



**VENTURA COUNTY TRANSPORTATION COMMISSION
LOCAL TRANSPORTATION AUTHORITY
AIRPORT LAND USE COMMISSION
SERVICE AUTHORITY FOR FREEWAY EMERGENCIES
CONSOLIDATED TRANSPORTATION SERVICE AGENCY
CONGESTION MANAGEMENT AGENCY**
www.goventura.org

**SPECIAL MEETING
AGENDA*
THURSDAY DECEMBER 16, 2021
8:30 A.M.
CAMARILLO CITY HALL COUNCIL CHAMBERS
601 CARMEN DRIVE
CAMARILLO, CA**

In compliance with the Americans with Disabilities Act and Government Code Section 54954.2, if special assistance is needed to participate in the Commission meeting, please contact VCTC staff (805) 642-1591 ext. 101. Notification of at least 24 hours prior to meeting time will assist staff in assuring those reasonable arrangements can be made to provide accessibility to the meeting.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. PUBLIC COMMENTS** – *Under the Brown Act, the Board should not take action on or discuss matters raised during Public Comment portion of the agenda which are not listed on the agenda. Board members may refer such matters to staff for factual information or to be placed on the subsequent agenda for consideration.*
- 4. CLOSED SESSION:**
 - A. PUBLIC EMPLOYMENT**
(Pursuant to Government Code Section 54957)
Position: Executive Director

 - B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
(Pursuant to Government Code Section 54956.8 Property: Santa Paula Branch Line Railroad Right of Way Negotiating Parties: VCTC and Sierra Northern: Price and Terms for Lease

DISCUSSION CALENDAR- 11:30 A.M.

5. U.S DEPARTMENT OF LABOR DECISION REGARDING FEDERAL GRANTS FOR CALIFORNIA TRANSIT AGENCIES-PG.

Recommended Action:

- *Receive and file.*

Responsible Staff: Darrin Peschka and Peter De Haan

6. SANTA PAULA BRANCH LINE RAILROAD LEASE AND OPERATIONS AGREEMENT -ADDENDUM TO THE MEMO TO THE COMMISSION, DECEMBER 3, 2021-PG.

Recommended Action:

- *Approve a Railroad Lease and Operations Agreement with Sierra Northern Railway to operate and maintain the Santa Paula Branch Line railroad and right-of-way for a 35-year term.*
- *Approve a Budget Amendment to the Santa Paula Branch Line budget to increase the State Transit Assistance (STA) Fund Transfer-In to the Santa Paula Branch Line (SPBL) Fund by \$282,100 and increase the Local Fees-Leases by \$22,900, and accordingly, increase the Salaries by \$13,100, Fringe Benefits by \$5,700, Indirect Costs by \$11,200, Consultant Services by \$10,000, Legal Services by \$40,000, and Track Maintenance by \$225,000. Also, approve increasing the Santa Paula Branch Line Fund Transfer-Out to the General Fund by \$30,000 for the associated Salaries, Fringe Benefits and Indirect Costs mentioned above.*
- *Approve a Budget Amendment to the State Transit Assistance Fund to Increase the State Transit Assistance (STA) Fund Transfer-Out to the Santa Paula Branch Line Fund by \$282,100.*
- *Approve a Budget Amendment to the General Fund to increase the Santa Paula Branch Line Transfer-In by \$30,000 for the Salaries, Fringe, and Indirect Costs mentioned above.*

Responsible Staff: Amanda Fagan

7. VCTC GENERAL COUNSEL'S REPORT

8. AGENCY REPORTS:

Southern California Association of Governments (SCAG)

Primary: Commissioner Mike Judge

Southern California Regional Rail Authority (Metrolink-SCRRRA)

Primary: Vice-Chair Tony Trembley

Alternate: Daniel Chavez

Los Angeles-San Luis Obispo (LOSSAN) Rail Corridor Agency (Amtrak Pacific Surfliner)

Primary: Commissioner Bryan MacDonald

Alternate: Commissioner Jim White

Coastal Rail Coordinating Council

Primary: Commissioner Bryan MacDonald

Alternate: Commissioner Richard Rollins

California Association of Councils of Government

Primary: Commissioner Carmen Ramirez

California Vanpool Authority (CalVans)

Primary: Commissioner Jim White

Alternate: Commissioner Lynn Edmonds

9. ADJOURN to 9:00 a.m. Friday, January 7, 2022



Item #5

December 16, 2021

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION

FROM: DARRIN PESCHKA, PROGRAM MANAGER, GOVERNMENT AND COMMUNITY RELATIONS; PETER DE HAAN, DIRECTOR OF PROGRAMMING

SUBJECT: U.S. DEPARTMENT OF LABOR DECISION REGARDING FEDERAL GRANTS FOR CALIFORNIA TRANSIT AGENCIES

RECOMMENDATION:

- Receive and file.

