



Item #5

Meeting Summary

VENTURA COUNTY TRANSPORTATION COMMISSION AIRPORT LAND USE COMMISSION SERVICE AUTHORITY FOR FREEWAY EMERGENCIES CONSOLIDATED TRANSPORTATION SERVICE AGENCY CONGESTION MANAGEMENT AGENCY

**CAMARILLO CITY HALL
601 CARMEN DRIVE
CAMARILLO, CA
FRIDAY, JUNE 4 , 2010
9:00 AM**

Members Present:

Dennis Gillette, Chair, City of Thousand Oaks
Ralph Fernandez, City of Santa Paula
Peter Foy, Ventura County Supervisor
Brian Humphrey, Citizen Representative, Cities
Kathy Long, Ventura County Supervisor
Michael Morgan, City of Camarillo
Dean Maulhardt, City of Oxnard
Keith Millhouse, City of Moorpark
Linda Parks, Ventura County Supervisor
Carol Smith, City of Ojai
Steve Sojka, City of Simi Valley
Patti Walker, City of Fillmore
John Zaragoza, Ventura County Supervisor
Mike Miles, Caltrans (Ex-Officio)

Call To Order

Pledge of Allegiance

Roll Call

Public Comments for those items not listed in this agenda – *NO PUBLIC COMMENTS*

APPROVE MINUTES FROM MAY 14, 2010 REGULAR VCTC MEETING- APPROVED

CALTRANS REPORT – MIKE MILES GAVE UPDATE

COMMISSIONERS / EXECUTIVE DIRECTOR REPORT

ADDITIONS/REVISIONS

CONSENT CALENDAR- *All Items APPROVED as presented. Commissioner Maulhardt abstained on Item #90 due to a possible conflict of interest.*

- 9A. MONTHLY BUDGET REPORT** - *Receive and file.*
- 9B. RAIL OPERATIONS UPDATE** - *Receive and file.*
- 9C. VISTA FIXED ROUTE PROMOTIONAL FARES** - *Authorize free rides on VISTA Fixed route services in support of Dump The Pump Day, and adopt the Proclamation and to authorize the provision of promotional discount fares to student groups which meet VISTA promotional criteria.*
- 9D. PROPOSITION 1B SAFETY AND SECURITY FUNDS FOR POSITIVE TRAIN CONTROL** - *Reprogram \$21,366.36 of unexpended Fiscal Year (FY) 2007/08 carryover Proposition 1B Transit Safety and Security funds, including interest, to Positive Train Control (PTC); Increase FY 2009/10 Proposition 1B Transit Safety and Security funding for PTC from \$661,073 to \$709,972 based on the actual apportionment; Approve a Memorandum of Understanding with the Southern California Regional Rail Authority to provide \$21,366.36 from FY 2007/08 and \$709,972 from FY 2009/10 in Proposition 1B Safety and Security funds for PTC; and, Authorize staff to request a Letter of No Prejudice from the California Emergency Management Agency to allow reimbursement of the funds should the FY 2009/10 funds not become available prior to award of the PTC contract.*
- 9E. RESOLUTIONS TO MODIFY EMPLOYEE 457 DEFERRED COMPENSATION PLANS** - *Adopt the employee loan provision of the 457 Deferred Compensation Plan for CalPERS and ICMA-RC; and, Adopt Resolution #2010-06, Amendment to the ICMA 457 Deferred Compensation Plan to permit loans.*
- 9F. RESOLUTION AUTHORIZING VCTC FY 2010/11 LOCAL TRANSPORTATION FUND AND STATE TRANSIT ASSISTANCE CLAIMS** - *Approve Resolution #2010-07authorizing VCTC's claim for FY 2010/2011 TDA, LTF, and STA funds for transit, planning and administrative expenditures.*
- 9G. CONSULTANT CONTRACT TO COMPLETE FY 2009/10 TDA/FISCAL AND COMPLIANCE AUDITS, CONTROLLER REPORTS AND STATE PROPOSITION 1B REPORTS** - *Approve a contract with Vavrinek, Trine, Day & Company for \$35,160 to complete the State required Transportation Development Act (TDA) FY 09/10 financial/compliance audits, State Controller reports(where needed), and,State Proposition 1B Reports.*
- 9H. FY 2010/11 TDA ARTICLE 3 BICYCLE/PEDESTRIAN CITY AND COUNTY CLAIMS** - *Approve the list of allocations for FY 10/11 Transportation Development Act (TDA) Article 3 bicycle/pedestrian funds.*
- 9I. INTERAGENCY AGREEMENT WITH LOS ANGELES COUNTY SERVICE AUTHORITY FOR FREEWAY EMERGENCIES** - *Authorize the Executive Director to execute an interagency agreement between Los Angeles County Service Authority for Freeway Emergencies (L.A. SAFE) and the Ventura County Transportation Commission for the support of the Southern California Regional 511 Traveler Information System.*
- 9J. AGRICULTURE WORKER VANPOOL (AVWP) UPDATE** - *Receive and file.*
- 9K. VISTA ON-BOARD SURVEY REPORT** - *Receive and file the VISTA passenger survey report.*
- 9L. LEGISLATIVE UPDATE** - *Receive and file the legislative report and matrix.*
- 9M. VISTA CSUCI COOPERATIVE AGREEMENT** - *Approve the FY 2010/2011 Cooperative Agreement for bus service to California State University Channel Islands.*

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9N. CASH MANAGEMENT DUE TO DELAY IN FTA GRANT APPROVAL - *Authorize the Executive Director to utilize Service Authority for Freeway Emergencies (SAFE) funds to bridge gaps in FTA funding on an as needed temporary basis.*

9O. CALIFORNIA WATERCRESS FARM CLAIM FOR DAMAGES - *Deny the claim as late, pursuant to Government Code section 911.3.*

9P. VISTA INTERCITY SYSTEM SERVICE INDICATOR REPORT - *Receive and file the report on VISTA ridership and service indicators*

10. FISCAL YEAR 2010/11 PROGRAM OF PROJECTS – PUBLIC HEARING

Approve the Program of Projects (POP) for federal transit operating, planning and capital assistance for FY 2010/11.

APPROVED

11. STATE TRANSIT ASSISTANCE ADVANCE TO THE CITY OF SIMI VALLEY FOR CNG FUELING FACILITY

Approve an allocation of \$1,267,149 of State Transit Assistance (STA) funds to the City of Simi Valley for an upgraded CNG Fueling Facility, contingent upon VCTC's receipt of the STA funds appropriated for Fiscal Years (FY) 2009/10 and 2010/11, to be reimbursed upon the availability of Proposition 1B Transit funds programmed for the project; and, Approve the agreement for the City of Simi Valley to implement the project in compliance with Proposition 1B Transit program requirements.

APPROVED

12. SANTA PAULA BRANCH LINE UPDATE – RECEIVED AND FILED

13. TRANSPORTATION DEVELOPMENT ACT/LOCAL TRANSPORTATION FUND FY 2010/11 APPORTIONMENTS

Adopt the Local Transportation Fund Apportionment for Fiscal Year 2010/2011.

APPROVED

14A. VISTA HWY 101 FY 2010/11 COST DISTRIBUTION FORMULA AND COOPERATIVE AGREEMENT

Adopt the local cost formula for FY 2010/2011 VISTA Hwy. 101 service and to approve the FY 2010/2011 VISTA Hwy. 101 Cooperative Agreement.

APPROVED

14B. VISTA EAST COUNTY FY 2010/11 COST DISTRIBUTION FORMULA AND COOPERATIVE AGREEMENT

Adopt the local cost formula for FY 2010/11 VISTA East County service and approve the FY 2010/11 VISTA East County Cooperative Agreement.

APPROVED

14C. VISTA HWY 126 FY 2010/11 COST DISTRIBUTION FORMULA AND COOPERATIVE AGREEMENT-

Commissioners serving on the VISTA Hwy 126 Committee adopt the local cost formula for FY 2010/2011 VISTA Hwy. 126, Fillmore and Santa Paula DAR services based on a constrained budget and reduced hours of service; Approve the FY 2010/2011 VISTA Hwy. 126, Fillmore and Santa Paula Cooperative Agreement; and, Amend the Cooperative Agreement to allow member agencies to purchase additional services

APPROVED

15. FINAL FISCAL YEAR 2010/11 BUDGET

Adopt the Fiscal Year 2010/2011 Budget and to include in the adoption of the Fiscal Year 2010/2011 Budget, the State Transit Assistance Advance to Simi Valley for Compressed Natural Gas (CNG) Fueling Facility item in the amount of \$1,267,149, if approved by the Commission.

APPROVED

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16. CAMARILLO AIRPORT MASTER PLAN UPDATE – PUBLIC HEARING

VCTC, acting as the Airport Land Use Commission find that the Camarillo Airport Master Plan (CAMP) update to be consistent with the Airport Comprehensive Land Use Plan (ACLUP) for Ventura County and direct the Executive Director to transmit the Commission's findings to the Ventura County Department of Airports.

APPROVED

17. GENERAL COUNSEL'S REPORT – *NO REPORT*

18. CLOSED SESSION – *NO CLOSED SESSION*

19. ADJOURN



Item #9A

July 9, 2010

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION
FROM: SALLY DEGEORGE, FINANCE DIRECTOR
SUBJECT: MONTHLY BUDGET REPORT

RECOMMENDATION:

- Receive and file the monthly budget report for May 2010.

BACKGROUND:

The monthly budget report is presented in a comprehensive agency-wide format with the investment report presented at the end. The Annual Budget numbers are updated as the Commission approves budget amendments or administrative budget amendments are approved by the Executive Director.

The May 31, 2010 budget report indicates that revenues were approximately 67.97% of the adopted budget while expenditures were approximately 62.33% of the adopted budget. Although the percentage of the budget year completed is shown, be advised that neither the revenues nor the expenditures occur on a percentage or monthly basis. For instance, some revenues are received at the beginning of the year while other revenues are received after grants are approved by federal agencies. In many instances, VCTC incurs expenses in advance of the revenues.

The investment report is located at the end of this report.

**VENTURA COUNTY TRANSPORTATION COMMISSION
BALANCE SHEET
AS OF MAY 31, 2010**

ASSETS

Assets:

Cash and Investments - Wells Fargo Bank	\$ 2,790,574
Cash and Investments - County Treasury	10,213,219
Cash and Investments - Bank of New York	5,356,958
Petty Cash	50
Receivables/Due from other funds	2,440,628
Prepaid Expenditures	1,104,806
Deposits	8,436

Total Assets: **\$21,914,671**

LIABILITIES AND FUND BALANCE

Liabilities:

Accrued Expenses/Due to other funds	\$ 2,556,753
Deferred Revenue	202,472
Advance from DOT	428,000
Deposits	400

Total Liabilities: **\$ 3,187,625**

Net Assets:

Fund Balance	<u>\$18,727,046</u>
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Total Liabilities and Fund Balance: **\$21,914,671**

VENTURA COUNTY TRANSPORTATION COMMISSION
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES
FOR THE ELEVEN MONTHS ENDING MAY 31, 2010

	General Fund Actual	SAFE Actual	LTF Actual	STA Actual	Capital Actual	Debt Service Actual	Fund Totals Actual	Annual Budget	Variance Over (Under)	% Year to Date
Revenues										
	\$	\$	\$	\$	\$	\$	\$			
Federal Revenues	12,176,559	0	0	0	0	439,866	12,616,425	\$32,149,025	(19,532,600)	39.24
State Revenues	5,242,104	532,972	22,516,183	0	0	0	28,291,259	30,433,871	(2,142,612)	92.96
Local Revenues	4,727,860	14,180	0	0	0	60,000	4,802,040	4,680,700	121,340	102.59
Other Revenues	10,100	0	0	0	0	0	10,100	0	10,100	0.00
Interest	2,131	34,234	54,404	77,268	362	128	168,527	252,000	(83,473)	66.88
Total Revenues	22,158,754	581,386	22,570,587	77,268	362	499,994	45,888,351	67,515,596	(21,627,245)	67.97
Expenditures										
Administration										
Personnel Expenditures	2,065,427	0	0	0	0	0	2,065,427	2,438,400	(372,973)	84.70
Legal Services	14,376	0	0	0	0	0	14,376	35,000	(20,624)	41.07
Professional Services	107,480	0	0	0	0	0	107,480	158,828	(51,348)	67.67
Office Leases	116,391	0	0	0	0	0	116,391	128,000	(11,609)	90.93
Office Expenditures	175,820	0	0	0	0	0	175,820	254,900	(79,080)	68.98
Total Administration	2,479,494	0	0	0	0	0	2,479,494	3,015,128	(535,634)	82.24
Programs and Projects										
Transit & Transportation Program										
Senior-Disabled Transportation	22,155	0	0	0	0	0	22,155	249,800	(227,645)	8.87
Go Ventura Smartcard	210,970	0	0	0	0	0	210,970	1,026,070	(815,100)	20.56
VISTA Fixed Route	4,473,993	0	0	0	0	0	4,473,993	5,564,200	(1,090,207)	80.41
VISTA DAR	2,032,503	0	0	0	0	0	2,032,503	2,294,400	(261,897)	88.59
Nextbus	25,473	0	0	0	0	0	25,473	201,601	(176,128)	12.64
Trapeze Paratransit & Dispatch	125,469	0	0	0	0	0	125,469	763,300	(637,831)	16.44
Transit Grant Administration	1,104,290	0	0	0	0	0	1,104,290	8,932,098	(7,827,808)	12.36
Total Transit & Transportation	7,994,853	0	0	0	0	0	7,994,853	19,031,469	(11,036,616)	42.01
Highway Program										
Congestion Management Program	501	0	0	0	0	0	501	500	1	100.20
Motorist Aid Call Box System	0	323,193	0	0	0	0	323,193	422,000	(98,807)	76.59
SpeedInfo Highway Speed Sensor	0	82,600	0	0	0	0	82,600	144,300	(61,700)	57.24
Caltrans District 7 Remote TMC	0	8,468	0	0	0	0	8,468	15,900	(7,432)	53.26
Road & Highway Projects	6,052,255	0	0	0	2,071,375	0	8,123,630	18,833,489	(10,709,859)	43.13
Total Highway	6,052,756	414,261	0	0	2,071,375	0	8,538,392	19,416,189	(10,877,797)	43.98

