025			2026			2027			2028			2029			2030			2031	
Project Phase	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Environmental - concurrence request letter																				
Final Design (30%, 60%, 90%, 100%)																				
Construction																				



Cost and Schedule Estimates

Cost and Schedule Risks

Option 1: Train Shuttle Service between Pomona North and Rancho Cucamonga

- Potential changes in project scope
 - Upland Station modifications scope: whether a southern platform and pedestrian undercrossing will be needed
 - Metrolink requires quiet zone upgrades
 - CPUC Coordination-Grade crossing proximity to adjacent signalized intersections
- Potential right-of-way impacts
- Permit requirements
- Level of needed environmental technical studies and impact to CEQA Category Exemptions and NEPA Category Exclusions
- Schedule impacts due to funding gap



Cost and Schedule Estimates

Cost and Schedule Risks

Option 2: A Line Extension in San Bernardino County Delivery by SBCTA

- Coordination with Metro for project integration
 - Design interface
 - Schedule/timing interface
- Operations agreement with Metro
- Environmental clearance (NEPA)
- Potential right-of-way impacts
- Permit requirements
- Schedule impacts due to funding gap




Cost and Schedule Estimates

Next Steps



Next Steps

- Ad-Hoc Committee Recommended Option
- Discussions with SCRRRA (buy-in and coordination)
 - Cost sharing structure
 - Current and Future Project
- Discussions with Metro (buy-in and coordination)
 - Cost sharing structure
- Feedback to Transit Committee/Board for project approval
- Project development
 - Advance concept to 5% design
 - Update operational analysis (impacts Upland Station scope)
 - Confirm environmental clearance requirements
- Develop funding strategy



Next Steps

Additional Information

TRANSIT COMMITTEE ATTENDANCE RECORD – 2025

Name	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Art Bishop Town of Apple Valley		X	X	X	X	X		X		X		
Eunice Ulloa City of Chino				X		X		X	X	X	X	
Ray Marquez City of Chino Hills		X	X	X		X		X	X	X	X	
Frank Navarro City of Colton		X		X	X	X		X	X	X	X	
Aquanetta Warren City of Fontana		X		X	X	X		X			X	
Bill Hussey City of Grand Terrace		X		X	X	X		X		X	X	
Larry McCallon City of Highland		X	X	X	X	X		X	X		X	
John Dutrey City of Montclair		X	X	X	X	X		X	X	X	X	
Alan Wapner City of Ontario			X		X			X		X	X	
L. Dennis Michael City of Rancho Cucamonga		X		X				X		X	X	
Rick Denison Town of Yucca Valley		X	X	X		X		X	X	X	X	
Joe Baca, Jr. Board of Supervisors		X	X	X	X			X	X	X	X	

Communication: Attendance Sheet (Additional Information)

X = Member attended meeting Empty box = Member did not attend meeting
 Crossed out box = Not a member at the time Shaded box=The Transit Committee did not meet

TC-ATT25

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
ACFR	Annual Comprehensive Financial Report
ACT	Association for Commuter Transportation
ADA	Americans with Disabilities Act
APTA	American Public Transportation Association
AQMP	Air Quality Management Plan
ARRA	American Recovery and Reinvestment Act
ATC	San Bernardino County Auditor-Controller/Treasurer/Tax Collector
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
CAMP	California Asset Management Program
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 or County Transportation Commission
CTP	Comprehensive Transportation Plan
DBE	Disadvantaged Business Enterprise
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
ERP	Enterprise Resource Planning
FHWA	Federal Highway Administration
FSP	Freeway Service Patrol
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
FTIP	Federal Transportation Improvement Program
GAAP	Generally Accepted Accounting Principals
GA Dues	General Assessment Dues
GASB	Governmental Accounting Standards Board
GFOA	Government Finance Officers Association
GIS	Geographic Information Systems
HOV	High-Occupancy Vehicle
ICAP	Indirect Cost Allocation Plan
IEEP	Inland Empire Economic Partnership
IREN	Inland Regional Energy Network
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
IIP/ITIP	Interregional Transportation Improvement Program
ITOC	Independent Taxpayer Oversight Committee
ITS	Intelligent Transportation Systems
IVDA	Inland Valley Development Agency

LACMTA	Los Angeles County Metropolitan Transportation Authority
LAIF	Local Agency Investment Fund
LAPM	Local Assistance Procedures Manual - Caltrans
LNG	Liquefied Natural Gas
LTF	Local Transportation Funds
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
ONT	Ontario International Airport
PACE	Property Assessed Clean Energy
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
PS&E	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
SBCERA	San Bernardino County Employees' Retirement Association
SCAB	South Coast Air Basin
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
SCCP	Solutions for Congested Corridors Program
SCRRA	Southern California Regional Rail Authority
SHA	State Highway Account
SHOPP	State Highway Operations and Protection Program
SRTP	Short Range Transit Plan
SGR	State of Good Repair Funds
STA	State Transit Assistance Funds
STIP	State Transportation Improvement Program
STP	Surface Transportation Block Grant Program
TAC	Technical Advisory Committee
TCEP	Trade Corridor Enhancement Program
TCIF	Trade Corridor Improvement Fund
TCM	Transportation Control Measure
TCRP	Traffic Congestion Relief Program
TDA	Transportation Development Act
TIFIA	Transportation Infrastructure Finance and Innovation Act
TIRCP	Transit and Intercity Rail Capital Program
TMC	Transportation Management Center

Acronym List

TMEE	Traffic Management and Environmental Enhancement
TSM	Transportation Systems Management
UAAL	Unfunded Actuarial Accrued Liability
USFWS	United States Fish and Wildlife Service
VMT	Vehicle Miles Traveled
VCTC	Ventura County Transportation Commission
VVTA	Victor Valley Transit Authority
WRCOG	Western Riverside Council of Governments



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