DISCUSSION:

In October, the U.S. Department of Labor (DOL) made a determination that potentially could prevent California transit agencies, including those in Ventura County, from receiving billions in federal grants, including COVID-19 emergency relief funds and funds included in the \$1.2 trillion Infrastructure Investment and Jobs Act (IIJA), which President Joseph R. Biden recently signed.

Under Section 13(c) of the Urban Mass Transit Act of 1964, the Federal Transit Administration (FTA) cannot obligate funds to transit agencies under most programs unless the U.S. Department of Labor certifies that the grant recipient has labor protective agreements that the Labor Secretary determines are fair and equitable.

In response to a lawsuit filed in August 2019 by the Amalgamated Transit Union (ATU), the Department of Labor in October determined that California's pension reform law, the Public Employee Pension Reform Act of 2013 (PEPRA), interferes with the collective bargaining rights of transit workers. This determination was a reversal on the part of the Labor Department, which previously had determined that PEPRA does not interfere with employees' collective bargaining rights.

When this issue first surfaced almost a decade ago, the Department of Labor agreed with the ATU and blocked funding to two California transit agencies: the Sacramento Regional Transit District and Monterey-Salinas Transit. In response to a lawsuit filed by the State of California and the transit agencies, the U.S. District Court for the Eastern District Court of California ruled in favor of the state and transit agencies, allowing grants to be certified. Over the years, the courts have ruled in California's favor three times on this issue, and in 2019, the Department of Labor formally concluded

that PEPRA does not interfere with collective bargaining rights. The DOL changed that position in October.

The State of California has filed a cross-complaint and a motion asking the U.S. District Court for the Eastern District of California to stay implementation of the DOL determination. That motion is expected to be heard in mid-December. The exact timeline of court proceedings is still being determined; however, it appears this issue could extend for at least several months. For now, the Department of Labor has indicated that it will not take action on transit grants until at least December 21, meaning it will neither certify nor deny certification.

If the Labor Department's determination stands, the impact to California transit agencies will be severe. Published reports estimate that California could lose about \$9.5 billion in funding from the recently passed infrastructure bill and \$2.5 billion in American Rescue Plan Act (ARPA) money.

U.S. Sens. Alex Padilla and Dianne Feinstein of California, along with California Gov. Gavin Newsom, have sent letters to U.S. Labor Secretary Marty Walsh, as well as to leaders of the Department of Justice and Department of Transportation, strongly objecting to the Labor Department decision and urging the department to restore California transit agencies' access to federal grants. The letters point out that many essential workers need public transportation to get to their jobs, that transit agencies rely on federal grants to keep trains and buses running, and that public transit ridership has dropped dramatically because of the COVID-19 pandemic, making immediate access to emergency federal funding even more critical.

The nonprofit transit advocacy group California Transportation Association (CTA) has organized an effort to ensure federal grants to California transit agencies continue uninterrupted. The Ventura County Transportation Commission (VCTC) is a member of the CTA. In addition, the Southern California Association of Governments (SCAG) and its member agencies sent a letter to the Department of Transportation outlining the potential financial losses for transit agencies in Southern California. VCTC provided information and signed the letter. (Copy attached).