	General Fund Actual	SAFE Actual	LTF Actual	STA Actual	Capital Actual	Debt Service Actual	Fund Totals Actual	Annual Budget	Variance Over (Under)	% Year to Date
Rail Program										
Metrolink Commuter Rail	2,996,017	0	0	0	0	0	2,996,017	4,350,815	(1,354,798)	68.86
LOSSAN & Coastal Rail	7,233	0	0	0	0	0	7,233	27,032	(19,799)	26.76
Santa Paula Branch Line	5,015,877	0	0	0	0	0	5,015,877	6,095,988	(1,080,111)	82.28
Total Rail	8,019,127	0	0	0	0	0	8,019,127	10,473,835	(2,454,708)	76.56
Commuter Assistance Program										
Dial A Route Transit Info	27,796	0	0	0	0	0	27,796	29,800	(2,004)	93.28
Rideshare & Employer Services	37,209	0	0	0	0	0	37,209	175,700	(138,491)	21.18
Total Commuter Assistance	65,005	0	0	0	0	0	65,005	205,500	(140,495)	31.63
Planning & Programming										
TDA LTF & STA Administration	28,497	0	18,454,877	38,630	0	0	18,522,004	21,362,864	(2,840,860)	86.70
Transportation Improvement Program	14,043	0	0	0	0	0	14,043	15,500	(1,457)	90.60
Regional Transportation Planning	25,538	0	0	0	0	0	25,538	91,964	(66,426)	27.77
Regional Transit Planning	34,128	0	0	0	0	0	34,128	280,250	(246,122)	12.18
Freight Movement	565	0	0	0	0	0	565	5,500	(4,935)	10.27
Total Planning & Programming	102,771	0	18,454,877	38,630	0	0	18,596,278	21,756,078	(3,159,800)	85.48
General Government										
Marketing & Community Outreach	77,362	0	0	0	0	0	77,362	324,817	(247,455)	23.82
Clerk of the Board	11,961	0	0	0	0	0	11,961	25,000	(13,039)	47.84
Office Services Management	2,283	0	0	0	0	0	2,283	2,400	(117)	95.13
Information Technology	3,392	0	0	0	0	0	3,392	25,300	(21,908)	13.41
State & Federal Relations	39,705	0	0	0	0	0	39,705	53,375	(13,670)	74.39
Santa Paula Mill & Depot	1,017,184	0	0	0	0	0	1,017,184	1,064,746	(47,562)	95.53
Financial Management	2,135	0	0	0	0	861,577	863,712	1,152,100	(288,388)	74.97
Management & Administration	27,157	0	0	0	0	0	27,157	42,087	(14,930)	64.53
VCOG	1,455	0	0	0	0	0	1,455	0	1,455	0.00
Total General Government	1,182,634	0	0	0	0	861,577	2,044,211	2,689,825	(645,614)	76.00
Total Expenditures	25,896,640	414,261	18,454,877	38,630	2,071,375	861,577	47,737,360	76,588,024	(28,850,664)	62.33

	General Fund Actual	SAFE Actual	LTF Actual	STA Actual	Capital Actual	Debt Service Actual	Fund Totals Actual	Annual Budget	Variance Over (Under)	% Year to Date
Revenues over (under) expenditures	(3,737,886)	167,125	4,115,710	38,638	(2,071,013)	(361,583)	(1,849,009)	(9,072,428)	7,223,419	20.38
Other Financing Sources										
Transfers Into GF from LTF	1,774,419	0	0	0	0	0	1,774,419	1,878,560	(104,141)	94.46
Transfers Into GF from STA	2,082,523	0	0	0	0	0	2,082,523	2,961,382	(878,859)	70.32
Transfers Into GF from SAFE	125,000	0	0	0	0	0	125,000	125,000	0	100.00
Transfers Into DS from Capital	0	0	0	0	0	73	73	0	73	0.00
Transfers Out LTF	0	0	(1,774,419)	0	0	0	(1,774,419)	(1,927,560)	153,141	92.06
Transfers Out STA	0	0	0	(2,082,523)	0	0	(2,082,523)	(3,321,382)	1,238,859	62.70
Transfers Out SAFE	0	(125,000)	0	0	0	0	(125,000)	(125,000)	0	100.00
Transfers Out Capital	0	0	0	0	(73)	0	(73)	0	(73)	0.00
Total Other Financing Sources	3,981,942	(125,000)	(1,774,419)	(2,082,523)	(73)	73	0	(409,000)	409,000	0.00
Net Change in Fund Balances	244,056	42,125	2,341,291	(2,043,885)	(2,071,086)	(361,510)	(1,849,009)	(9,481,428)	7,632,419	
Beginning Fund Balance	1,732,833	2,776,112	792,882	7,484,673	5,480,289	2,309,266	20,576,055	11,643,000	8,933,055	
Ending Fund Balance	\$1,976,889	\$2,818,237	\$3,134,173	\$5,440,788	\$3,409,203	\$1,947,756	\$18,727,046	\$2,161,572	\$16,565,474	

**VENTURA COUNTY TRANSPORTATION COMMISSION
INVESTMENT REPORT
AS OF MY 31, 2010**

As stated in the Commission's investment policy, the Commission's investment objectives are safety, liquidity, diversification, return on investment, prudence and public trust with the foremost objective being safety. Below is a summary of the Commission's investments that are in compliance with the Commission's investment policy and applicable bond documents.

Institution	Investment Type	Maturity Date	Interest to Date	Rate	Balance
Wells Fargo – Checking	Government Checking	N/A	\$2,449.03	0.10%	\$1,920,220.66
Wells Fargo Fidelity MM	Fidelity Inst. Money Market Gov. Portfolio (FCGXX)	N/A	\$152.74	0.01%	870,373.05
County of Ventura	Treasury Pool	N/A	\$165,654.96	1.63%	10,084,643.49
Bank of New York	JP Morgan US Government Money Market (MJGXX)	N/A	\$38.46	0.08%	2,145,946.53
Bank of New York	U.S. Treasury Bill	02/25/10	\$85.00	0.02%	0.00
Bank of New York	U.S. Treasury Bill	05/06/10	\$366.02	0.08%	0.00
Bank of New York	U.S. Treasury Bill	08/26/10	\$0.00	0.20%	2,095,583.29
Bank of New York	U.S. Treasury Bill	10/21/10	\$0.00	0.24%	1,115,428.60
Total			\$168,184.91		\$18,232,195.62

Because the VCTC receives a large portion of their state and federal funding on a reimbursement basis, the Commission must keep sufficient funds liquid to meet changing cash flow requirements. For this reason, VCTC maintains checking and money market accounts at Wells Fargo Bank.

The Commission's checking accounts for the general fund and the Service Authority for Freeway Emergencies (SAFE) fund are swept daily into a money market account. The interest earnings are deposited the following day. The first \$250,000 of the combined deposit balance is federally insured and the remaining balance is collateralized by Wells Fargo Bank.

The Commission's general and SAFE funds are also invested in Fidelity money market funds which are also collateralized by Wells Fargo. These funds accrue interest daily and are deposited into the account the first day of the following month.

The Commission's Local Transportation Funds (LTF), State Transit Assistance (STA) funds and SAFE funds are invested in the Ventura County investment pool. Interest is apportioned quarterly, in arrears, based on the average daily balance. The investment earnings are generally deposited into the accounts in two payments within the next quarter.

The Debt Service and Capital funds for the Lewis Road bond are currently invested in JP Morgan money market funds at the Bank of New York (VCTC's bond trustee) as well as in United States Treasury Bills. The funds were invested to meet anticipated cash flow needs and the investment income will be booked at maturity.



Item # 9B

July 9, 2010

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION

FROM: MARY TRAVIS, MANAGER, TRANSPORTATION DEVELOPMENT ACT AND RAIL PROGRAMS

SUBJECT: RAIL OPERATIONS UPDATE

RECOMMENDATION:

- Receive and file.

DISCUSSION:

Metrolink Ridership:

Attached are a table and chart that summarize the Ventura Line ridership for the past several years including station-by-station counts of passengers boarding in the morning peak-hour period.

Metrolink On-Time Performance:

The Ventura Line's on-time performance (trains arriving within five minutes of scheduled time) continued to be very good. Overall, during the month of May, 97% of the inbound trips and 96% of the outbound trips ran on-time. There were no significant delays to any Ventura Line trains.

Special County Fair Train Service:

Once again, the Ventura County Fair Board will be working with VCTC and Metrolink to run special weekend trains service between Chatsworth and the County Fairgrounds. The special trains will run on August 7, 8, 14 and 15. Three round trips will run each weekend day with stops at all stations along the line except Montalvo. The schedule will be the same as last year with departures from Chatsworth at 9 AM, 11:30 AM and 1:30 PM. Return trips from the Fairgrounds will leave at 3:30 PM, 6:30 PM and 10:10 PM (right after the fireworks show). The ticket prices have been increased by \$1 from last year, and will be: \$14 roundtrip from Chatsworth, \$12 roundtrip from Simi or Moorpark, and, \$10 roundtrip from Camarillo and Oxnard. Children five and under ride free as do Metrolink monthly pass holders but there are no other special fares for this already discounted train.

With the cooperation of the cities of Camarillo, Moorpark and Simi Valley, as well as the Whistle Stop café at the Chatsworth Rail Station, train tickets can be purchased in advance beginning July 26th or at the stations on the day of travel. The Fair Board will also sell the train tickets by mail-order in advance in combination with admission and ride tickets.

This will be the seventeenth year these special Fair trains have operated and they are always popular with the public, as well as a great way to publicize the ongoing train service available to area commuters.

Metrolink Board Approves FY 10/11 Budget:

The Metrolink Board just adopted the FY 10/11 budget. Included in the budget action was final approval of a 6% average fare increase along with other fare adjustments, and also, service cuts including elimination of a midday round trip on the Ventura Line.

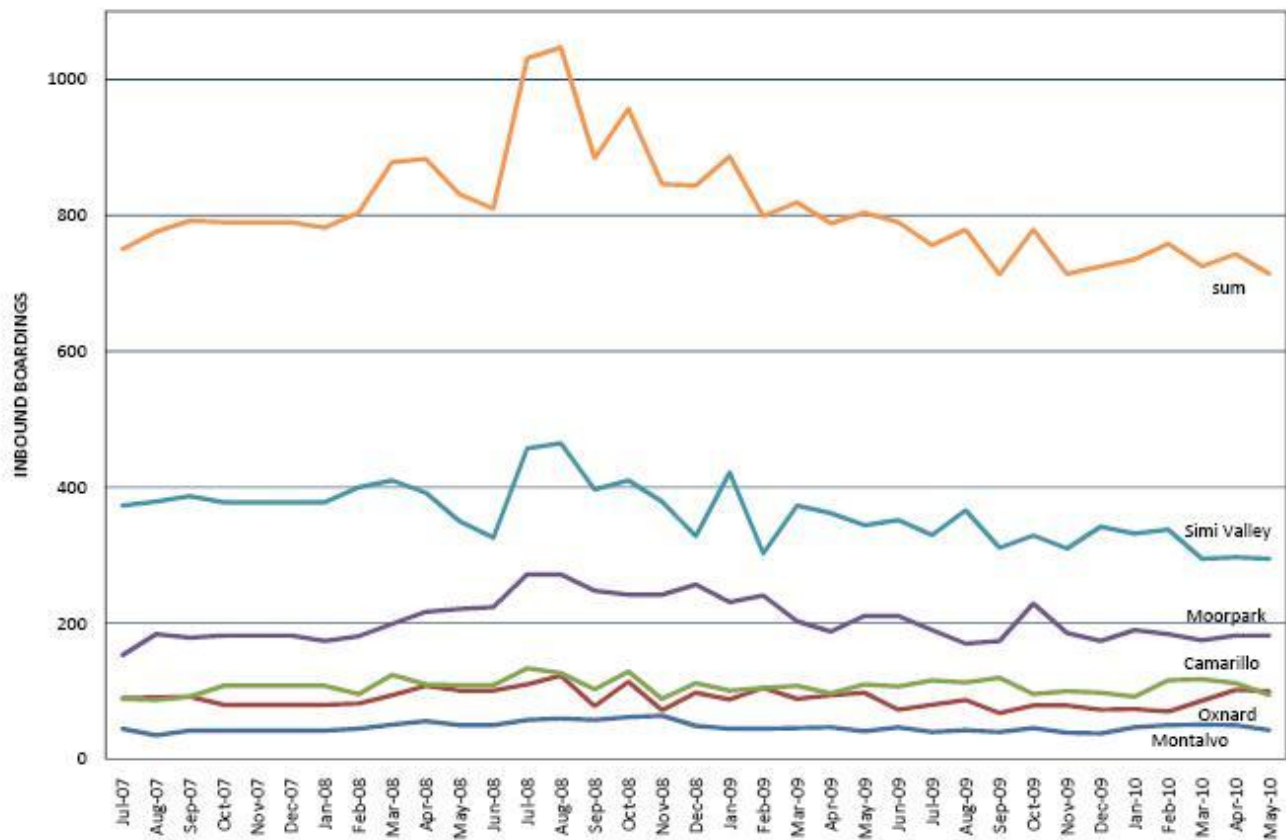
The \$586.4 million budget consists of operations/MOW at \$173.3 million (operations at \$145.6 million and Maintenance of Way at \$27.7) and a capital budget of \$413 million. It is estimated that fare and other operating revenues will be just over \$76 million or a revenue return of 53%.

A continuing major effort in the upcoming year will be development of the Positive Train Control (PTC) predictive collision avoidance system. PTC must be installed on all passenger intercity and freight railroads by 2015 with an earlier Metrolink goal of installation by December 2012. Also, in the upcoming year, the new locomotives, passenger and cab cars will be arriving and put into service. This new equipment has state-of-the-art design features incorporated that make these the safest in the nation.

MO/YR	Ventura County Line	VC County Portion	System Grand Total	MetroLink Rail 2 Rail on Amtrak North of LA
May-10	3,755	2,145	40,688	325
May-09	4,134	2,125	41,803	337
May-08	4,159	2,162	45,443	315
May-07	4,213	2,019	43,477	256
May-06	4,274	1,991	42,764	228
May-05	4,003	1,744	39,437	223
May-04	3,970	2,026	38,198	120
May-03	3,694	1,911	34,394	106
May-02	3,565	1,846	33,571	10
May-01	3,702	2,012	33,712	39
May-00	3,959	2,167	31,538	0

INBOUND BOARDINGS						
	Montalvo	Oxnard	Camarillo	Moorpark	Simi Valley	Total Line
May-10	43	100	94	182	295	1,259
May-09	41	98	110	211	344	1,474
May-08	50	101	109	221	350	1,577
May-07	40	93	116	180	345	1,489
May-06	59	99	91	185	378	1,529
May-05	21	97	76	175	334	1,411
May-04	33	72	61	154	295	1,388
May-03	9	94	71	166	277	1,282
May-02	0	94	71	214	253	1,344
May-01	0	94	71	193	310	1,187
May-00	0	82	69	232	308	1,287

VENTURA COUNTY LINE RIDERSHIP **(INBOUND AVERAGE WEEKDAY 2007-2010)**





Item #9C

July 9, 2010

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION
FROM: PETER DE HAAN, PROGRAMMING DIRECTOR
SUBJECT: STIMULUS PROGRAM UPDATE

RECOMMENDATION:

- Approve attached revised American Recovery and Reinvestment Act (ARRA) project list to remove \$318,000 from the Conejo Creek Bike Path project in Thousand Oaks and shift \$229,641 of those funds to the Moorpark Road Norwegian Grade Resurfacing project in Thousand Oaks.

BACKGROUND:

Under the provisions of the American Recovery and Reinvestment Act Federal Stimulus legislation, VCTC has until September 30 to shift funds from project cost savings for use in other projects. Furthermore, Caltrans has indicated that any request to reobligate funds for a new project must be submitted to them no later than July 1st.

The City of Thousand Oaks opened bids on the Conejo Creek Bike Path project and based on the bids has determined that the project will need to deobligate \$318,000 in Stimulus funds. This project was supposed to use the County's entire apportionment of \$1,071,359 of ARRA Transportation Enhancement (TE) funds, as well as \$229,641 of regular ARRA funds. Thousand Oaks has recommended that the \$229,641 of regular ARRA funds be reprogrammed to the Moorpark Road Norwegian Grade resurfacing project which is already out to bid and can obligate the funds prior to July 1st. There will still be an \$88,359 unused balance of ARRA TE funds but there does not appear to be any project in the county which can obligate the funds by July 1st, and furthermore it would be difficult to administer a project with such a small amount of Stimulus funds given the ARRA requirements. Caltrans has been notified that Ventura County agencies cannot use the \$88,359, and therefore funds are available to use elsewhere in the state, possibly combined with a larger project.

This recommendation was approved by the Transportation Technical Advisory Committee (TTAC) at its June 17th meeting.

