Budget Development Committee Agenda

November 30, 2023

Click link to access the meeting:

https://us02web.zoom.us/j/82907998675

Zoom Meeting ID

Ways to Join

Computer: Click the link above. You will be prompted to run the Zoom browser or Zoom application. Once signed on to the meeting, you will have the option to join using your computer audio system or phone.

Webinar Features:

Raise Hand	▶	Use the **raise hand** feature every time you wish to make a public comment.
CC	▶	Participants can enable **closed captioning** by clicking the CC icon. You may also view the full transcript and change the font size by clicking 'subtitle settings'. These features are not available via phone.
	▶	This symbol shows you are **muted**, click this icon to unmute your microphone.
	▶	This symbol shows you are currently **unmuted**, click this button to mute your microphone.
	▶	The chat feature should be used by panelists and attendees solely for "housekeeping" matters as comments made through this feature will not be retained as part of the meeting record. See the **Live Verbal Public Comment** for instructions on how to make a public comment.

Smartphone or Tablet: Download the Zoom app and join the meeting by clicking the link or using the webinar ID (found in the link).

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1. If you are joining the meeting audio by phone and viewing the meeting on a device, dial the number provided in the 'join audio' phone call tab of the initial pop-up, and enter the Meeting ID (found in the link).
2. If you are joining by phone only, dial: **+1-669-900-9128** or **+1-253-215-8782** and type the meeting ID found in the link, press #. You will have access to the meeting audio, **but will NOT be able to view the PowerPoint presentations.**

Live Verbal Public Comments: Use the 'Raise Hand' icon every time you wish to make a public comment on an item. Raise your hand once the agenda item you wish to comment on has been called. In person public comments will be taken first, virtual attendees will be taken in the order in which they raise their hand. Requests to speak will not be taken after the public comment period ends, unless under the Chair's discretion. General Public Comment, at the beginning of the Board of Directors meeting only, will be limited to five speakers. Additional speakers with general public comments will be heard at the end of the meeting. Two-minutes of time is allotted per speaker, unless otherwise directed by the Chair.

Public Comments Made Via Zoom

1. Click the link found at the top of this instruction page
2. Click the raise hand icon located in the bottom center of the platform
3. The Clerk will announce your name when it is your turn to speak
4. Unmute yourself to speak

Public Comments Made by Phone Only

1. Dial **+1-669-900-9128**
2. Type in the zoom meeting ID found in the link and press #
3. Dial *9 to raise your hand via phone
4. The Clerk will call out the last 4 digits of your phone number to announce you are next to speak
5. Dial *6 to unmute yourself

Written Public Comments (before the meeting): Written public comments will be recorded in the public record and will be provided to MTS Board Members in advance of the meeting. Comments must be emailed or mailed to the Clerk of the Committee* by 4:00pm the day prior to the meeting.

Translation Services: Requests for translation services can be made by contacting the Clerk of the Committee* at least four working days in advance of the meeting.

In-Person Participation: In-person public comments will be heard first. Following in-person public comments, virtual attendees will be heard in the order in which they raise their hand via the Zoom platform. Speaking time will be limited to two minutes per person, unless specified by the Chairperson. Requests to speak will not be taken after the public comment period ends, unless under the Chair's discretion.

Instructions for providing in-person public comments:

1. Fill out a speaker slip located at the entrance of the Board Room;
2. Submit speaker slip to MTS staff seated at the entrance of the Board Room;
3. When your name is announced, please approach the podium located on the right side of the dais to make your public comments.

Members of the public are permitted to make general public comment at the beginning of the agenda or specific comments referencing items on the agenda during the public comment period. General Public Comment, at the beginning of the Board of Directors meeting only, will be limited to five speakers. Additional speakers with general public comments will be heard at the end of the meeting.

Assistive Listening Devices (ALDs): ALDs are available from the Clerk of the Committee* prior to the meeting and are to be returned at the end of the meeting.

Reasonable Accommodations: As required by the Americans with Disabilities Act (ADA), requests for agenda information in an alternative format or to request reasonable accommodations to facilitate meeting participation, please contact the Clerk of the Committee* at least two working days prior to the meeting.

***Contact Information:** Contact the Clerk of the Committee via email at Lucia.Mansour@sdmts.com, phone at **(619) 557-4521** or by mail at **1255 Imperial Ave. Suite 1000, San Diego CA 92101.**

Agenda del Comité de Desarrollo Presupuestario

November 30, 2023

Haga clic en el enlace para acceder a la reunión:

https://us02web.zoom.us/j/82907998675

ID de la reunión en Zoom

Formas de Participar

Computadora: Haga clic en el enlace más arriba. Recibirá instrucciones para operar el navegador de Zoom o la aplicación de Zoom. Una vez que haya iniciado sesión en la reunión, tendrá la opción de participar usando el sistema de audio de su computadora o teléfono.