Impact on Current FTA Funding in Ventura County

The DOL position will not affect previously approved FTA grants, but it could potentially impact grants that are not yet approved. There are four transit operators that are direct recipients of FTA funds in the County, with VCTC being the grant recipient not only for its own bus service but also for Camarillo, Moorpark, and Thousand Oaks, which receive funds as VCTC subrecipients. Gold Coast Transit and Simi Valley administer their own FTA grants, as does the Southern California Regional Rail Authority (SCRRA), whose grants include Ventura County apportionments programmed by VCTC. For the current fiscal year, all of the transit operators were programmed to receive Urbanized Area Formula (Section 5307), and the bus operators were also programmed to receive a share of the one-time Ventura County apportionments from the American Rescue Plan (ARP) Act. FTA has already awarded all of this year's Section 5307 funds, as well as the ARP funds for VCTC and subrecipients and for Simi Valley. FTA has not awarded the \$8,151,600 from ARP for Gold Coast, so that grant is potentially impacted by the DOL issue. Also, there are pending Congestion Mitigation and Air Quality (CMAQ) transit vehicle replacement grants of \$4,664,076 for Gold Coast and \$2,444,542 for Simi Valley. These three Gold Coast and Simi Valley grants from ARP and CMAQ are the short-term bus funds currently in jeopardy. On the other hand, VCTC and its subrecipients currently have the awarded FTA grants for all their budgeted FY 2021/22 funds.

With regard to Metrolink, SCRRA has provided the following list of funding that is potentially delayed due to DOL's position:

- a. Annual Rehabilitation/New Capital Budget. The FTA will fund approximately \$23 million of the adopted FY22 capital budget. That \$23 million is spread across numerous projects, so a delay would prevent a significant number of projects from starting until the grant is ultimately

approved. A cascading effect would be the inability to utilize other grant funding allocated to stalled projects (e.g., state funds), some of which have looming expiration dates. Those funds would be at risk of expiring.

- b. Annual Preventive Maintenance (PM). The FTA funding of approximately \$10 million in formula funding towards preventive maintenance expenses in the annual operating budget is at risk from the DOL determination.
- c. Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act. Metrolink estimates that approximately \$4 million in funding for operations under the CRRSA Act is at risk due to the DOL determination.
- d. ARP. Metrolink estimates that approximately \$18 million in funding under the ARP Act used for operations are at risk due to the DOL determination.

All of the transit agencies will have additional FTA grants for next year's funding that could also be subject to delay should this issue not be resolved by spring of 2022. Furthermore, there is \$46,896 programmed to Thousand Oaks, which will be permanently lost if not approved in a grant by September 2022.

All of the county's FTA direct recipients are currently monitoring the situation. In particular, the agencies with pending grants are awaiting confirmation of the DOL's decisions with regards to their particular grants.



November 19, 2021

The Honorable Pete Buttigieg
Secretary of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Impacts to transit funding and capital projects from the U.S. Department of Labor’s new determination regarding California pension law.

Dear Secretary Buttigieg:

On behalf of the undersigned transportation agencies, we write to convey our concern with the new determination issued by the U.S. Department of Labor (USDOL) on October 28, 2021 relative to California pension law.

USDOL asserts that California transit agencies that implement the State’s Public Employees’ Pension Reform Act of 2013 (PEPRA), violate federal collective bargaining rights under Section 13(c) of the Urban Mass Transportation Act of 1964. Subsequently, USDOL has withheld certification of Federal Transit Administration grants intended for California’s transit agencies. **We join Governor Gavin Newsom, Senator Dianne Feinstein, and Senator Alex Padilla in calling immediately to restore California’s access to federal transit grants.**

The COVID-19 pandemic and resulting recession has had devastating impacts on California. Transportation agencies have seen steep declines in ridership and revenues, putting immense strain on budgets and personnel to continue providing services and keep a pipeline of job-creating infrastructure projects moving forward. Fortunately, Congress took extraordinary action to provide direct funding to transit agencies through three emergency relief packages: (1) Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136), (2) Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA; P.L. 116-260), and (3) American Rescue Plan Act (ARPA; P.L. 117-2).

SCAG’s analysis demonstrates that USDOL’s new determination will abruptly cut off access to approximately \$1.469 billion in COVID-19 relief funds slated for transit agencies in our region. Specifically in Southern California, transit agencies anticipate submitting grant applications for

COVID-19 assistance over the next several months in the amounts of \$123,098 from the CARES Act, \$17 million from CRRSAA, and \$1.45 billion from ARPA. All require USDOL certification to be obligated. Delay in the certification and subsequent obligation of these grants undermines our economic recovery by hindering the ability of transit agencies to maintain essential transit service that is overwhelmingly used by low-income and/or people of color and puts at risk many ongoing capital investment projects severely impacting well-paying construction jobs.