VENTURA COUNTY PROGRAMMED STIMULUS HIGHWAY PROJECTS

(Recommended changes in bold italics.)

Project Description	Recommended Funds	Responsible Agency
Annual Pavement Rehabilitation at Various Streets Phase 1	\$1,099,966	Camarillo
Pavement Rehabilitation Various Streets (New Project)	\$519,192	Camarillo
Pavement Rehabilitation – 2008 High Priority On System Roads – Various	\$1,659,361	County
Bridge Deck Rehabilitation – Various Locations	\$487,274	County
Rose Avenue at Central Intersection Improvement	\$210,000	County
Pavement Rehabilitation 2009 On-System Roads – Phase A Various Locations	\$2,335,171	County
Katherine Street Rehabilitation	\$290,000	County
Pavement Rehabilitation – On-System Roads	\$262,293	County
Mountain View Street Overlay	\$400,000	Fillmore
Mountain Street and Spring Road Pavement Rehabilitation	\$618,566	Moorpark
Road Rehab Various Locations	\$400,000	Ojai
Traffic Signal Improvements – Various Locations	\$740,000	Oxnard
Bartolo Square South Street Improvements	\$1,091,462	Oxnard
Bartolo Square North Street Improvements	\$923,579	Oxnard
Local Street Rehabilitation	\$400,000	Port Hueneme
8 th Street Pavement Overlay	\$254,008	Santa Paula
Rehabilitation of Streets Citywide	\$242,408	Santa Paula
Pavement Rehabilitation – Phase I	\$1,080,532	Simi Valley
Rehabilitation of Streets Citywide	\$1,031,188	Simi Valley
Traffic Signal Kimball/Foothill	\$198,601	Ventura
Olive St Phase I Rehab	\$530,943	Ventura
Rehabilitation of Streets Citywide	\$700,000	Ventura
Wells Road Repaving	\$389,829	Ventura
Conejo Creek Bike Path	\$229,641	Thousand Oaks
Rehabilitation of Streets Citywide	\$861,553	Thousand Oaks
Norwegian Grade Rehabilitation	\$229,641	Thousand Oaks
Route 118 Widening in Simi Valley	\$6,507,000	Caltrans
Route 101/Rice Interchange Improvement	\$5,000,000	Oxnard
Route 101/23 Interchange Improvements Design	\$5,196,325	Thousand Oaks
Total	\$33,658,892	
TRANSP. ENHANCEMENTS		
Conejo Creek Bike Path	\$1,071,359 \$983,000	Thousand Oaks

VENTURA COUNTY PROGRAMMED STIMULUS TRANSIT PROJECTS

Project Description	Recommended Funds	Responsible Agency
Track/Structure/Signal Restoration	- \$3,278,136	SCRRA
Positive Train Control	\$ 2,480,000	SCRRA
Central Maintenance Facility Improvements and Keller Yard	\$ 960,000	SCRRA
Purchase of 3 new buses	\$ 1,260,000	City of Moorpark
Five large 12 passenger CNG cutaway vehicles	\$ 425,000	City of Thousand Oaks
Replacement supervisory vehicles and related equipment	\$ 185,000	Gold Coast Transit
Eight (8) new CNG-fueled 25' to 40' Transit Buses	\$ 3,014,559	Gold Coast Transit
Upgrade farebox system	\$ 553,441	Gold Coast Transit
Operations Facility Modernization	\$ 2,091,257	Gold Coast Transit
Transit Enhancements	\$ 101,723	Gold Coast Transit
ADA Paratransit Operations	\$ 1,000,000	Gold Coast Transit
Operating Assistance	\$ 640,000	Gold Coast Transit
Replace/upgrade deteriorated transit shelters	\$ 484,000	City of Simi Valley
Modernization of transit center garage	\$ 563,949	City of Simi Valley
Three (3) replacement CNG-fueled transit buses	\$ 1,380,000	City of Simi Valley
ADA Paratransit Operations	\$ 303,400	City of Simi Valley
Operating Assistance	\$ 303,400	City of Simi Valley
Two type II buses and three type I buses	\$ 245,514	Camarillo Health Care District
Scales for ADA Certifications	\$ 10,000	VCTC
Metrolink Operating Assistance	\$ 582,000	SCRRA
Total	\$ 19,861,379	
SECTION 5311 RURAL FUNDS		
Replace 3 LPG trolley buses	\$ 465,970	City of Ojai



Item # 9D

July 9, 2010

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION

FROM: MARY TRAVIS, MANAGER OF TRANSPORTATION DEVELOPMENT ACT AND RAIL PROGRAMS

SUBJECT: APPROVAL OF CONTRACT WITH NELSON/NYGAARD CONSULTING ASSOCIATES FOR COMPLETION OF STATE REQUIRED TRANSPORTATION DEVELOPMENT ACT (TDA) TRIENNIAL PERFORMANCE AUDITS FOR VCTC AND GOLD COAST TRANSIT

RECOMMENDATION:

- Approve a contract with Nelson/Nygaard Inc. for \$30,935 to complete the State required Transportation Development Act (TDA) triennial performance audits of VCTC and the Gold Coast Transit (GCT) agency.

DISCUSSION:

The State requires every three years that VCTC, in its role as the County Transportation Commission, and any transit operator using TDA Article 4 funds, undergo a performance audit to certify that these agencies are fully complying with the TDA legislative intent and regulations. Gold Coast Transit is currently the only Article 4 operator in Ventura County and is thereby the only transit operator subject to this requirement.

The last performance audit was completed in June 2008 and covered FY 04/05 - FY 06/07. This performance audit will look at fiscal years 07/8 through 09/10. The VCTC audit will focus on the major functions of a County Transportation Commission including local and regional transportation planning efforts, coordination activities and grant management. The Gold Coast audit will concentrate on operational efficiency and effectiveness. The Gold Coast performance audit will be presented to its' Board at their May 4, 2011 meeting, and both the VCTC and Gold Coast audits will come to the Commission for consideration at your June 3, 2011 meeting.

In April, a Request for Proposals (RFP) for a consultant to perform the audits was sent to fifteen consulting firms for their consideration. Although several firms responded to the RFP, only one firm submitted a proposal, Nelson-Nygaard Consultants.

Nelson/Nygaard Consulting \$30,935

After review of the proposal, VCTC and Gold Coast Transit staff recommend the performance audit contract be awarded to Nelson/Nygaard. Because Nelson/Nygaard completed the previous audit, they will not need extensive orientation before starting work and we believe they can therefore do a more in-depth review.

Funding for the performance audit contract is included in VCTC's adopted budget.

AGREEMENT FOR PROFESSIONAL PERFORMANCE AUDITING SERVICES

This is an Agreement by and between the Ventura County Transportation Commission, hereinafter referred to as VCTC, and Nelson/Nygaard Consulting Associates, hereinafter referred to as CONTRACTOR, for professional performance auditing services for fiscal years 2007/2008; 2008/2009, and, 2009/2010.

VCTC and CONTRACTOR agree as follows:

1. STATEMENT OF AGREEMENT

VCTC hereby engages CONTRACTOR, and CONTRACTOR hereby accepts such engagement, to perform the services on the terms and conditions herein described, and as set forth in Appendix A to this Agreement. CONTRACTOR hereby warrants that it has the professional qualifications, experience and facilities to properly perform said services and hereby agrees to undertake and complete the performance thereof.

2. DESCRIPTION OF SERVICES

The services to be performed by CONTRACTOR are those set forth in APPENDIX A of this Agreement, and the specifications attached thereto. All work by the CONTRACTOR shall be performed in a good and workmanlike manner.

3. CHANGES IN THE WORK

The VCTC may, at any time, by written order to CONTRACTOR make changes within the general Scope of Work, including but not limited to revising or adding to the work or deleting portions thereof. Upon agreement of the parties and receipt of notice of change to the Scope of Work, CONTRACTOR shall immediately take all necessary steps to comply therewith.

4. COMPENSATION

4.1 - The total compensation payable by VCTC, to CONTRACTOR, for the above stated services is not to exceed \$30,935.00. The VCTC shall not be obligated to pay CONTRACTOR for costs incurred in excess of this amount.

4.2 - CONTRACTOR will bill VCTC monthly for work accomplished during the month. VCTC will pay CONTRACTOR within thirty (30) days of approved receipt of invoice and monthly progress report. Each invoice shall be supported by an itemized statement of costs claimed to have been incurred by CONTRACTOR and its subcontractors in the performance of the Agreement during the period covered by each invoice.

5. PROGRESS AND COMPLETION

CONTRACTOR shall commence work on the services to be performed upon written authorization of the VCTC to proceed. All services shall be completed in accordance with the Attachment A to this Agreement. Monthly progress reports, which include a summary of the percent of work completed for each task during the billing period, will be provided by the CONTRACTOR with each invoice.

6. ASSIGNMENT AND SUBCONTRACTING

6.1 - This Agreement is for professional services and CONTRACTOR may not assign its rights under this Agreement nor delegate the performance of its duties without the VCTC's prior written consent.

6.2 - CONTRACTOR shall complete all work under this Agreement and as set forth in Attachment A. CONTRACTOR may assign duties to another contractor or to any subcontractor only upon prior written consent of the VCTC. Any assignment or delegation without VCTC's prior written consent shall be void.

7. RELATIONSHIP OF THE PARTIES

CONTRACTOR is, and at all times retains the status of, an independent contractor and shall represent the will of VCTC only as to the results of the subject matter of this Agreement, and not as to the manner in which the services herein are performed, except as provided in Attachment A. CONTRACTOR shall have complete control and responsibility over the details and performance of the services herein required to complete the Agreement, and in no event shall CONTRACTOR be considered an officer, agent, servant or employee of VCTC.

8. KEY PERSONNEL

MS. Linda Rhine, Principal, is considered essential to the work being performed under this Agreement; substitution for this individual will not be made without the prior written consent of the VCTC.

9. INSURANCE

9.1 - Insurance Required. With respect to performance of work under the project Agreement, CONTRACTOR shall maintain insurance as described Sections 9.2 and 9.3 below:

9.2 – Workers' Compensation Insurance. CONTRACTOR shall maintain, during the life of this Agreement, Workers' Compensation Insurance for all CONTRACTOR employees employed at the site of improvement, and in case any work is sublet, CONTRACTOR shall require any contractor or subcontractor similarly to provide Workers' Compensation Insurance for all contractor's or subcontractor's employees, unless such employees are covered by the protection afforded by CONTRACTOR. In case any class of employees engaged in work under this Agreement at the site of the project is not protected under any Workers' Compensation law, CONTRACTOR shall provide or shall cause each contractor and subcontractor to provide, adequate insurance for the protection of employees not otherwise protected. CONTRACTOR hereby agrees to indemnify, defend and hold harmless VCTC for any damage, penalty or fine resulting to it from a failure of either CONTRACTOR or any contractor or subcontractor to maintain such insurance.

9.3 - Public Liability and Property Damage Insurance. CONTRACTOR shall maintain during the life of this Agreement such public liability and property damage insurance as shall insure VCTC, its Commission, appointive boards, officers, agents, and employees, and any contractor or subcontractor performing work covered by this Agreement from claims for damages for personal injury, including death, as well as from claims for property damage which may arise from CONTRACTOR's or any contractors or subcontractors operations hereunder, whether such operations be by CONTRACTOR or any contractor or subcontractor, or by anyone directly or indirectly employed by either CONTRACTOR or any contractor or subcontractor, and the amounts of such insurance shall be as follows:

a. Public Liability Insurance. In an amount not less than \$1,000,000 for injuries, including, but not limited to death, to any one person and, subject to the same limit for each person, in an amount not less than \$1,000,000 on account of any one occurrence:

b. Property Damage Insurance. In an amount of not less than \$250,000 for damage to the property of each person on account of any one occurrence.

9.4 - Evidence of Insurance. CONTRACTOR shall furnish VCTC with the execution hereof, with satisfactory evidence of the insurance required under this Agreement, and evidence that each carrier is required to give VCTC at least thirty (30) days prior notice of cancellation or reduction in coverage of any policy during the effective period of this Agreement.

10. PERMITS

CONTRACTOR shall, at CONTRACTOR's expense, obtain all necessary permits and licenses necessary to perform and complete the work under this Agreement, give all notices, and pay all fees and taxes required by law. Any permits required from VCTC shall be granted to CONTRACTOR at no cost.

11. INDEMNIFICATION

Notwithstanding the existence of insurance coverage required of CONTRACTOR pursuant to this Agreement, CONTRACTOR shall save, keep, indemnify, hold harmless and defend VCTC and its appointed and elected officials, officers, employees and agents, from every claim or demand made and every liability, loss damage or expense of any nature whatsoever and all costs or expenses incurred in connection therewith, which arise at any time, by reason of damage to the property of, or personal injury to, any person, occurring or arising out of the performance of CONTRACTOR, its officers, agents or employees, including but not limited to, its subcontractors, of the work required pursuant to this agreement, occasioned by any alleged or actual negligent or wrongful act or omission by CONTRACTOR including any such liability imposed by reason of any infringement or alleged infringement of rights or any person or persons, firm or corporation, in consequence of the use in the performance of CONTRACTOR of the work hereunder of any article or material supplied installed pursuant to this agreement.

11.1 - CONTRACTOR will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations or liabilities and will pay all costs and expenses, including attorney's fees incurred in connection herewith;

11.2 - CONTRACTOR will promptly pay any judgment rendered against VCTC, its officers, agents or employees for any such claims, damages, penalties, obligations or liabilities; and,

11.3 - In the event VCTC, its officers, agents or employees, are made parties to any action or proceeding filed or prosecuted against CONTRACTOR for such damages or other claims arising out of or in connection with the sole negligence or wrongful acts of CONTRACTOR hereunder, CONTRACTOR agrees to pay VCTC, its officers, agents, or employees, any and all costs and expenses incurred by them in such action or proceeding, including but not limited to, reasonable attorney's fees.

12. NON-DISCRIMINATION

CONTRACTOR shall not discriminate in the hiring of employees or in the employment of subcontractors on the basis of sex, race, religion, age, natural origin, handicap, or any other basis prohibited by law. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act and applicable laws promulgated thereunder.

13. PREVAILING WAGES

All laborers employed or working upon the site of the work will be paid not less than the generally prevailing wage for that class of worker in Ventura County, in accordance with Section 1770 et. Seq. of the California Labor Code.

14. RECORDS AND AUDITS

The CONTRACTOR's accounting systems shall conform to generally accepted accounting principles (GAAP), enable the determination of costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers of CONTRACTOR connected with performance under this Agreement shall be maintained for a minimum of three years from the date of final payment to CONTRACTOR and shall be held open to inspection and audit by representatives of the State Auditor General, the Federal Highway Administration, or any duly authorized representative of the Federal Government.

15. ATTORNEY'S FEES

In the event an action is filed by either party to enforce rights under this Agreement, the prevailing party shall be entitled to recover a reasonable attorney's fee in addition to any relief granted by the court.

16. TERMINATION BY VCTC

This Agreement may be terminated by the VCTC at any time upon thirty (30) days written notice to CONTRACTOR. In full discharge of any obligation to CONTRACTOR in respect of this Agreement and such termination, the VCTC shall pay for the costs and noncancelable commitments incurred prior to the date of termination and fair closeout costs in accordance with Article 4. CONTRACTOR shall take all reasonable steps to minimize termination costs. In no event, however, shall the VCTC be obligated to pay CONTRACTOR any amount in excess of the total funds committed by the VCTC up to the time of termination to support the work.