Funciones del Seminario En Línea:

Levantar la mano	▶	Use la herramienta de **levantar la mano** cada vez que desee hacer un comentario público.
CC	▶	Los participantes pueden habilitar **el subtitulado** haciendo clic en el ícono CC. También puede ver la transcripción completa y cambiar el tamaño de letra haciendo clic en “configuración de subtítulos”. Estas herramientas no están disponibles por teléfono.
	▶	Este símbolo indica que usted se encuentra en **silencio**, haga clic en este ícono para quitar el silenciador de su micrófono.
	▶	Este símbolo indica que su micrófono se encuentra **encendido**. Haga clic en este símbolo para silenciar su micrófono.
	▶	La herramienta de chat deben usarla los panelistas y asistentes únicamente para asuntos “pertinentes a la reunión”, ya que comentarios realizados a través de esta herramienta no se conservarán como parte del registro de la reunión. Consulte el **Comentario público verbal** en vivo para obtener instrucciones sobre cómo hacer un comentario público.

Teléfono Inteligente o Tableta: Descargue la aplicación de Zoom y participe en la reunión haciendo clic en el enlace o usando el ID del seminario web (que se encuentra en el enlace).

Descarga en el App Store

Obténla en Google Play

Teléfono:

1. Si está participando en la reunión mediante audio de su teléfono y viendo la reunión en un dispositivo, marque el número indicado en la pestaña de llamada telefónica “unirse por audio” en la ventana emergente inicial e ingrese el ID de la reunión (que se encuentra en el enlace).
2. Si está participando solo por teléfono, marque: **+1-669-900-9128** o **+1-253-215-8782** e ingrese el ID de la reunión que se encuentra en el enlace, pulse #. Tendrá acceso al audio de la reunión, **pero NO podrá ver las presentaciones en PowerPoint.**

Comentarios Públicos Verbales en Vivo: Use la herramienta “levantar la mano” cada vez que desee hacer un comentario público sobre alguno de los artículos. Levante la mano una vez que el artículo de la agenda sobre el que desea comentar haya sido convocado. Los comentarios públicos en persona se escucharán primero, se escuchará a los asistentes virtuales en el orden en el que levanten la mano. No se aceptarán solicitudes para hablar después de que termine el periodo para hacer comentarios públicos, a menos de que el presidente determine de otra forma a su discreción. Comentarios públicos generales, únicamente al inicio de la reunión de la Junta de Directores, se limitarán a cinco personas que deseen hablar. Las personas adicionales que deseen aportar comentarios públicos generales podrán hacerlo al final de la reunión. Se otorga dos minutos de tiempo por persona que desee hablar, a menos de que el presidente instruya de otra forma. (*Consulte la página 2 para obtener instrucciones sobre cómo hacer un comentario público.*)

Comentarios Públicos a Través de Zoom

1. Haga clic en el enlace que se encuentra en la parte superior de esta página de instrucciones
2. Haga clic en el ícono de levantar la mano en el centro inferior de la plataforma
3. El secretario anunciará su nombre cuando sea su turno de hablar
4. Desactive el silenciador para que pueda hablar

Comentarios Públicos Realizados Únicamente por Teléfono

1. Marque el **+1-669-900-9128**
2. Ingrese el ID de la reunión en Zoom que se encuentra en el enlace y pulse #
3. Marque *9 para levantar la mano por teléfono
4. El secretario indicará los últimos 4 dígitos de su número de teléfono para anunciar que usted será el siguiente en hablar
5. Marque *6 para desactivar el silenciador

Comentarios Públicos por Escrito (Antes de la Reunión): Los comentarios públicos por escrito se registrarán en el registro público y se entregarán a los miembros de la Junta de MTS antes de la reunión. Los comentarios deben enviarse por correo electrónico o postal al secretario del Comité* antes de las 4:00 p.m. el día anterior a la reunión.

Servicios de Traducción: Pueden solicitarse servicios de traducción comunicándose con el secretario del Comité* por lo menos cuatro días hábiles antes de la reunión.