Furthermore, USDOL's determination will impact other federal funding opportunities and new funding authorized by the Infrastructure Investment and Jobs Act (IIAJ; P.L. 117-58) that was championed by President Joe Biden and signed into law just this week. We are seriously concerned that the SCAG region's transit agencies may become uncompetitive as the new infrastructure law is implemented. Below you will find an abbreviated list of anticipated grant applications at risk of delays or loss of funding due to the new determination:

Los Angeles County Metropolitan Transportation Authority (LA Metro)

Metro relies on federal funds to support the operation of their rail and bus system and capital program. Metro is currently engaged in a major expansion of their rail system. This expansion supports thousands of jobs and is providing transit service to disadvantaged communities across Los Angeles County. They are also engaged in an ambitious effort to convert the bus fleet of over 2,200 buses to zero emissions technology. All of these efforts would be threatened by a cessation of federal funding. Additionally, Metro is in the process of submitting two key rail projects for consideration in the Capital Investment Grant Program. They recently submitted the East San Fernando Valley light rail line and will soon submit the West Santa Ana light rail line. Both of these projects will bring transit to disadvantaged communities that currently do not have access to the rail system and will create additional jobs in the region.

Orange County Transportation Authority (OCTA)

OCTA has approximately \$228 million in grant applications that will be submitted over the next year, which could be jeopardized if this issue is not resolved quickly. This includes funding to support significant transit capital improvements in Orange County including the OC Streetcar, a 4.2 mile modern streetcar system that will provide transit service for commuters in the heart of Orange County including through several disadvantaged communities, providing direct links to commuter and intercity rail service. In addition, funding for replacement of 40-ft, articulated and paratransit buses that have reached their useful life, and help to meet and maintain air quality standards, will be at risk. This is all additional to federal funding that helps support the operations of Orange County's fixed-route and paratransit services, which could be disrupted if federal funds are unable to flow.

- a. Federal Section 5307 in the estimated amount of \$60.1 million of funding for operating assistance (fixed-route and paratransit) and preventative maintenance.
- b. Federal Section 5337 in the estimated amount of \$2.7 million for preventative maintenance.
- c. Federal Section 5339 in the amount of \$6.2 million to purchase 15 paratransit rolling stock vehicles and to support paratransit operating assistance.

- d. Federal Section 5339 in the amount of \$6.2 million to support additional paratransit operating costs.
- e. Capital Investment Grant Amendment to OCTA's existing Federal Funding Grant Agreement CA-2019-018-00 in the amount of \$9.4 million to amend and reduce the local contribution for the OC Streetcar Project, and potentially affecting the remaining balance of \$66.6 million. The Project will build a 4.2-mile streetcar providing transit service for commuters traveling to employment centers in the heart of Orange County.
- f. Federal Section 5307 Congestion Management and Air Quality grant funds that will contribute to attainment or maintenance of the National Ambient Air Quality Standards for ozone, carbon monoxide, and particulate matter, in the estimated amount of \$77.1 million to support multiple State-of-Good-Repair and Accessibility Projects, including:
 - 1. Purchase of sixty-seven (67) 40-foot alternative fuel replacement vehicles that have reached their useful life.
 - 2. Purchase new engines for one hundred fifty-seven (157) 40-foot and sixteen (16) 60-foot buses to maintain safe and reliable transit service.
 - 3. Rideshare Vanpool Lease to support subsidy, marketing, database, ride guide and associated costs related to providing transportation alternatives to the public.
 - 4. Laguna Niguel Passing Siding Project to add approximately two miles of new railroad track adjacent to the existing track, including slope stabilization to sustain safe and reliable rail infrastructure.
 - 5. OC Streetcar Project construction.