17. NOTICES

17.1 - All notices to the VCTC under this Agreement shall be in writing and sent to:

Darren M. Kettle, Executive Director
Ventura County VCTC
950 County Square Drive, Suite 207
Ventura, CA 93003

17.2 - All notices to CONTRACTOR under this Agreement shall be in writing and sent to:

Ms. Linda Rhine, Principal
Nelson/Nygaard Consulting Associates
785 Market Street, Suite 1300
San Francisco, CA 94103

18. ENTIRE AGREEMENT, MODIFICATION, AND EFFECTIVE DATE

18.1 - This Agreement constitutes the entire Agreement between the parties and supersedes all previous agreements and understandings related to this work. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by a party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement, statement or promise not contained in the Agreement shall not be valid or binding.

18.2 - This Agreement may not be altered, amended, or modified except by a written instrument signed by the duly authorized representative of both parties.

18.3 - This Agreement shall be effective as of the issuance of a Notice to Proceed from the VCTC to CONTRACTOR.

19. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California. This Agreement is executed and to be performed in the County of Ventura.

20. FEDERAL CHANGES

The Contractor shall at all times comply with all applicable Federal Transit Administration (FTA) regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the grant agreements between the Ventura County Transportation Commission (VCTC) and FTA, as they may be amended or promulgated from time to time during the term of this contract. Failure by the Contractor to so comply shall constitute a material breach of this contract. In the event any such changes significantly affect the cost or the schedule to perform the work, the Contractor shall be entitled to submit a claim for an equitable adjustment under the applicable provisions of this contract.

21. NO GOVERNMENT OBLIGATIONS TO THIRD PARTIES

VCTC and the Contractor acknowledge and agree that, notwithstanding any occurrence by the Federal Government in or approval of this solicitation or award of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to City, the Contractor, or any other party (whether or not a party to this Contract) pertaining to any matter resulting from this Contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

22. DISADVANTAGED BUSINESS PARTICIPATION

The Ventura County Transportation Commission (VCTC) has established a DBE Program pursuant to 49 C.F.R. Part 26, which applies to this Agreement. The requirements and procedures of VCTC's DBE Program are hereby incorporated by reference into this Agreement. Failure by any party to this Agreement to carry out VCTC's DBE Program procedures and requirements or applicable requirements of 49 C.F.R. Part 26 shall be considered a material breach of this Agreement, and may be grounds for termination of this Agreement, or such other appropriate administrative remedy. Each party to this Agreement shall ensure that compliance with VCTC's DBE Program shall be included in any and all sub-agreements entered into which arise out of or are related to this Agreement.

CONTRACTOR's failure to make good faith efforts to comply with VCTC's DBE Program shall be considered a material breach of this AGREEMENT and may give rise to certain administrative penalties and proceedings, including, but not limited to, those set forth in 49 C.F.R. Part 26.107.

No later than Thirty (30) working days after receiving payment of retention from City for work satisfactorily performed by any of its subcontractors for services rendered arising out of or related to this Agreement, CONTRACTOR shall make full payment to its subcontractors of all compensation due and owing under the relevant subcontract agreement, unless excused by City for good cause pursuant to provisions of Section 22.1 below.

No later than Thirty (30) days after receiving payment of retention from City for work satisfactorily performed by any of its subcontractors for services rendered arising out of or related to this Agreement, CONTRACTOR shall also make full payment to its subcontractors of all retentions withheld by it pursuant to the relevant subcontract agreement, unless excused by City for good cause pursuant to provisions of Section 22.1 below.

22.1 Good Cause - CONTRACTOR may only delay or postpone any payment obligation (or retention) to any of its subcontractors for services rendered arising out of or related to this Agreement where, in City's sole estimation, good cause exists for such a delay or postponement. All such determinations on City's part that good cause exists for the delay or postponement of CONTRACTOR'S payment obligation to its subcontractor must be made prior to the time when payment to the subcontractor would have been otherwise due by CONTRACTOR.

23. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor"), and subcontractors agree as follows:

23.1 COMPLIANCE WITH REGULATIONS:

The Contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

23.2 NONDISCRIMINATION

In accordance with Title VI of the Civil Rights act, as amended, 42 U.S.C. 200d section 3 03 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. 12132, and Federal Transit laws at 49 U.S.C. 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

23.3 EQUAL EMPLOYMENT OPPORTUNITY

The following equal employment opportunity requirements apply to this Contract::

- a. Race, Color, Creed, National Origin, Sex – In accordance with title VII of the Civil Rights Act, as amended, 42 U.S.C. 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of the U.S. Department of Labor (USDOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246 Relating to Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the project for which this Contract work is being performed. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment of recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.
- b. Age – In accordance with section 4 of the Age discrimination in Employment Act of 1967, as amended, 29 U.S.C. 623 and Federal Transit laws at 49 U.S.C. 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reasons of age. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.
- c. Disabilities – In accordance with Section 102 of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, " Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- d. Immigration and Naturalization Act of 1986 – In connection with the execution of this Contract, the Contractor must comply with all aspects of the federal Immigration and Naturalization Act of 1986.

23.4 SOLICITATIONS FOR SUBCONTRACTORS, INCLUDING PROCUREMENT 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 procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.

23.5 INFORMATION AND REPORTS:

The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by City or the Federal Transit Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to City or the Federal Transit Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

23.6 SANCTIONS FOR NONCOMPLIANCE:

In the event of the Contractor's noncompliance with nondiscrimination provisions of this contract, City shall impose contract sanctions as it or the Federal Transit Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the Contractor under the contract until the Contractor complies; and/or
- b. cancellation, termination, or suspension of the contract, in whole or in part.

23.7 INCORPORATION OF PROVISIONS:

The Contractor shall take such action with respect to any subcontract or procurement as City or the Federal Transit Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request City, and in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

23.8 SUBCONTRACTS

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

24. ACCESS TO RECORDS AND REPORTS

The Contractor agrees to provide VCTC, the FTA Administrator, the Comptroller General of the United States or of any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making and conducting audits, inspections, examinations, excerpts, and transcriptions.

The Contractor also agrees, pursuant to 49 CFR 633.1.7, to provide the FTA Administrator or his or her authorized representatives, including any Project Management Oversight (PMO) contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described in 49 U.S.C. 5307, 5309 or 5311. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case the Contractor agrees to maintain such books, records, account and reports until the VCTC, the FTA Administrator, the Comptroller general, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

25. SUBCONTRACTORS' CERTIFICATE REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY OR VOLUNTARY EXCLUSION

25.1 The Contractor shall include in each subcontract exceeding \$100,000, regardless of tier, a clause requiring each lower tiered subcontractor to provide the certification set forth in paragraph B of this section. Each subcontract, regardless of tier, shall contain a provision that the subcontractor shall knowingly enter into any lower tier subcontract exceeding \$100,000 with a person who is disbarred, suspended or declared ineligible from obtaining federal assistance funds. If a proposed subcontractor is unable to certify to the statements in the following certification, the Contractor shall promptly notify City and provide all applicable documentation.

25.2 Each subcontractor with a subcontract exceeding \$100,000 shall certify as follows:

Subcontractor's Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

- a. _____ ("subcontractor") certifies, by submission of its proposal to _____ ("Contractor"), that neither it nor its "principals" (as defined in 49 CFR 29.105(p)1 is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in contracts by any Federal department or agency.
- b. If subcontractor is unable to certify to the statements in the certification, subcontractor has attached a written explanation to its proposal to the Contractor.

26. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. And U.S. Department of Transportation (DOT) regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Contract. Upon execution of this Contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this Contract or the FTA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. 5307, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

27. LOBBYING

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

28. COPELAND ANTI-KICKBACK ACT

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

29. ENVIRONMENTAL REQUIREMENTS

The Contractor agrees to comply with all applicable standards, orders or requirements as follows:

- 29.1 Clean Air
The contractor shall comply with all air pollution control rules, regulations, ordinances and statutes which apply to any work performed pursuant to the Contract, including any air pollution control rules, regulations, ordinances and statutes, specified in Section 1 1017 of the California Government Code. All Contractors and suppliers shall be required to submit evidence, if requested, to City that the governing air pollution control criteria will be met. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 under this Contract.
- 29.2 Clean Water
The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to City. City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 under this Contract.
- 29.3 Energy Conservation
The Contractor shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act (42 U.S.C., Section 6321 et seq.).

30. RECYCLED PRODUCTS

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. 6962, including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

31. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions in this Section (FTA Requirements) include, in part, certain Standard Terms and Conditions required by the U.S. Department of transportation (DOT), whether or not expressly set forth in the preceding provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1D, dated April 15, 1996 as it may be amended from time to time, are hereby incorporated in this Contract reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act or refuse to comply with any requests of the VCTC which would cause the VCTC to be in violation of the FTA terms and conditions.

32. BREACHES AND DISPUTE RESOLUTION PROCEDURE

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of VCTC. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the VCTC. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the VCTC shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by VCTC, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a

claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the VCTC and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of California.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the VCTC, Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

33. TERMINATION

Termination for Convenience - The VCTC, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default [Breach or Cause] - If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the VCTC may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the VCTC, that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the VCTC, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

Opportunity to Cure (General Provision) - The VCTC in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to VCTC's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor or written notice from VCTC setting forth the nature of said breach or default, VCTC shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude VCTC from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach - In the event that VCTC elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by VCTC shall not limit VCTC's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

34. PROTEST PROCEDURES

The Federal Transit Administration will only review protests regarding alleged failure of VCTC to follow the written and adopted Contract Protest Procedures.

35. FTA ROLE IN BID PROTESTS

Protestors shall file a protest with FTA not later than five days after a final decision is rendered under the VCTC's protest procedure. In instance where the protestor alleges that the VCTC failed to make a final determination on the protest, protestors shall file a protest with FTA not later than five days after the protestor knew or should have known of VCTC's failure to render a final determination on the protest.

Protests should be filed with the appropriate FTA Regional Office with a concurrent copy to the grantee. The protest filed with FTA shall:

Include the name and address of the protestor.

Identify the grantee, project number, and the number of the contract solicitation.

Contain a statement of the grounds for the protest and any supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures and be fully supported to the extent possible.

Include a copy of the local protest filed with the grantee and a copy of the grantee's decision, if any.

FTA may dismiss the protest without further process if the protest, as originally filed, fails to establish grounds for FTA review.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

VENTURA COUNTY TRANSPORTATION COMMISSION

Darren M. Kettle, Executive Director

Date

APPROVED AS TO FORM:

Mitchel B. Kahn, General Counsel

Date

CONTRACTOR – NELSON/NYGAARD CONSULTING ASSOCIATES

Signature
Linda Rhine, Principal

Date

APPENDIX A

PROGRAM DESCRIPTION AND WORK SCOPE SUMMARY

A.1 BACKGROUND

In accordance with Section 99246 of the Public Utilities Code, the Ventura County Transportation Commission (VCTC) will be contracting for performance audits of its activities, and also, the activities of the major western Ventura County transit operator, Gold Coast Transit (GCT), to which the VCTC allocates Transportation Development Act (TDA) Article 4 funds. The performance audits will cover activities during Fiscal Years 2007/2008, 2008/2009 and 2009/2010.

A.1.1. The Ventura County Transportation Commission

The VCTC is the transportation planning agency serving the Ventura County area. Member agencies include the ten incorporated cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura, Santa Paula, Simi Valley and Thousand Oaks, and, the County of Ventura.

In addition to administering the TDA Program, VCTC is responsible for conducting a continuing, comprehensive, and cooperative transportation planning process and is the designated recipient for federal transportation funds. The Commission has been designated the Airport Land Use Commission (ALUC); the Consolidated Transportation Service Authority (CTSA); the Service Authority for Freeway Emergencies (SAFE); and, the Congestion Management Agency. VCTC currently has eighteen employees. The annual budget, including federal and state pass-through funds, is about \$60 million.

The Commission is governed by a Board consisting of all five county supervisors, an elected official from each of the ten cities, a citizen commissioner appointed by the cities, a citizen commissioner appointed by the County Supervisors, and, the ex officio member appointed by the Governor; this is the Director of Caltrans District 7.

A.1.2. Description of Gold Coast Transit (GCT)

Gold Coast Transit (GCT) is a joint powers authority transit operator and is the major public transit provider for Western Ventura County, with a service area that includes the cities of Ojai, Oxnard, Port Hueneme, and San Buenaventura, and the unincorporated county areas between these cities.

GCT was originally named South Coast Area Transit (SCAT), and was formed in 1973 through a Joint Powers Authority agreement among the cities of San Buenaventura, Oxnard, Ojai, and Port Hueneme; the agreement was later amended to include the City of Santa Paula and the County of Ventura. In FY 94/95, the City of Santa Paula withdrew from the JPA to participate instead in a contract transit operation arranged by VCTC, that is, the Ventura Intercity Service Transit Authority or VISTA.

GCT directly provides fixed route services and contracts with a private operator to provide Americans with Disabilities Act (ADA) and senior curb-to-curb service. In Fiscal Year 09/10, GCT is operating sixteen routes with a bus fleet inventory of 54 transit vehicles and 24 ADA vehicles. All are CNG vehicles. The system currently has a farebox return of 20% with an FY 09/10 operating budget of about \$16.5 million. The total annual boardings are about 3.6 million riders. GCT has fifteen administrative/support staff, 110 transit operations employees and twenty maintenance department workers.

A.1.3. Available Documents and Material

VCTC was formed in 1989, and has six previous triennial performance audits on file.

GCT was formed in 1973 and has nine triennial performance audits from past years. The last triennial performance audits for both VCTC and GCT were conducted by Nelson Nygaard & Associates and covered Fiscal Years 04/05 through 006/07.

Also available for examination are VCTC's annual midyear and beginning year budget program documents; TDA annual fiscal and compliance audits for all claimants; annual financial audits of VCTC and GCT; and, GCT's annual Short Range Transit Plans (S RTP).

A.2. SCOPE OF WORK

Public Utilities Code Section 99246(b) states that the performance audit shall evaluate the efficiency, effectiveness and economy of the operation of the entity being audited. The audits must be conducted in compliance with relevant sections of the Transportation Development Act and shall evaluate the efficiency, effectiveness, and economy of the operation of the entity being audited and shall be conducted in accordance with the efficiency, economy, and program results portions of the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

A.2.1. Performance Audit of VCTC

The consultant will be required to perform the following tasks as part of the audit of VCTC, the regional transportation planning entity:

(a) Determine Compliance with Legal and Regulatory Requirements

The consultant will be required to review and determine the VCTC's compliance with the Transportation Development Act and related sections of the California Code of Regulations. The specific Code Sections for which compliance is to be verified are those specified within the Transportation Development Act. Should the consultant identify instances of non-compliance, a finding regarding the non-compliance should be made in the audit report.

(b) Review VCTC Functions

The consultant will review each VCTC TDA-related function consistent with the efficiency, economy, and program results portions of the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." The functional review is expected to include interviews with VCTC management and staff.

A.2.2. Performance Audit of GCT

The consultant will be required to perform the following tasks as part of the transit performance audit of GCT:

(a) Determine Compliance with Statutory and Regulatory Requirements

The consultant will be required to review and determine the operator's compliance with the Transportation Development Act and related sections of the California Code of Regulations. At a minimum, the Code Sections for which compliance is to be verified are those specified within the Transportation Development Act. Should the consultant identify instances of non-compliance, a finding regarding the non-compliance should be made in the audit report.

(b) Follow-up Prior Performance Audit Recommendations

The consultant will review the most recent prior performance audits for the operator and assess the operators' implementation of audit recommendations. The auditor will need to make determinations as to whether recommendations which have not been implemented are (a) no longer applicable, (b) infeasible, or (c) should still be implemented. If a prior audit recommendation has not been implemented but still has merit, the consultant should include the prior audit recommendation in the current audit report. The consultant will evaluate recommendations which have been implemented or are being implemented. For these recommendations, the consultant should assess the benefits provided (or likely to be provided) by the recommendation. Significant accomplishments in implementing prior recommendations should be recognized.

(c) Verify Performance Indicators

As part of the performance audit, Section 99246 of the Public Utilities Code requires verification of five performance indicators: operating cost per passenger, operating cost per vehicle service hour, passengers per vehicle service hour, passengers per vehicle service mile, and vehicle service hours per employee. The consultant will review and validate the operator's collection of basic data needed to calculate these indicators for each fiscal year in the triennium. The consultant will be expected to analyze performance indicators with the intent of identifying potential issues or concerns that may need further examination during the functional review.

The performance audit may include performance evaluations both for the entire system and for the system excluding special, new or expanded services instituted to test public transportation service growth potential. As part of the functional review described below, the consultant will be expected to select, calculate and analyze additional performance indicators which are appropriate to identify, quantify and/or resolve performance problems and potential areas for improvement.

(d) Review Operator Functions

The consultant will review each operator function, consistent with the Transportation Development Act. The functional review is expected to include interviews with the operator's management and staff.

A.3. PROJECT SCHEDULE

July 9, 2010	VCTC Approval of Consultant
July 12, 2010	Consultant Kick-off Meeting with VCTC and GCT staff
February 11, 2011	Preliminary Draft Audits for VCTC and GCT delivered to VCTC
March 16, 2011	Final Draft Audits for VCTC and GCT delivered to VCTC
April 11, 2011	Final performance audits delivered to VCTC and GCT
May 4, 2011	Presentation of GCT Audit to GCT Board
June 3, 2011	Presentation of GCT/VCTC Audits to VCTC



Item # 9 E

July 9, 2010

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION

FROM: MARY TRAVIS, MANAGER OF TRANSPORTATION DEVELOPMENT ACT AND RAIL PROGRAMS

SUBJECT: MEMORANDUM OF UNDERSTANDING WITH COUNTY FAIR BOARD FOR SPECIAL 2010 METROLINK TRAIN SERVICE

RECOMMENDATION:

- Approve and authorize the Executive Director to sign a Memorandum of Understanding with the County Fair Board to operate special, weekend-only Metrolink train service to the County Fair August 7, 8, 14 AND 15, 2010.

DISCUSSION:

Beginning in August 1993, VCTC has worked each year with the County Fair Board to provide special, weekend-only Metrolink train service to the Ventura County Fair with stops in Chatsworth, Simi Valley, Moorpark, Camarillo, Oxnard and the Fairgrounds Station. The special train operation helps reduce traffic and parking congestion at the Fairgrounds, and also, provides an opportunity for VCTC and Metrolink to “market” the trains to people who might then use Metrolink on a regular basis. Last year, about 11,000 people rode the special trains over the four days of weekend service.

The Fair Board pays the bill to operate the trains, and by working with VCTC, the Fair Board gets a discounted price for the charter service. The Fair Board works with VCTC and Metrolink to arrange a schedule tailored to the Fair hours without disruption to the regular Amtrak weekend schedule. The Fair Board also sets the passenger ticket prices and arranges for ticket sales. They purposely keep the cost low to encourage more riders. Any operating costs not covered by the ticket sales are paid by the Fair Board.

VCTC sends out press releases for the special trains and arranges for the Camarillo, Moorpark and Simi Valley city halls, as well as the Whistlestop Café in Chatsworth, to sell train tickets in advance. VCTC also coordinates the volunteers from the Santa Clara River Valley Railroad Historical Society (SCRVRHS) who serve as honorary conductors on the trains, and staff is available on the Fair weekends to make sure the service runs smoothly.

Funding for the Fair Train is included in the adopted FY 10/11 VCTC budget. All the operating expenses are paid by ticket sales and other Fair Board funds. The VCTC expenses for staff time and volunteer recognition come from the rail funds included in the Metrolink Project tasks.

The attached Memorandum of Understanding between VCTC and the County Fair Board formalizes the arrangements for the special train operation.

**MEMORANDUM OF UNDERSTANDING BETWEEN
VENTURA COUNTY TRANSPORTATION COMMISSION
AND
THE VENTURA COUNTY FAIR BOARD**

This agreement is made and entered into this 9th day of July, 2010 by and between the VENTURA COUNTY TRANSPORTATION COMMISSION (hereinafter referred to as "VCTC") and VENTURA COUNTY FAIR BOARD (hereinafter referred to as "FAIR BOARD").

WHEREAS, the Ventura County Fair is held annually during August at the County Fairgrounds adjacent to the Ventura Train Station; and,

WHEREAS, the FAIR BOARD desires to operate special, weekend-only Metrolink train to the 2010 County Fair on August 7, 8, 14 and 15 to mitigate traffic congestion in the vicinity of the Fairgrounds; and,

WHEREAS, VCTC is one of five agencies which operates Metrolink commuter rail service on weekdays and joins the FAIR BOARD in desiring to improve air quality and reduce congestion by providing a viable alternative to private automobile travel to the Fair on weekends; and

WHEREAS, VCTC wishes to use this opportunity to market Metrolink train service to passengers who might then ride the train during its' usual weekday operation.

NOW THEREFORE, it is mutually agreed by and between the parties that special, weekend Metrolink train service will be operated as follows:

1. The FAIR BOARD will fully reimburse VCTC for the cost of train operations for the special weekend service.
2. The FAIR BOARD will provide VCTC with complimentary admission and train ride tickets for volunteers assisting with the special service on the trains and at the stations.
3. VCTC will work with the FAIR BOARD and Metrolink to arrange the operating schedule and service details, including the deployment of Metrolink field representatives at Chatsworth, Simi Valley, Moorpark, Camarillo and Oxnard stations on the weekend days of service.
4. VCTC will work with the FAIR BOARD to arrange advance ticket sales for the train trips at the Camarillo, Moorpark and Simi Valley city halls, and also, at the Whistlestop Café at the Chatsworth Train Station.
5. VCTC will collect advance ticket sale revenues and forward the money to the FAIR BOARD to offset operating costs.
6. VCTC will send press releases about the train service to the Daily News and the Ventura County Star newspapers.
7. VCTC will arrange for volunteers from the Santa Clara River Valley Railroad Historical Society (SCRVRHS) to assist the Metrolink crews during the operations, and will provide the volunteers coupons for meals while on duty and also make a donation to the SCRVRHS for their services.

IN WITNESS WHEREOF, the authorized parties have signed below:

VCTC

VENTURA COUNTY FAIR BOARD

By: _____
Darren Kettle, Executive Director

By: _____
Barbara Boester-Quaid, Chief Executive Officer



Item #9F

July 9, 2010

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION
FROM: ED WEBSTER, TRANSIT DEPENDENT PROGRAMS MANAGER
SUBJECT: AUTHORIZE CALLS FOR PROJECTS FOR FTA SECTION 5316 (JOBS ACCESS AND REVERSE COMMUTE-JARC) AND SECTION 5317 (NEW FREEDOM INITIATIVE) GRANTS

RECOMMENDATION:

- Authorize calls for projects for FTA Section 5316 and 5317 funds, using VCTC's previously approved criteria for JARC and New Freedom projects

BACKGROUND:

The Federal Transit Administration (FTA) has funds available annually through Section 5316 (Jobs Access and Reverse Commute, or JARC) and Section 5317 (New Freedom) programs. The JARC and New Freedom funds are apportioned directly to large urbanized areas including the Oxnard/Ventura and Thousand Oaks/Moorpark. VCTC serves as the Designated Recipient for JARC and New Freedom funds for the Oxnard/Ventura and Thousand Oaks/Moorpark areas.

To be eligible in either of these programs, projects must be included in the Coordinated Human Services Transportation Study for Ventura County. For JARC and New Freedom funds, eligible projects include promotion and administration of transit vouchers, employer-provided transit, and transit passes; travel training; expansion of service to the disabled; late-night and weekend transit service; shuttle service; local car loan programs for shared rides; and vanpools.

Staff anticipates that additional JARC and New Freedom funds will be available for the small urbanized areas in Ventura County (Simi Valley and Camarillo) and also for rural areas, such as Santa Paula, Fillmore and much of the unincorporated area, sometime this fall/winter. In addition, Caltrans staff has informed us that Section 5310 funds (Elderly and Disabled) may become available later this year. JARC and New Freedom funds for the small urban and rural areas, as well as Section 5310 funds, are programmed on a statewide competitive basis, with VCTC responsible for determining initial priorities within Ventura County and then forwarding these priorities to Caltrans. When these funds become available, VCTC staff will coordinate calls for projects for these programs as well.

FUNDING AVAILABILITY ESTIMATES

Carry-over JARC funds in the amount of approximately \$154,000 are currently available in the Oxnard/Ventura urbanized area. In addition, FY 2010/11 JARC and New Freedom funds can be programmed now so that projects that will be ready next year can receive funding as soon as the apportionment becomes available.

The following table shows the funds available for the two large urbanized areas in Ventura County:

	<u>JARC</u>	<u>New Freedom</u>	<u>Total</u>
Oxnard/Ventura 2010/11	\$195,000	\$126,000	\$ 300,000
Carry-over	\$154,000	-	\$154,000
T.O./Moorpark 2010/11	\$105,000	\$ 54,000	\$180,000
Advanced Programming	-	(\$ 36,000)	(\$ 36,000)
TOTAL	<u>\$454,000</u>	<u>\$144,000</u>	<u>\$598,000</u>

SCHEDULE

Following is the schedule for nomination and selection of projects.

Announcement of Project Selection Process / Availability of Applications	August 15, 2010
JARC/New Freedom Applications Due to VCTC	November 15, 2010
JARC/New Freedom Review by Transit Operators	December, 2010
JARC/New Freedom Approval by VCTC	January, 2011
FTA Grant Approval for Large Urban Projects	Spring, 2011

PRIORITIZATION CRITERIA

The Attachment provides the previously-approved quantitative prioritization criteria for JARC and New Freedom, which staff recommends VCTC continue to use.

ATTACHMENT

JARC - NEW FREEDOM PROJECT SCREENING / PRIORITIZATION CRITERIA

Screening Criteria

For a project to be eligible for funding, it must meet the Federal eligibility requirements for New Freedoms or JARC. These requirements are as follows:

Program Requirements:

For JARC a project must provide transportation in one of the following categories:

- (1) Designed to transport low-income persons or welfare recipients to jobs and employment-related activities.
- (2) Designed to transport workers to suburban employment opportunities.

For the New Freedom Initiative, project must be targeted to provide service to the disabled, and meet *both* of the following requirements:

- (1) Be a new service, not in operation as of August, 2005; and,
- (2) Be a service which goes beyond the minimum ADA requirements.

Local Match: Project sponsors must be able to provide the Federally-required match, which is 20% of the total cost of capital projects and 50% of the total subsidy for operating costs.

Inclusion in Plan: Project must fall within the recommendations of the VCTC Human Service Transportation Coordination Study, adopted April 13, 2007.

Federal Grant Requirements: The recipient agency must be able to meet the Federal Transit Administration's conditions for use of its funds. These conditions include, but are not limited to: annual outside audit; triennial FTA audit; five-year grant records retention; development of a written maintenance plan for FTA-funded vehicles, facilities, and equipment; competitive procurement; buy America; ADA; and civil rights. (Drug and alcohol testing is not a requirement for these programs.) Agencies receiving funds will need to have in place a signed agreement committing to meeting FTA requirements. Details regarding Federal requirements can be found at <http://www.fta.dot.gov/FY2007TriReview/contents.htm>.

Prioritization Criteria

VCTC will use the following criteria to prioritize projects. Scoring and ranking will be done separately for the JARC and New Freedom categories. For projects receiving Large Urbanized Area funds, the projects selected by VCTC will be funded after approval by VCTC. (For projects receiving funds in the State's share, sponsors of projects prioritized by VCTC, upon receiving notification from VCTC, will need to prepare a Caltrans application which VCTC will forward to Caltrans for the final selection.)

1. **Addressing of Needs - Goals and Objectives (25%):** Degree to which project directly addresses transportation gaps and/or barriers identified through the VCTC Human Service Transportation Study. Application should clearly state the program goals and objectives, i.e., how well does the project address the needs and service gaps. Priority for New Freedoms funds will be given to projects falling within the specific categories recommended in the VCTC Human Service Transportation Study. These categories are as follows: (1) Establishment of ADA core operating hours between 7:00 a.m. and 7:00 p.m. on weekdays; (2) ADA Sunday service; and (3) Travel Training Program. Projects for the JARC funds were identified in the VCTC Human Service Transportation Study as continuing and expanding the programs developed by the VCTC Partnerships to Restore Independence and Dignity through Employment (PRIDE) program. These elements include providing transit information, including transit itineraries; providing smartcards, bus passes and tokens, support for vanpool and rideshare activities and programs. In addition, the priority selection process also targets the provision of transit services which provide for the underserved targeted populations.

2. Performance Effectiveness- Cost Effectiveness (25%): Ability to meet stated mobility goals at reasonable cost. Project sponsors should explain how the project is expected to perform in terms of performance criteria such as number of patrons served, or patron convenience, and show that the expenditure is cost effective for both the project and the overall transportation system. The application should identify clear, measurable outcome-based performance measures to track the effectiveness of the service in meeting the identified goals. A plan should be provided for ongoing monitoring and evaluation of the service, and steps to be taken if original goals are not achieved.
3. Implementation Plan (20%): Degree to which the project implementation has been well designed. Proposals must demonstrate how they will be implemented, who will be responsible for the implementation, and what are the implementation steps and timeline. The plan should identify key personnel assigned to the project, and their qualifications.
4. Sustainability- Short Term Budget And Long Term Potential (15%): Degree to which the application demonstrates a well-developed financial plan for successful implementation. The application must include a clearly-defined budget, and an indication of anticipated expenditures and revenues
5. Coordination and Outreach - Community Support (15%): Demonstrated public support for the project (including letters of support), as well as the degree to which the project sponsor's plan, as described in the application, promotes public awareness. Also, how the project will make the target community aware of it and encourage use.



Item #10

July 9, 2010

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION
FROM: ED WEBSTER, TRANSIT DEPENDENT PROGRAMS MANAGER
SUBJECT: REVISED COORDINATED AMERICANS WITH DISABILITIES ACT (ADA) ELIGIBILITY CRITERIA AND CERTIFICATION GUIDELINES- (PUBLIC HEARING)

RECOMMENDATION:

- Adopt Revised Coordinated ADA Eligibility Criteria and Certification Guidelines.
- Direct that the provisions of the Revised Guidelines go into effect immediately, with the exception of the appeals panel composition.
- Direct that the appeals panel composition from the previous Guidelines (1992) remain in effect until the new appeals panel members have been recruited (expected September, 2010).

BACKGROUND:

The Americans with Disabilities Act generally requires that fixed route transit operators provide “comparable complementary paratransit service” for disabled passengers who are unable to use the fixed route bus service due to their disability. The ADA also establishes regulations about how to determine which passengers are eligible to use ADA paratransit and under what circumstances.

In Ventura County, individual transit operators provide the ADA paratransit service, and the Ventura County Transportation Commission (VCTC) is the agency which determines whether or not (or under what conditions) individual passengers are ADA eligible. Until recently, VCTC has implemented the certification process in house; however, this process has recently been modified to provide for a contractor (Mobility Management Partners, Inc.) to perform the certifications.