Riverside County Transportation Commission (RCTC)

The total amount of critical funding provided to Riverside County for operations and capital projects in rural and urbanized areas for Fiscal Year 2021-2022, which could go unfunded due to the USDOL determination, is estimated at \$21.4 million. Federal funding accounts for approximately 21 percent of transit operators' budgets annual operating funding. Potential delays include preventative maintenance for fixed-route and ADA paratransit services, upgrades to transit stops and facilities, replacement of fixed-route and ADA paratransit vehicles, and additional Intelligent Transportation Systems (ITS) projects. RCTC is attempting to provide short-term relief to its operators in Fiscal Year 2021-2022 in the form of loans, however, if this persists into Fiscal Year 2022-2023, there will likely be service reductions and delayed capital projects that will impact Riverside County's efforts to service its residents, in which, many of those users are transit dependent. Annually, Riverside County transit operator budgets range from \$180 million to \$190 million a year. If PEPR continues into Fiscal Year 2022-2023, RCTC estimates that Riverside County transit operators will see an impact of approximately \$38 to \$40 million in federal funding for operating assistance and approximately \$10 to \$20 million in capital assistance. Many transit agencies are currently trying to recover from the COVID-19 pandemic and delayed funding will slow recovery. Like other transit operators nationwide, Riverside County operators are struggling to recover ridership, having supply chain constraints, and driver shortages. This leads to increased costs both in operations and higher capital costs to meet each operators' supply needs. Like other transit operators in California, this may significantly impact its ability to meet other statewide goals of fleet and facility transitions to zero emission.

Fiscal Year 2021-2022 Federal Funding Impacts

- a. City of Corona – \$1.1 million
- b. City of Riverside – \$300,000
- c. Riverside Transit Agency – \$16.4 million
- d. SunLine Transit Agency – \$ 3.6 million

San Bernardino County Transportation Authority (SBCTA)

The total amount of critical funding provided to San Bernardino County for operations and capital projects, which could go unfunded due to the USDOL determination, is estimated at approximately \$551 million.

- a. Federal Section 5307 in the amount of \$8.65 million of funding for Redlands Passenger Rail in Fiscal Year 2022.
- b. CMAQ Transfer in the amount of \$25 million of funding for Arrow Operating in Fiscal Years 2022 to 2026.
- c. Federal Section 5309 in the amount of \$86.75 million of funding for West Valley Connector (BRT) in Fiscal Years 2022 to 2025.
- d. ARPA COVID-19 relief assistance in the amount of \$26 million of funding for West Valley Connector (BRT) in Fiscal Years 2022 and 2023.
- e. CMAQ Transfer in the amount of \$7 million of funding for West Valley Connector (BRT) in Fiscal Years 2025 to 2031.
- f. CMAQ/STIP Transfer in the amount of \$7.5 million of funding for ZEMU Conversion in Fiscal Years 2027 to 2031.
- g. CMAQ Transfer in the amount of \$137.7 million of funding for Zero Emission Bus Initiative in Fiscal Years 2024 to 2031.
- h. Federal Section 5307 in the amount of \$94.3 million of funding for Omnitrans in Fiscal Years 2022 to 2026.
- i. Federal Section 5339 in the amount of \$10.2 million of funding for Omnitrans in Fiscal Years 2022 to 2026.
- j. CMAQ Transfer in the amount of \$18.2 million of funding for Omnitrans in Fiscal Years 2025 and 2026.
- k. Federal Section 5307 in the amount of \$43.2 million of funding for Victor Valley Transit Authority in Fiscal Years 2022 to 2026.
- l. Federal Section 5339 in the amount of \$5.5 million of funding for Victor Valley Transit Authority in Fiscal Years 2022 to 2026.
- m. CMAQ Transfer in the amount of \$15.1 million of funding for Victor Valley Transit Authority in Fiscal Years 2022 to 2026.
- n. Federal Section 5307 in the amount of \$30.8 million of funding for Metrolink in Fiscal Years 2022 to 2026.
- o. Federal Section 5337 in the amount of \$35 million of funding for Metrolink in Fiscal Years 2023 to 2026.

Southern California Regional Rail Authority (Metrolink)

The total amount of critical funding provided to Metrolink for operations, maintenance, and capital projects, which could go unfunded due to the USDOL determination, is estimated at \$55 million.