The Ventura County Transportation Commission Coordinated ADA Eligibility Criteria and Certifications Guidelines are instructions for considering the eligibility of Ventura County residents for ADA paratransit service. The current Guidelines were adopted in 1992. In addition to laying out the process for certifying passengers for ADA paratransit, they provide for an appeal process for applicants not granted eligibility (or granted conditional eligibility, with conditions not acceptable to the applicant).

Due to a number of issues, including the possible changing structure of the ADA certification process (from in house VCTC to a consultant), in August 2008, the VCTC Transit Operators Advisory Committee (TRANSCOM) established an ADA Task Force to consider revisions to the ADA Certification Guidelines.

The resulting draft Guidelines, which are attached to this agenda item, include the following revisions:

- ADA Certifications provided by a contractor rather than VCTC staff
- A revised ADA appeals process and makeup of appeals panels
- A revised list of conditions which may apply to “conditional approvals”
- Elimination of Certification Review Panels (which have not been implemented) for reviewing applications before approval/denial
- A VCTC Oversight section, allowing VCTC to modify a certification decision based on new circumstances/information about an applicant
- Deletion of a partial listing of eligibility criteria (former Appendix B)

In particular the new guidelines call for appeals panels which include, a representative of a transit operator, a paratransit rider recommended by an operator or social service agency, a volunteer professional with related medical or therapy training, a representative of a social service agency dealing with disabled individuals and a member of VCTC’s Citizen’s Transportation Advisory Committee/Social Services Transportation Advisory Council (CTAC/SSTAC). Since it will take some time to recruit the members for these panels, staff recommends that the implementation of this provision of the Guidelines be delayed for approximately two months.

VCTC Staff has provided notice to the public about these proposed changes in legal notices (Ventura County Star May 26, 2010, Vida May 27, 2010) and a newspaper advertisement (Ventura County Star May 28, 2010). Staff has also brought the draft revisions to VCTC’s CTAC/SSTAC at their meeting on June 1, 2010. There have been no negative comments about the proposal to date, and staff has made one minor change based on input at the CTAC/SSTAC (concerning the certification of children).



**VENTURA COUNTY TRANSPORTATION COMMISSION
COORDINATED ADA ELIGIBILITY CRITERIA
AND CERTIFICATION GUIDELINES**

JULY 2010

**VENTURA COUNTY
COORDINATED ADA ELIGIBILITY CRITERIA
AND CERTIFICATION GUIDELINES**

The Americans with Disabilities Act (ADA) is civil rights legislation intended to ensure that transit agencies do not discriminate against persons with disabilities in the provision of fixed route services. ADA encourages persons with disabilities to use fixed route service to the maximum extent possible by emphasizing access to such service. The complementary paratransit service prescribed by ADA is intended for those individuals who are unable to use fixed route service. Consequently, to qualify to use ADA complementary paratransit services, persons with disabilities must be found functionally unable to use accessible fixed route service and certified as being eligible to use complementary paratransit service.

The Ventura County Transportation Commission (VCTC), on behalf of the Ventura County fixed route transit operators, has developed a coordinated countywide eligibility process to provide certification to those individuals who qualify for ADA paratransit services. This process will be administered by the VCTC ADA Certification Coordinator (currently the title of this position is Manager-Transit Dependent Programs) in cooperation with the Ventura County transit operators.

Currently, ADA Eligibility Certifications are processed and issued by Mobility Management Partners, Inc. (ADA Certification Contractor) under the supervision of VCTC's ADA Certification Coordinator.

The eligibility certification process has been designed to conform to the requirements of the ADA, its implementing regulations and to meet the needs of Ventura County transit operators and the community served by these operators. The certification process described here has been designed to address only ADA paratransit eligibility; it does not address any other paratransit service which may be provided by transit operators.

The ADA clearly intends that complementary paratransit service be provided for those individuals whose disability prevents them from using the regular fixed-route system. The proposed certification process is designed to clearly identify eligible individuals without greatly inconveniencing the applicant.

DEFINITION OF ADA PARATRANSIT ELIGIBILITY FOR VENTURA COUNTY

In accordance with ADA Subpart F-Paratransit as a Complement to Fixed Route Service, Section 37.123 (Appendix A), an ADA paratransit eligible rider is an individual who is unable to independently board, ride, disembark, or access a fixed-route vehicle due to:

1. A physical or mental impairment, including a visual impairment, which precludes an individual from using accessible fixed route transportation;
2. Lack of provision of accessible fixed-route equipment; or
3. A specific impairment-related condition, which in relation with the physical environment, prevents travel to or from the fixed-route system.
 - a. A condition that makes traveling to or from boarding and disembarking location more difficult, but not impossible, does not qualify.
 - b. Architectural barriers not under the control of the transit provider and environmental barriers do not, alone, qualify an individual. The interaction of the impairment-related condition and barriers may qualify, if the combination prevents the individual from traveling to the boarding or disembarking location.

To be considered eligible for ADA paratransit service in Ventura County, the individual must meet one or more of the criteria described below. Examples of eligible disabilities follow each criterion; however, this list is neither exhaustive nor all-inclusive.

1. Inability, with or without limited assistance from the fixed route vehicle's driver to board, ride or disembark from an accessible fixed route vehicle. Examples include:
 - a. Inability to ascend and/or descend steps or to ride a lift as it ascends or descends.
 - b. Inability to understand fares, bus schedules and routes, transfers, etc.
 - c. Inability to ascertain the appropriate fixed route vehicle.

2. Inability to use the fixed route bus or rail system, with or without the assistance of the driver, because the system is inaccessible. Examples include:
 - a. The fixed route vehicle is not accessible or stops on a fixed route line are not accessible.
Note: all fixed route buses in Ventura County are equipped with wheelchair ramps or lifts.
 - b. When transit centers or rail stations are inaccessible or the accessibility equipment, such as elevators, are inoperable.

3. Inability, due to a person's disability in conjunction with the environment, to get to or from a fixed route bus or rail stop. Examples include:
 - a. Fatigue causing an inability to travel up to 3/4 of a mile or to get to or from a fixed route stop.
 - b. Inability to navigate barriers, such as road construction, potholes, hills, etc., which are not under the control of the transit agency and which, in conjunction with the individual's disability, prevent the individual from getting to or from a fixed route stop.
 - c. Inability to cross streets without assistance.
 - d. Inability to wait at or travel to a fixed route stop due to environmental sensitivities such as a respiratory disability affected by smog, a need to avoid exposure to the elements of body parts due to burn injury, or sensitivity to extreme heat or cold.
 - e. Inability to locate or know the location of the appropriate fixed route bus or rail stop.

APPLICATION PROCESS

All individuals are welcome to apply for complementary paratransit service regardless of whether such service is currently operating in the applicant's area of residence. If found eligible for service, the user may use complementary paratransit within the currently operating service area.

Information about the ADA and ADA certification is available from VCTC's ADA Certification Contractor at 1-(888)-667-7001. This information includes

- Contact information and hours of service for the ADA complementary paratransit service in each transit provider's service area
- A pamphlet, in English and Spanish, describing eligibility requirements and application procedures will be provided to all applicants and potential applicants upon request
- Applications for ADA eligibility in English and Spanish

An application is required from an individual interested in becoming ADA Paratransit Eligible in Ventura County to document the specific disability or disabilities that would make the individual eligible under the stated definitions. The application will further require the applicant to explain how the disability or disabilities prevent the use of a fixed-route system. (Sample application in Appendix A)

All materials will be made available on request in accessible formats appropriate to the user.

Applicants for ADA eligibility may submit applications directly to VCTC's ADA Certification Contractor or may elect to work with a social service agency, which will submit the application to the certification contractor.

ELIGIBILITY CERTIFICATION PROCESS

The eligibility certification process must provide a consistent and equitable process for determining applicants' eligibility for ADA complementary paratransit service. The VCTC eligibility process will rely on a combination of in-person interviews, recommendations from social service agencies, input from medical care providers and functional evaluations of the applicant's disability, as necessary. An eligibility determination will be prepared for each completed application received.

Applications submitted to VCTC's ADA Certification Contractor will be reviewed for completeness, and physician evaluations will be requested. Incomplete applications will be returned to the applicant.

NEW APPLICANTS

Once an application has been received and a physician's evaluation completed, applicants for new ADA certifications will be scheduled for an in-person interview, which is a brief one-on-one discussion with the applicant about how the person's disability prevents him or her from using the regular fixed route system. Typical questions asked during the interview involve what kind of transportation the applicant currently uses, whether they can walk up or down steps, how fast and how far the applicant can travel with their wheelchair or other mobility device, etc. The applicant may bring back-up materials, documentation and a caregiver or advocate, if they wish to provide additional information.

The interview will take place at a designated location such as a social service office, senior center or government office. Complementary transportation will be provided to the interview, if requested.

The in-person interviews involve reviewing with the applicant the nature of their disability as described in their application and doctor's evaluation. It also consists of an explanation of ADA Certification, Dial-A-Ride, Paratransit Service, and other resources that are available to the client (ex.travel training, senior centers, and fixed route service), as well as taking a picture of the client. The applicant will be asked a series of questions relevant to determining the person's disability or ability to use fixed route service.

If the applicant's eligibility status is not clear based on the interview alone (for example, when the applicant is insufficiently experienced with public transit to answer a question about their ability to use it), the interviewer will perform standard functional, visual, and cognitive tests. Examples of these tests include:

- Assessment of standing balance, both static and dynamic;
- Ability to navigate independently;
- Ability to tell time;
- Ability to communicate with others independently;
- Recognize landmark;
- Remember directions to a location;
- Ability to read a bus schedule; and
- Function without danger to self or others
- Negotiate a curb or curb cut;
- Negotiate three steps, if ambulatory;
- Maneuver into a space measuring the size of a wheelchair lift platform (30in. x 48in.), when using a mobility device;

RECERTIFICATION

Eligible users must re-certify to remain eligible for ADA complementary paratransit service. The process for recertification depends upon the individual's disability and the type of eligibility initially given to the individual.

1. For those individuals certified as unconditional or conditional, recertification is required after three years.
2. Individuals given temporary eligibility are required to be recertified after the granted time period of eligibility has ended.

For re-certifications of existing ADA users, an application and physician evaluation are often sufficient to recertify the applicant; however, in cases when there has been a change in physical or mental condition or when the physician's evaluation is unclear or inconsistent with the applicant's current eligibility status, an in-person interview and/or functional assessment will be required.

For both new applications and applications for recertification, ADA eligibility will be determined within 21 days of the date an application is found to be complete. If a determination is not made within 21 days, paratransit service will be provided to the applicant until an eligibility determination is made.

An individual who qualifies for ADA eligibility certification is given one of three certification levels: Unconditional, Conditional or Temporary. The definitions and situations which apply to the levels are as follows:

1. **UNCONDITIONAL** - Individuals are certified for unconditional use of complementary paratransit service under the following circumstances:
 - a. An individual who cannot independently board, or disembark an accessible fixed route vehicle, even with limited assistance provided by the driver of the fixed route vehicle, under any condition.
 - b. An individual who does not have the cognitive ability to navigate the Ventura County fixed-route transit system or any portion of the system
2. **CONDITIONAL** - Individuals are certified for conditional eligibility to use ADA complementary paratransit service when the following situation(s) apply:
 - a. The individual has a specific impairment-related condition which fluctuates, or is transient in nature, that when combined with the environment restricts the individual from using the fixed route system. Examples include the following:

- A respiratory disability that is aggravated during a smog alert in the area in which they are traveling
- A condition(s) where the individual cannot tolerate excessive heat or cold while waiting at a fixed route boarding location

b. The individual has the ability to navigate the system on some trips, but not on others, such as:

- When a trip involves a transfer(s).
- When the individual can travel to familiar locations, such as: work, recreation facilities, social facilities, medical facilities, etc.

c. The combination of a specific impairment-related condition and the interaction of this condition with barriers in the environment that prevent access to and from the fixed route system.

3 TEMPORARY - An individual who, for a limited period of time, cannot independently use the fixed route system. Temporary eligibility can be provided for up to one year. Types of temporary eligibility include the following:

a. A temporary cognitive disability(s) that may resolve itself over a period of time, or which can be controlled through medication or other manners, such as: seizures, mental conditions(s), etc.

b. Temporary cognitive disability that could be resolved through travel training.

c. A medical situation, such as an operation, broken limbs, etc., which will heal over time.

d. A decision pending an initial eligibility status, commencing with the 22nd day after the submittal of a complete application.

e. An appeal decision which is pending, commencing with the 31st day after the appeal hearing.

f. Visitors from outside Ventura County who provide documentation of ADA eligibility are eligible for 21 (non-consecutive) days, starting the day of their first trip.

Individuals determined to be eligible for ADA complementary paratransit service will be notified of their eligibility by letter. The notification of certification will specify any conditions of eligibility, including termination dates and limits on trips that may be taken. If a personal care attendant or a service animal is required, that will also be noted. Photo identification cards, certifying eligibility for ADA complementary paratransit service and specifying the termination date and any conditions of eligibility, will be issued to individuals found to be eligible. If eligibility is restricted, specific eligibility phrases (Appendix B) will be included on the identification card and in the database provided to the transit providers.

Prior to issuing an eligibility denial or conditional approval, the proposed certification will be reviewed and approved or modified by a manager working for the ADA Certification Contractor (currently the Project Manager of ADA Certification Services).

Individuals determined to be ineligible for ADA complementary paratransit service or who are determined to be eligible on a conditional basis will also be notified by letter. The reasons for the ineligibility finding or conditional approval will be clearly stated in terms of the DOT implementing rule and of VCTC's ADA process. A description of the process for appealing the ineligibility finding will also be enclosed.

MAXIMUM WHEELCHAIR SIZE AND WEIGHT

If an applicant for ADA certification who utilizes a wheelchair which is "oversized" or when the wheelchair-plus-passenger weight exceeds the federal requirement, the applicant may be issued a card, but they will be informed

that the transit provider will not accept them on the service. Limits are as follows:

- Wheelchair dimensions—30 inches by 48 inches
- Wheelchair-plus-passenger weight—600 pounds

PERSONAL CARE ATTENDANTS

During the eligibility process, the ADA Certification Consultant will utilize information from the applicant and the applicant's physician to determine the applicant's need for a Personal Care Attendant. If the applicant requires a Personal Care Attendant for some or all trips, the ADA Certification Consultant will include this information with the certification determination.

CERTIFICATION OF CHILDREN

Children who are old enough to ride transit unaccompanied, based on the transit agencies' minimum age policy, will be certified on the same basis as adults. Those too young to ride transit unaccompanied, based on the transit agencies' minimum age policy, will not be considered for certification as individuals. However, if the child's disability prevents use of fixed-route transit, even when the child is assisted by an adult, the child and assisting adult can be considered for certification together.

VCTC OVERSIGHT

At any time after a certification denial or conditional approval has been made by the ADA Certification Contractor, the VCTC ADA Certification Coordinator may review the case file, seek additional information as deemed necessary and consult with the ADA Certification Contractor. Based on the information received, the nature of the applicant's disability and the applicant's ability to use fixed route transit, the VCTC ADA Certification Coordinator, in consultation with the VCTC Programming Director, may change the eligibility determination and direct that the requested ADA certification be issued without condition or modified to include less restrictive conditions.

ADMINISTRATIVE APPEALS PROCESS

The Ventura County Transportation Commission is required by the ADA to provide an administrative appeals process to provide recourse for individuals denied ADA eligibility. Every person who is denied eligibility for complementary paratransit service may appeal that decision. Persons who are classified as "conditionally approved " may also appeal that decision. To appeal an eligibility finding, an individual determined to be ineligible or conditionally eligible for ADA paratransit service must notify the VCTC ADA Certification Coordinator, in writing, within 60 days of denial, that the individual wishes to appeal the decision. The appellant may utilize a representative, such as a lawyer, therapist, or advocate during the appeals process, at the appellant's cost. Appeals will be heard by a five member appeals panel designated specifically to hear appeals on ADA eligibility findings. The appeals panel and appeals process are further described in Appendix C.