- a. Annual Rehabilitation/New Capital Budget. The FTA will fund approximately \$23 million of the adopted Fiscal Year 2022 capital budget. That \$23 million is spread across numerous projects, so a delay would prevent a significant number of projects from starting until the grant is ultimately approved. A cascading effect would be the inability to utilize other grant funding allocated to stalled projects (e.g., state funds), some of which have looming expiration dates. Those funds would be at risk of expiring.
- b. Annual Preventive Maintenance (PM). The FTA will provide approximately \$10 million of formula funding towards the preventive maintenance expenses in the annual operating budget, which is at risk from the DOL determination.
- c. CRRSAA. Metrolink estimates that approximately \$4 million in funding for operations under the CRRSAA Act is at risk due to the DOL determination.
- d. ARPA. Metrolink estimates that approximately \$18 million in funding under the ARP Act used for operations are at risk due to the DOL determination.

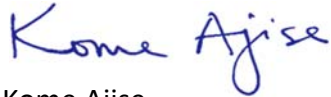
Ventura County Transportation Commission (VCTC)

The total amount of critical funding provided to Ventura County for operations and capital projects, which could go unfunded due to the USDOL determination, is estimated at approximately \$ 27.2 million.

- a. ARPA Funds of \$8.1 million for Gold Coast Transit Operating Assistance.
- b. CMAQ Transfer of \$4.66 million to replace 12 Gold Coast Transit buses that have reached the end of their service life.
- c. CMAQ Transfer of \$2.4 million to replace 12 Simi Valley Transit paratransit vehicles that have reached the end of their service life.
- d. Section 5339 of \$490,000 to provide Thousand Oaks Transit electric vehicle charging infrastructure and bus washer, and Camarillo Area Transit bus that has reached the end of its service life.
- e. Section 5307 of \$4.9 million for Gold Coast Transit operating assistance, preventive maintenance, paratransit operations, and debt service.
- f. Section 5307 of \$2 million for VCTC Intercity Bus operating assistance and preventive maintenance.
- g. Section 5307 of \$2.6 million for Valley Express, Thousand Oaks Transit, and Camarillo Area Transit operating assistance, preventive maintenance, vehicle leases, and planning
- h. Section 5307 of \$1.9 million for Simi Valley Transit operating assistance, preventive maintenance, and paratransit operations.

We respectfully oppose the new determination and ask the U.S. Department of Transportation to work with USDOL and take rapid action to ensure that California's transit agencies continue to receive federal transit funding. Thank you for your prompt attention to this matter. If you have questions, I am always available at (213) 236-1835 or via email at Ajise@scag.ca.gov.

Sincerely,



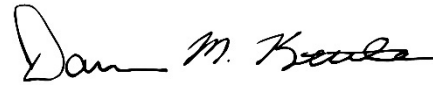
Kome Ajise
Executive Director
Southern California Association of
Governments



Mark Baza
Executive Director
Imperial County Transportation Commission



Darrell E. Johnson
Chief Executive Officer
Orange County Transportation Authority



Darren M. Kettle
Chief Executive Officer
Southern California Regional Rail Authority



Anne E. Mayer
Executive Director
Riverside County Transportation Commission



Mark Watkins
Interim Executive Director
Ventura County Transportation Commission



Ray Wolfe
Executive Director
San Bernardino County Transportation
Authority



Stephanie Wiggins
Chief Executive Officer
Los Angeles County Metropolitan
Transportation Authority

cc: The Honorable Martin J. Walsh, Secretary of Labor
The Honorable Nuria Fernandez, Administrator of the Federal Transit Administration
The Honorable Ray Tellis, Federal Transit Administration Region IX Administrator
The Honorable Dianne Feinstein, Senator of California
The Honorable Alex Padilla, Senator of California
The Honorable Gavin Newsom, Governor of California



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Item #6

December 16, 2021

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION

FROM: AMANDA FAGAN, DIRECTOR OF PLANNING & SUSTAINABILITY

**SUBJECT: SANTA PAULA BRANCH LINE RAILROAD LEASE AND OPERATIONS AGREEMENT
– ADDENDUM TO THE MEMO TO THE COMMISSION, DECEMBER 3, 2021**

RECOMMENDATION:

- *Approve a Railroad Lease and Operations Agreement with Sierra Northern Railway to operate and maintain the Santa Paula Branch Line railroad and right-of-way for a 35-year term.*
- *Approve a Budget Amendment to the Santa Paula Branch Line budget to increase the State Transit Assistance (STA) Fund Transfer-In to the Santa Paula Branch Line (SPBL) Fund by \$282,100 and increase the Local Fees-Leases by \$22,900, and accordingly, increase the Salaries by \$13,100, Fringe Benefits by \$5,700, Indirect Costs by \$11,200, Consultant Services by \$10,000, Legal Services by \$40,000, and Track Maintenance by \$225,000. Also, approve increasing the Santa Paula Branch Line Fund Transfer-Out to the General Fund by \$30,000 for the associated Salaries, Fringe Benefits and Indirect Costs mentioned above.*
- *Approve a Budget Amendment to the State Transit Assistance Fund to Increase the State Transit Assistance (STA) Fund Transfer-Out to the Santa Paula Branch Line Fund by \$282,100.*
- *Approve a Budget Amendment to the General Fund to increase the Santa Paula Branch Line Transfer-In by \$30,000 for the Salaries, Fringe, and Indirect Costs mentioned above.*

BACKGROUND:

On December 3, 2021, the Ventura County Transportation Commission (Commission) considered the approval of a Railroad Lease and Operations Agreement with Sierra Northern Railway to operate and maintain the Santa Paula Branch Line railroad and right-of-way for a 35-year term. The Commission voted to continue the item to a Special Meeting already scheduled for December 16, 2021, to provide the Commission with additional time to review the Agreement and to address several questions regarding freight service, potential transport and storage of hazardous materials, level of tourist/excursion train service, and use of eminent domain by railroads. This Addendum to the December 3rd Staff Report addresses these questions raised by members of the Commission, and is intended to supplement, not supplant, the original Staff Report. The Agreement has been updated to include language presented by Counsel during the December 3rd meeting and agreed to by Sierra Northern prohibiting the use of eminent domain.

DISCUSSION:

Freight Service – During the December 3rd Commission discussion, a question was raised regarding additional freight trains moving through the Cities of Ventura, Santa Paula, and Fillmore, and the Piru community. The original stated purpose of the acquisition of the Santa Paula Branch Line includes freight, per the 1993 Transportation Enhancement Act (TEA) grant application submitted jointly by the Cities of Ventura, Santa Paula, Fillmore, County of Ventura, and VCTC. TEA funds were used to purchase the Branch Line in 1995.

Freight service by rail reduces truck traffic on highways and roadways, including State Route (SR) 126, and prioritizes using roadway capacity for high-value trips that cannot be made by rail. Each rail car reduces roadway traffic by four trucks. Freight service on the SPBL will benefit existing businesses in the Heritage Valley by providing an economical and efficient means to receive materials and to deliver goods.

The 2018 *California State Rail Plan* (Caltrans, 2018) emphasizes the need for “coordinated planning and investments among public agencies and private railroads [to] support a growing economy while lowering statewide transportation costs, integrating rail travel network with existing state highways and airports, improving safety, lowering GHG emissions, and enhancing livability.” The *State Rail Plan* continues, “Rail is an efficient, safe, and cost-effective way to move goods, because energy consumption and GHG emissions per ton carried are far lower than with diesel trucks.” The proposed Agreement with Sierra Northern Railway addresses several key elements of the *State Rail Plan*, including upgraded track conditions for short lines, improved access to the rail network, competitive cost, service, and enhanced options, intermodal terminal and transload connections, and a rail network that moves both people and products. The Agreement aligns with efforts to support “improvements in California’s quality of life through modal energy/emissions benefits associated with movement of freight by rail and mode shift to rail where feasible.” As the Caltrans *Short Line Rail Improvement Plan* (2021) notes, “Railroads are the most fuel-efficient way to move freight over land.”

Freight service and associated revenues are needed to support the necessary investments in improving the SPBL to address deferred and regular maintenance. Tourist/excursion and movie trains are not likely to provide sufficient revenues to properly maintain and operate the SPBL without significant subsidy from VCTC. The Commission has previously directed Staff to reduce and eliminate the need to subsidize the operations and maintenance of the SPBL with resources dedicated to public transit. Finally, Sierra Northern Railway is the freight-focused arm of the Sierra Railroad Company family. Without freight service on the SPBL, it is unlikely that Sierra Northern would continue to be interested in a partnership with VCTC on the SPBL.