The VCTC ADA Certification Coordinator will be responsible for assembling the record of the appellant's case, distributing it to panel members, and scheduling the meeting of the appeals panel.

The appeals process will verify that the certification process was followed and that certification criteria were consistently applied. It will ensure that the appellant has an opportunity to be heard and to present information and arguments.

The ADA Certification Coordinator will make sure that the appeal is scheduled in a timely manner (normally within 30 days of the filing of the appeal unless postponed by the appellant). Written findings on appeal will be issued within 30 days of the date the appeal hearing. If a finding is not made within 30 days of the hearing, ADA complementary paratransit service will be provided to the appellant until the appeal is approved or denied. Once the determination is made, the ADA Certification Coordinator will notify the appellant in writing, or in an accessible format if requested, of the finding and the reason(s) for the finding. The appeal decision is the final determination of eligibility. If the applicant is determined to be ineligible, the applicant may file a new eligibility application if their condition changes.

VISITORS POLICY

In accordance with ADA Subpart F-Paratransit as a Complement to Fixed Route Service, Section 37.127 (Appendix H), visitors will be considered eligible for ADA complementary paratransit service for 21 days in any calendar year if they provide: documentation of ADA eligibility for their jurisdiction or residence; or, if they do not have such documentation, documentation of their place of residence and, if their disability is not apparent, documentation of their disability.

The 21 day period covers 21 days of non-consecutive use during a calendar year. If a visitor submits an application for paratransit eligibility in Ventura County within the 21 day period of presumed eligibility, the visitor will continue to be eligible until a determination of eligibility is made. If the visitor does not submit an application for paratransit eligibility within the 21 day period, the visitor will no longer be eligible for service once the 21 day period has expired.

APPENDICES

APPENDIX A

APPLICATION AND INFORMATIONAL DOCUMENTS

The attached documents are samples to illustrate the types of information which may be required of applicants and information available to the general public about ADA eligibility.

- ADA Paratransit Services Eligibility Application
- ADA Paratransit Services Eligibility Application, Spanish
- ADA Recertification Application
- Physician Evaluation of Disability
- “Are You Eligible for ADA Transportation?” Brochure.
- “Are You Eligible for ADA Transportation?” Brochure, Spanish

Copies of these attachments can be found on the website:

www.goventura.org under Publications/ADA

APPENDIX B

CONDITIONAL ELIGIBILITY PHRASES

The VCTC ADA Certification Coordinator will maintain a list of Conditional Eligibility Phrases, which may be used to indicate conditions under which a passenger, who is otherwise able to use fixed-route transit, will be eligible to use ADA paratransit service. The phrases in use at the time of adoption of these guidelines are as follows:

1. Bus stop not accessible: If the applicant is normally able to travel to and from bus stops in the system and utilize fixed route transit, but there is some impediment to his/her independent travel from home to nearest bus stop (for example Architectural barriers such as construction, missing curb cuts, ramps or uneven/missing sidewalk).
2. Greater than xx Distance from bus stop: For trips that require traveling more than (e.g. ¼ mile) to or from the boarding or disembarking location. Would apply to a person who is frail or has cardiac conditions (for example) which limit their stamina.
3. When smog alert exceeds level (1,2,3): For people with breathing difficulties/asthma such as but not limited to COPD.
4. Unfamiliar location: Normally a temporary designation for a passenger becoming familiar with a stop. This designation is subject to re-evaluation, as the passenger gains familiarity with the stop, typically after 12 to 20 trips from/to that stop within a period of three months.
5. Intersection conflict (right turn or greater than x lanes): Depending on a person's disability, this refers to 1) for people with visual impairments who use auditory cues (traffic direction) to determine a safe time to cross the street—any intersection that allows right turns on red signal. 2) Also depending on size of street and time available to cross, persons with limited (slower) gait function may be unable to cross safely in the time allowed.
6. Trip requires multiple transfers: If unreasonable to expect depending on the severity of the person's limitations.
7. Forecasted environmental temperature exceeds: 80 degrees for example, depending on heat sensitive conditions such as but not limited to MS, Neuropathy , Fibromyalgia, brain and spinal cord injuries
8. Forecasted environmental temperature less than: 70 degrees for example, depending on cold sensitive conditions such as but not limited to MS, Neuropathy, Fibromyalgia, brain and spinal cord injuries and Arthritis.
9. When it is raining/rain is forecast: depending on humidity sensitive conditions such as but not limited to MS, Fibromyalgia, Neuropathy , brain and spinal cord injuries and Arthritis
10. Fatigue following treatment: A person may be able to take public transit to treatment such as Dialysis, but many not be able to return home using public transit due to fatigue post-treatment.
11. Episodic: Persons with disabilities that are marked by periods and degrees of wellness that may include seizures, arthritis, diabetes, multiple sclerosis, cancer, HIV/AIDS, and even mental and mood disorders.
12. Seating not available at stop: Architectural barrier requires environmental barrier analysis (City specific) to ensure available rest area for persons with various disabilities including secondary conditions such as fatigue, heat sensitivity, limited balance and/or neuropathy.
13. Dawn to dusk: Persons with visual impairments may have difficulty transporting independently with limited natural light.

14. Environmental Barriers: This includes all natural environmental barriers for people using mobility devices or with limited balance walking independently and requires city specific environmental barrier analysis (such as hilly terrain, low hanging trees, broken sidewalks due to natural environment obstructions or overgrown landscape/debris).
15. Assistive Technology Unavailable: For temporary unavailability of assistive technology needed by the passenger (including service animal).

APPENDIX C

APPEALS PROCEDURE AND APPELLANT INFORMATION

When an eligibility appeal is filed, an Appeals Panel will be assembled to hear the appeal. This panel will be composed as follows:

- One representative of a transit operator which is not the operator in the applicant's service area
- One paratransit rider recommended by an operator or social service agency
- One volunteer professional with related medical or therapy training
- One representative of a social service agency dealing with disabled individuals
- One member of VCTC CTAC/SSTAC

In cases when no volunteer professional with related training is available, a VCTC staff member, who is not involved in the certification process, may be substituted. In cases when all five members are not available or do not arrive at the meeting, three members would constitute a quorum.

The ADA Certification Coordinator will maintain a list of available volunteers from each of these categories. The list will be numbered, and the Coordinator will invite the next eligible member of each group to participate.

For social service agencies and transit operators, each agency will be listed rather than a specific representative. If the primary contact is not available for a hearing, their agency will be offered the opportunity to appoint another representative.

The appeal panel will meet in the transit service area where the applicant lives. When the panel meets, the ADA Certification Coordinator will provide documentation about the case and general information about ADA eligibility. The applicant and/or their representatives will be able to present their case, and the ADA Certification Contractor will provide the basis of their eligibility decision.

After the applicant and ADA Certification Contractor depart, the five member panel will deliberate, reach a decision and state the reasons for the decision. The ADA Certification Coordinator will record the decision and reasons for the decision and provide a written response to the applicant. If the appeal is granted, the eligibility change will become effective immediately.



AMERICANS WITH DISABILITIES ACT (ADA) ELIGIBILITY CERTIFICATION APPEALS PROCEDURE

If your application for certification under the Americans with Disabilities Act (ADA) is denied, or if you received approval with conditions, the Ventura County Transportation Commission (VCTC) must provide you with written notice listing the specific reasons for your denial/conditional approval. The VCTC must also provide you with information about your right to appeal the decision. The appeals procedure is as follows:

- 1 a) You may appeal the decision up to 60 calendar days after your application has been denied or issued with conditions. The start of the appeal time period begins as of the date of the letter informing you that your request for ADA eligibility has been denied or conditionally approved.

b) You must submit your appeal in writing or by email to the address shown below. Your submittal should state your reasons for believing that your eligibility determination should be revised. Please contact Ed Webster, the Ventura County Transportation Commission ADA Certification Coordinator, if you need assistance preparing your appeal (see contact information in the box below).
- 2 a) Your appeal will be considered by an appeals panel. The panel will consist of people familiar with the ADA law, disabilities, public transit and the appeals procedure. The panel may include transit operators, and representatives from social service agencies. The person who reviewed the application and denied eligibility, and any other person involved in the decision, will *not* be a voting member of the appeals panel.

b) You will have a chance at this hearing to restate your reasons for eligibility and present any additional documentation you feel will support your claim of eligibility.

c) The appeal will be decided by a majority vote of the appeals panel.
- 3 One or more members of the initial certifying agency may be present to state the reason for the initial denial of eligibility, or a written statement regarding the reason for the original denial may be submitted. This person will not be a voting member of the appeals panel.
- 4 a) You will be notified via postal delivery in writing of the appeal panel's decision within 30 calendar days of the date of the appeals hearing. If notification is not made within this time, you will be presumed eligible for transportation service until a decision is reached and you are notified. This does *not* mean you will continue to be eligible for transportation service if the appeals panel upholds denial/conditional approval of service.

b) If the appeals panel decides you are eligible, you will be authorized to begin using paratransit service immediately following the appeals panel's decision to grant eligibility.
- 5 a) If the appeals panel decides that you are not eligible, you may file a complaint with the United States Department of Transportation, Office of Civil Rights. The telephone number and/or address will be provided to you.

b) You may also file a complaint with the United States Department of Justice. This review may be either administrative or judicial. The telephone number and/or address will be provided to you.
- 6 If you are denied eligibility for complementary paratransit service, it does not mean you can never qualify for this service. If your condition changes to the extent that you believe you may qualify, you are entitled to reapply.

Notification of appeal should be sent to:

**Ventura County Transportation Commission
Attn: ADA Certification Coordinator
950 County Square Drive, Suite 207
Ventura, CA 93003**

or you may fax it to (805) 642-4860

If you have any questions about the appeals process, please
call Ed Webster, ADA Certification Coordinator
Phone: (805) 642-1591 ext. 113.



Item # 11

July 9, 2010

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION

FROM: VICTOR KAMHI, BUS TRANSIT DIRECTOR

SUBJECT: SET PUBLIC HEARING REGARDING POSSIBLE FARE INCREASES FOR THE VISTA 126, VISTA East, VISTA 101, VISTA CSUCI, and VISTA DIAL-A-RIDE SERVICES

RECOMMENDATION:

- Set Public Hearing to be held on September 3, 2010 to consider raising VISTA fares for transit services inside Ventura County.

BACKGROUND:

Based on the projections for a significant shortfall in available Federal Transit assistance funding for FY 2010-11, VCTC began the process of significantly increasing fares and preparing the required state and federal documentation for significant fare increases. Immediately after that, the identification of un-expended VISTA funds allowed VCTC to defer making that dramatic increase in fares. At the same time, the Commission and VISTA members are facing a long term funding challenge without any sustainable revenues to assist in increased costs of service.

VISTA services within Ventura County have been operating since 1994 without a base fare or monthly pass fare increase. While significant growth in ridership, effective use of Federal Transit funds, and low operating costs have helped to keep the service costs to the member agencies and the riders manageable, the services will not have the resources to sustain them in the future without a fare increase. For this reason, staff is recommending that the VCTC authorize a public notification process in July and August to make riders aware of the potential fare increases. This will be followed with a public hearing at the September VCTC meeting and consideration of a final action on any fare increases at the October VCTC meeting. The target date for any fare increases to go into effect is November 2010.

Staff is recommending that the VCTC consider modest increase for three main reasons:

1. The likely impact to ridership will be less if the increase is relatively small.
2. The impacts of the recession are still placing financial stresses on transit riders, and while the VISTA services have sustainability challenges without additional revenues, the Commission has indicated sensitivity to the impacts of fares on low income riders.
3. The Federal Transit Administration's Title VI (Civil Rights) requirements recommend a threshold of 25% increase in fares as the point to require a study of the impacts of the fare increase on minority and low income communities.

July 9, 2010

Item #11

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Because of these three issues, staff recommends that the Commission authorize the presentation to the public the following potential fare increases:

1. Increase all VISTA "base" fares inside Ventura County from \$1.00 to \$1.25, with Senior/Disabled fares increasing to \$.65, and passes adjusted accordingly.
2. Increase the monthly passes for the VISTA Heritage Valley Dial-A-Rides (DAR) from \$16 to \$20 per month. The cash fares for the DAR would remain at \$1.50.

In addition, staff recommends that the Commission authorize the presentation to the public the proposal that the age for seniors on VISTA be raised from 62 to 65. This was a recommendation from the Commission's 2007 adopted Human Services Transportation and Transit Service Coordination Study. The study found that riders were confused by the different ages used on different transit services throughout the county, recommended that all services adopt the same age for senior fares. This recommendation was brought to the VCTC by the Ventura County Area Agency on Aging as part of the 2010-11 Unmet Transit Needs process.

Staff will work with the VCTC public outreach consultant firm to provide information regarding the possible actions to the public, and any comments received will be presented to the Commission as part of the September public hearing.



Item # 12

July 9, 2010

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION
FROM: VICTOR KAMHI, BUS TRANSIT DIRECTOR
SUBJECT: PHASE 2 FARE INCREASES FOR THE VISTA COASTAL EXPRESS AND CONEJO CONNECTION

RECOMMENDATION:

- Reaffirm the second phase increase to the base fare and related fares for the VISTA Intercounty Coastal Express and Conejo Connection. This will raise the base intercounty fare from \$2.50 to \$3.00

BACKGROUND:

In July 2009, following completion of a Title VI (Civil Rights) rider survey and a public hearing process, VCTC approved raising the fares on the VISTA Intercounty Coastal Express and Conejo Connection services. At that time, VCTC had contemplated raising the base fare from \$2.00 to \$3.00 per trip. After receiving public comments and concerns raised by many of the Commissioners, VCTC adopted a two-phased fare increase. Beginning in 2009, VCTC approved an immediate intercounty fare be increased to \$2.50, and a subsequent \$.50 increase a year later (2010), following receipt of a staff report on any significant ridership impacts of the increase and reaffirmation by the Commission.

The fare increase went into effect in the second quarter of 2008-09. Since then, ridership on the Coastal Express has had one down quarter (compared to the preceeding year) and one up quarter, with an overall increase of 3.4%. During the same period, the Conejo Connection has had four consecutive quarters of decreases, with an overall ridership loss of 15.3%. For comparison, the VISTA 126 ridership increased by 9.2% during the same period.

It is virtually impossible to determine how much of the changes in ridership was the result of the fare increase, and how much was caused by the recession related job losses and the decrease in the price of gasoline from its high in 2007-08. The Title VI Coastal Express and Conejo Connection rider survey done by VCTC indicated that a significantly larger percentage of the Conejo Connection's riders would stop using the service compared to those using the Coastal Express. The data reflected that this in fact occurred.

COASTAL EXPRESS AND CONEJO CONNECTION RIDERSHIP SINCE FARE INCREASE

	2nd qt 08-09	2nd qt 09-10	difference	percentage
Coastal	67,467	65,689	(1,778)	-2.6%
Conejo	11,471	9,792	(1,679)	-14.6%
	3rd qt 08-09	3rd qt 09-10		
Coastal	63,161	69,408	6,247	9.9%
Conejo	9,992	8,466	(1,526)	-15.3%
	Year preceding fare increase	Year since fare increase		
Coastal	130,621	135,097	4,476	3.4%
Conejo	9,992	8,466	(1,526)	-15.3%

Staff is recommending that the Commission reaffirm its action to allow the second phase of the intercounty fare increase to be implemented and go into effect on October 1, 2010. The Coastal Express Policy Advisory Committee (PAC) has also recommended action, as well as periodic review of the fare structure in the future. The recommended action to institute a fare increase beginning in October 2010 will allow a full year between the first phase of the fare increase to have been in effect for a full year before the second phase is implemented.