Hazardous Materials Transport – On December 3rd, the Commission also discussed whether the proposed Agreement could result in hazardous materials being moved by rail and/or stored on the Santa Paula Branch Line. Federal law limits the authority of states and local governments to impose requirements on the transportation of hazardous materials by rail. These limitations on local authority, and Federal regulatory and safety programs, apply to any railroad and/or operator that would operate on the SPBL and any other rail line throughout the United States. Under the authority of the United States Secretary of Transportation, the Federal Railroad Administration administers a safety program that oversees the movement of hazardous materials by rail, in accordance with Title 49 Code of Federal Regulations Subtitle B, Chapter I, Subchapter C, Parts 171 – 174. In accordance with applicable Federal law, the proposed Agreement does not restrict movement of hazardous materials by rail. However, the proposed Agreement contractually limits storage of hazardous materials rail car on the SPBL. Movement of hazardous materials by rail follow strict safety rules, regulations, and laws. Sierra Northern Railway will follow all applicable Federal and State laws relating to safety. Sierra Northern has explained that the source of any hazardous materials that would be transported on the SPBL are based on the customers served. For Ventura County, this would typically be materials such as fertilizer transported to farms, which are already being moved throughout the county by truck.

Rail Car Storage & Maintenance – Rail car storage is anticipated to be used in the early stages of Sierra Northern operations to generate revenue, while the freight, tourist/excursion, and movie businesses are further developed. Rail car storage is not anticipated to be a major source of revenue over the long term. Responsibility to secure and maintain the railroad right-of-way property, including any areas used for storage of rail cars, will be with Sierra Northern.

Section 3a of the proposed Agreement prohibits storage of railcars that have been used to transport Hazardous Materials. Section 3b further prohibits storage of railcars on any portion of the Property located within the city boundaries of any incorporated city within Ventura County and within 150 feet of legal public and private rail crossings.

“Rail Car Storage” is a defined term within the agreement “as any and all storage of third-party owned rail cars on the Property or the Railroad Facilities on behalf of third-parties.” The term is defined to allow passenger rail cars and locomotives owned by Sierra Northern Railway to be kept on the Branch Line. In Section 3d, the proposed Agreement further requires Sierra Northern Railway to conduct maintenance and address blight to “ensure that it conducts all Rail Car Storage in a clean and orderly fashion free of blight.” Sierra Northern has explained that neither Sierra Northern nor any other railroad operator has the ability nor the requirement to address graffiti on railroad cars owned by a third-party. As a result, the Agreement is structured to ensure that rail cars are not stored within the cities. In practice, rail car storage is likely to be limited to the eastern portion of the Branch Line where it would not interfere with other freight, movie, and tourist/excursion train operations.

Base and Level of Lessee Operations on SPBL - Sierra Northern opened an office in Fillmore and hired several local staff. Sierra Northern had initially planned to operate from the Fillmore & Western Railway (FWRY) yard in Fillmore, but FWRY has not yet vacated the property leased from the City of Fillmore. As a result, Sierra Northern has been in discussions with the City of Santa Paula about operating from Santa Paula until the FWRY lease ends. Regarding level of service, Section 9.4(a) of the proposed Agreement states that one of the primary purposes of the Agreement is to ensure that the Property is being put to active use for Railroad Purposes. The Agreement specifies, “In the event that the VCTC reasonably determines that the Property is no longer being put to such active use (e.g. freight, public/tourist excursion, and/or filming and video production activity, and not solely for Rail Car Storage activities) the VCTC may determine that the Agreement is no longer serving its intended purpose and elect to terminate this Agreement.” The Agreement does not require a specified level of tourist/excursion service. Sierra Northern would not agree to such terms because of the changing nature of public preferences and the possibility that, in the future, the market for tourist/excursion trains may change.

Potential for Use of Eminent Domain – Staff is aware of an ongoing dispute between Mendocino Railway and the City of Fort Bragg over redevelopment of a former Georgia-Pacific mill site, in which Mendocino Railway acquired by settlement under threat of condemnation. Staff believes that the Fort Bragg issue is a different situation and context from the Santa Paula Branch Line. Sierra Northern Railway will be a lessee and operator of the Santa Paula Branch Line, not an owner of the railroad, as is the case with Mendocino Railway and Fort Bragg. Sierra Northern has indicated to Staff that they have no intention or interest in pursuing use of eminent domain in Ventura County and has agreed to accept language within the proposed Agreement limiting the use thereof.



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