Based on the ridership data, it is likely that ridership on the Coastal Express will not increase significantly over the next year, but will begin to recover the historic growth rates in the following year (2011-12) as the riders adjust to the new costs and the economy recovers. The Conejo Connection riders appear to be more fare sensitive, and as a result the number of riders is likely to remain flat for the next year, or may see increased declines in ridership with a fare increase.



Item #13

July 9, 2010

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION

**FROM: DARREN KETTLE, EXECUTIVE DIRECTOR
MARY TRAVIS, MANAGER - TRANSPORTATION DEVELOPMENT ACT AND RAIL
PROGRAMS**

SUBJECT: SANTA PAULA BRANCH LINE (SPBL) FUTURE MAINTENANCE OPERATIONS

RECOMMENDATION:

- Direct staff to administer the maintenance payment clause of the Fillmore & Western (F&W) lease agreement as approved by the Commission effective July 1, 2010. Effective action reduces VCTC maintenance payment to F&W by approximately \$2,600 per month to \$23,400, or,
- Direct staff to postpone administering the maintenance payment clause of the F&W lease agreement until October 1, 2010. Effective action leaves the maintenance payment unchanged at \$26,000 per month until October 1, 2010. (Note: this is the recommendation of the elected officials of the Santa Paula Branch Line Advisory Committee (SPBLAC).

BACKGROUND:

In 2001 the Ventura County Transportation Commission approved a contract with the Fillmore and Western Railway Company (F&W) to maintain the Santa Paula Branchline Corridor to a standard that would allow continued rail operations. The rail activity on the line included freight hauling, tourism and filming. The agreement was amended in 2004 and again in September 2007. Attached to this report is a memorandum from VCTC General Counsel that more thoroughly discusses the original agreement and subsequent amendments.

The fiscal challenges facing the Commission have required that VCTC pursue alternatives to the "business as usual" of using declining public transit funds to support the private activities of Union Pacific (UP) and the Fillmore and Western (F&W) railroads, with a desired outcome of the SPBL being self-sustaining. This was specific direction as part of the adoption of the 2009/2010 budget. As staff was developing the 2010/11 budget and the fiscal condition worsened, the need to develop a solution became even more pressing. The Commission directed staff to meet with the local agencies along the SPBL, and with F&W and UP railroads to explore alternatives. While some progress has been made over the last several months there are no firm developments to report at this time, however, an issue has surfaced about the ongoing SPBL maintenance contract payments that needs to be resolved.

There follows a brief summary of the different discussions that have taken place to date. The information was reviewed with the Santa Paula Branch Line Advisory Committee (SPBLAC) at their meeting June 28, 2010 and the SPBL comments are included in the agenda item.

Meetings with County, Fillmore, San Buenaventura and Santa Paula:

VCTC Staff met senior staff from each of the local jurisdictions along the SPBL Corridor. It has been suggested that as the primary benefit of maintained operations on the SPBL is one of economic benefits to the communities along the corridor that possibly the local jurisdictions might contribute local fund to maintain continuing operations. However, while all were supportive of VCTC continuing to keep the SPBL in operating condition, they did not have the local funding available to subsidize the maintenance expenditures at this time.

Subsequently, the City of Santa Paula provided written comments with some possible funding alternatives. VCTC Staff has researched the suggestions included in the Santa Paula letter and has already implemented most of the suggestions. One of the revenue raiser ideas was that VCTC request that the County consider foregoing lease revenues it receives from properties along the SPBL, and instead contribute those revenues to SPBL maintenance and operations. The County has indicated reservations to this proposal as they believe it is inconsistent with the original arrangement when the SPBL was purchased. Additionally the County is using those lease revenues to support activities that would otherwise need to be funded from the County general fund; they are reluctant to divert the money.

Fillmore & Western (F&W) Railroad:

F&W pays to lease the SPBL for its tourist and movie trains, and also, receives a monthly payment from VCTC per contract to maintain the Line between Montalvo and Piru. The agreement between VCTC and F&W is for a twenty-year period or until July 1, 2021 and can only be terminated for "cause" although "cause" is not defined in the agreement. A variety of ideas to reduce the maintenance contract cost have been discussed with F&W, and these discussions are still continuing.

There were two issues that arose when reviewing the VCTC/F&W agreement. First, it became apparent that VCTC has been overpaying the cost of the existing maintenance contract. The contract states the annual maintenance allowance paid to F&W shall be the lesser amount of \$312,000 or the total of the grade crossing funds and annual income derived by VCTC from its property leases. In the past, VCTC has simply been paying the monthly fee which is not consistent with the agreement language.

Please see the attached memorandum from VCTC General Counsel for further explanation on the nature of the agreement language. Depending on an interpretation of the term "income derived" the Commission has overpaid F&W either \$130,000 or \$670,000 over the last 5-6 years depending upon whether gross or net lease revenue is used in the calculation. However, either way, VCTC General Counsel has concluded that the overpayment does need to be recovered in some fashion.

SPBLAC discussed this issue at great length, with representatives of F&W disagreeing that any overpayment has been made. F&W firmly believes that the language in the VCTC agenda items approving the two agreement amendments states that a set monthly amount will be paid, even though the agreement amendment language clearly provides two alternative monthly amounts. Based on the VCTC Legal Counsel opinion, staff believes the actual agreement language is the approved amount to be paid, and therefore, staff recommends that effective July 1, 2010, we administer the monthly payment to with F&W consistent with agreement language. Note that, based on 2009/10 revenues and an interpretation of "income derived" being gross income, VCTC would reduce the monthly payment of \$26,000 to F&W by \$2,000-\$2,500 per month.

There was also a second issue concerning payments to F&W that was briefly discussed by SPBLAC. F&W stated that they have been providing on-call services to VCTC beyond the scope of the maintenance agreement and implied they were doing so at little or no additional cost to VCTC. However, a review of the VCTC accounting records for the past three fiscal years shows that F&W has been paid substantial amounts for: weed abatement and debris cleanup (outside the 15' center line); crossing repair and replacement; ballast and track replacement; emergency response to gate/signal knockdowns; and, for other special projects. Therefore, staff does not believe F&W has provided any services for which they have not been paid.

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Because of the difference of opinion, SPBLAC recommended that a more careful and thorough review of the agreement language take place to preclude any possible legal challenges on the issue, and further, that the implementation of the agreement as interpreted by VCTC staff and Legal Counsel not take place for three months or until October 1, 2010 to allow for all concerns and questions to be answered to everyone's satisfaction.

Union Pacific (UP) Railroad:

In summary, VCTC's agreement with UP requires the Commission maintain the tracks between Montalvo and Santa Paula without charge as long as UP runs freight on the Line. They currently have one customer, International Paper, with deliveries/pickups by rail three times a week. UP and F&W have initiated discussions to possibly establish a transloading arrangement, where the freight would be shifted from UP to F&W near Montalvo. In this type of arrangement, UP would pay F&W to transport freight to the UP customer i.e. International Paper. F&W could then market to provide other freight hauling opportunities down the SPBL corridor. It is possible additional freight customers could be added; this hasn't been a priority in the past because UP got all the revenue while VCTC shouldered all the costs. Staff will continue working with both UP and F&W on this potential new source of revenue that would support F&W operations.

Next Steps:

1. Continue discussions with the County about possible use of some or all of the lease revenues on County area property being diverted to SPBL maintenance.
2. Effective, either July 1, 2010 or October 1, 2010, administer agreement with F&W consistent with agreement language. Based on 2009/10 revenues and an interpretation of "income derived" being gross income, VCTC would reduce its monthly payment to F&W by \$2000-\$2500 per month.
3. Develop schedule to recover overpayment of approximately \$130,000 made to F&W over the past five years.
4. Continue to actively engages discussions between UP, F&W, and Metrolink to facilitate shifting freight hauling activity on the SPBL from UP to F&W.
5. Continue discussions with UP to address lease revenue sharing for SPBL maintenance.

Impact on FY 2010-2011 Budget

The impacts to the VCTC 2010-2011 budget of the "next steps" action are not substantial but are meaningful two ways. First, by administering the agreement consistent with Commission approval there is now adequate budgeted resources to fund the F&W maintenance agreement for a period of eight months rather than seven as was described in the Santa Paula Branchline Task Description. Second, so long as VCTC must remit half of the "gas line" revenues to UP as is the case with current purchase agreement, the SPBL will have a continuing structural deficit in excess of \$100,000 annually until 2015 when VCTC's obligation to share the "gas line" lease revenues with UP terminates and VCTC will retain all lease revenues.

The continuing challenge will be this structural deficit translates to an approximate \$100,000-\$120,000 annual impact to future VCTC budgets with the only revenues available to fund VCTC contractual obligations with F&W being limited public transit funds.

June 28, 2010

MEMORANDUM

To: Santa Paula Branch Line Advisory Committee
From: Mitchel B. Kahn, VCTC General Counsel
Re: Lease Agreement for Rail Services on Santa Paula Branch Line

By a lease agreement dated June 25, 2001, as amended on May 7, 2004, and again on September 14, 2007, VCTC contracted with the Fillmore and Western Railway Company for the use and maintenance of the VCTC-owned Santa Paula Branch Line. The lease is for a twenty-year term, terminable by VCTC only for cause. Fillmore and Western pays VCTC rent for its use of the tracks.

In exchange, section 4, subsection b, of the 2001 lease provides for the following VCTC payments to Fillmore and Western's for maintenance of the Santa Paula Branch Line:

"1. Fillmore and Western shall be entitled to receive, as part of its maintenance allowance as defined below, any State or Federal funds designated for highway grade crossing signal maintenance on the lease property.

"2. Fillmore and Western shall receive a maintenance allowance in the lesser amount of one hundred seventy thousand dollars (\$170,000.00), or the total of its grade crossing signal maintenance funds, and the annual income derived by VCTC from its property leases at the time of the effective date of this Agreement, excepting the revenues derived by VCTC from Fillmore and Western through this Agreement."

The 2004 and 2007 amendments, among other unrelated changes, simply amended the specified monetary amount from \$170,000.00 to \$264,000.00 in 2004 and to \$312,000.00 in 2007, without altering the remaining language of section 4 in any way. Thus, while it is acknowledged that Fillmore and Western would be entitled to any State and Federal funds allocated for the maintenance of grade crossing and signals along the Santa Paula Branch Line, such fund, along with rental income to VCTC, cannot exceed the specified monetary cap. By the same token, if those State and Federal funds, along with lease income (as opposed to revenues), other than those paid to VCTC by Fillmore and Western, do not meet or exceed the specified monetary cap, then those receipts are the limit of the maintenance funding available to Fillmore and Western.

VCTC made annual payments to Fillmore and Western in the amounts of \$170,000.00 from June 25, 2001 through May 6, 2004, and in the amount of \$264,000.00 from May 7, 2004 through September 13, 2007, and in the amount of \$312,000.00 through the present time. Despite the language of section 4.b.2. of the lease, since the 2004-2005 budget year, the annual payments have exceeded VCTC lease income taken together with State and Federal maintenance funding received by VCTC over the same period of time. (It should be noted that the 2004 and 2007 staff reports could be read as though the annual fixed fee was the appropriate amount to be paid to Fillmore and Western. Nevertheless, the Commission voted to approve the amendments as they were written, not as represented by the staff reports.)

There are several solutions or remedies for recapturing the overpayments. To avoid an unconstitutional gift of public funds, the least damaging to Fillmore and Western would be for VCTC to begin immediately paying the proper amounts in accord with the lease and reduce the payment by a specified amount to recapture the prior overpayments once those have been calculated. The amount of the recapture each year is up to VCTC to determine. Other remedies available to VCTC may likely prove to be too costly to permit Fillmore and Western to continue operating. However, that too, is a decision for VCTC.

If the Committee requires additional information or advice, I would be pleased to provide it.



Item #14

July 9, 2010

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION
FROM: PETER DE HAAN, PROGRAMMING DIRECTOR
SUBJECT: LEGISLATIVE UPDATE AND MATRIX

RECOMMENDATION:

- Receive and file legislative report and matrix.
- Adopt "Oppose" position on AB 1955 (De La Torre).

BACKGROUND:

Federal Issues

There is no news to report this month on federal issues. Staff continues to track the status on items potentially affecting transportation such as federal transportation reauthorization and climate change legislation.

State Issues

There is no monthly report from Tim Egan, the Commission's Sacramento representative, as there has been little action to report on. The major focus has been on the state budget, with the Budget Conference Committee continuing to deliberate with no end in sight.

Attached is an analysis of AB 1995 (De La Torre), a bill which would prohibit a public official from simultaneously holding certain positions, potentially contradicting the enabling legislation of agencies such as VCTC, as well as joint powers agreements for such boards as SCRRA, VCOG, and Gold Coast Transit, all of which have local jurisdiction elected officials on their boards. Staff recommends an "Oppose" position.

The attached table shows the status of bills being tracked at this time.

**AB 1955 (DE LA TORRE)
INCOMPATIBLE PUBLIC OFFICES**

Existing law prohibits a public officer from simultaneously holding two public offices that are incompatible, and defines certain situations where offices would be deemed incompatible. The law also states that notwithstanding this restriction, a public officer may simultaneously hold two public offices if it is compelled or expressly authorized by law. SB 1995 (De La Torre) adds three additional situations where incompatible offices exist. Significantly, these prohibitions would apparently apply even in situations where duplicate board membership is currently authorized by law:

- Both public entities in which the offices exist have the power of eminent domain in an area in which geographic jurisdictions of each office or body overlap;
- Either public entity in which an office exists has the power to set a fee or rate or impose a tax or a levy that may directly or indirectly affect the other office or body; and
- An office is part of a body that may exercise powers or has power over another body that includes the other office.

Under VCTC's authorizing legislation, SB 1880 (Davis), amended by AB 2784 (Pavley), VCTC's membership includes the members of the Ventura County Board of Supervisors and members of various City Councils. AB 1995 would potentially introduce contradictory language into statute, making the VCTC membership selection process uncertain. The bill would also potentially contradict joint powers agreements controlling board membership on agencies such as the Southern California Regional Rail Authority (Metrolink). An additional concern is that the bill could be construed to prohibit board member serving on a board that has designated itself as another board as well, for example where VCTC has designated itself as the Service Authority for Freeway Emergencies (SAFE).

The Southern California Association of Governments (SCAG) adopted an "Oppose Unless Amended" position and requested an amendment to exempt situations where duplicate offices are compelled or expressly authorized by law, statute, or by official action of the public entities in which the offices exist. However, this amendment was rejected by the author, and SCAG has now changed its position to "Oppose." Staff recommends that the Commission also adopt an "Oppose" position.

VENTURA COUNTY TRANSPORTATION COMMISSION STATE LEGISLATIVE MATRIX BILL SUMMARY June 22, 2010			
BILL/AUTHOR	SUBJECT	POSITION	STATUS
AB 1995 De La Torre	Broadens definition of incompatible public offices.	Oppose	Passed Assembly 72-0. In Senate Local Government Committee.
SB 1445 DeSaulnier	Assesses a \$1 vehicle registration fee to support development of the Sustainable Communities Strategy required by SB 375.	Watch	Passed Senate 21-16. In Assembly Local Government Committee and Transportation Committee.