Participación en Persona: Los comentarios públicos en persona se escucharán primero. Después de los comentarios públicos en persona, se escuchará a los asistentes virtuales en el orden en el que levanten la mano a través de la plataforma de Zoom. El tiempo para hablar se limitará a dos minutos por persona, a menos de que el presidente especifique de otra forma. No se recibirán solicitudes para hablar después de que termine el periodo para hacer comentarios públicos, a menos de que el presidente determine de otra forma a su discreción.

Instrucciones para brindar comentarios públicos en persona:

1. Llene la boleta para personas que desean hablar que se encuentran en la entrada de la Sala de la Junta.
2. Entregue la boleta para personas que desean hablar al personal de MTS que se encuentra sentado en la entrada de la Sala de la Junta.
3. Cuando anuncien su nombre, por favor, acérquese al podio ubicado en el lado derecho de la tarima para hacer sus comentarios públicos.

Los miembros del público pueden hacer comentarios públicos generales al inicio de la agenda o comentarios específicos que hagan referencia a los puntos de la agenda durante el periodo de comentarios públicos. Los comentarios públicos generales únicamente al inicio de la reunión de la Junta de Directores, se limitarán a cinco personas que deseen hablar. Las personas adicionales que deseen aportar comentarios públicos generales podrán hacerlo al final de la reunión.

Dispositivos de Asistencia Auditiva (ALD, por sus siglas en inglés): Los ALD están disponibles con el secretario del Comité* antes de la reunión y estos deberán ser devueltos al final de la reunión.

Facilidades Razonables: Según lo requerido por la Ley de Estadounidenses con Discapacidades (ADA, por sus siglas en inglés), para presentar solicitudes de información de la agenda en un formato alternativo o solicitar facilidades razonables para facilitar su participación en la reunión, por favor, comuníquese con el secretario del Comité* por lo menos dos días hábiles antes de la reunión.

***Información de Contacto:** Comuníquese con el secretario del Comité por correo electrónico en Lucia.Mansour@sdmts.com, por teléfono al **(619) 557-4521** o por correo postal en **1255 Imperial Ave. Suite 1000, San Diego CA 92101.**

Budget Development Committee

Agenda

November 30, 2023 at 9:00 a.m.

In-Person Participation: James R. Mills Building, 1255 Imperial Avenue, 10th Floor, San Diego CA 92101

Teleconference Participation: (669) 444-9171; Webinar ID: 829 0799 8675, https://us02web.zoom.us/j/82907998675

NO.	ITEM SUBJECT AND DESCRIPTION	ACTION
1.	**Roll Call**	
2.	**Public Comments**	
3.	**Approval of Minutes** Approval of the November 2, 2023 Budget Development Committee Meeting Minutes.	Approve

DISCUSSION ITEMS

4.	**San Diego Transit Pension Plan (Liz Masson, Hanson Bridgett LLP, and Anne Harper/Alice Alsberghe, Cheiron)**	Informational
5.	**Fiscal Year (FY) 2024 Operating Budget Forecast (Gordon Meyer)**	Informational

OTHER ITEMS

6.	**Next Meeting Date: TBD - February**	
7.	**Other Staff/Committee Member Communications and Business**	
8.	**Adjournment**	

MINUTES

JOINT MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM

EXECUTIVE COMMITTEE & BUDGET DEVELOPMENT COMMITTEE

November 2, 2023

[Clerk's note: Except where noted, public, staff and board member comments are paraphrased. The full comment can be heard by reviewing the recording at the MTS website.]

1. Roll Call

Chair Whitburn called the Joint Executive & Budget Development Committee meeting to order at 9:01 a.m. A roll call sheet listing Executive & Budget Development Committee member attendance is attached.

2. Public Comment

There were no Public Comments.

3. Approval of Minutes

Board Member Hall moved to approve the minutes of the October 12, 2023 Executive Committee and the September 13, 2023 Budget Development Committee meeting minutes. Vice Chair Goble seconded the motion, and the vote was 6 to 0 in favor with Board Member McCann and Board Member Vargas absent.

DISCUSSION ITEMS

4. Senate Bill (SB) 125 Funding Update (Sharon Cooney, Brian Riley, Denis Desmond, and Mike Thompson)

Sharon Cooney, MTS Chief Executive Officer, Brian Riley, MTS Chief Operation Officer for Rail, Denis Desmond, Director of Planning and Scheduling, and Mike Thompson, Director of Financial Planning and Analysis, presented on the SB 125 Funding Update. They outlined: State Budget for SB 125 funding, capital funding, operations funding, social equity, feedback received, Zero-Emission Transit Capital Program, Transit and Intercity Rail Capital Program (TIRCP) proposed projects, security enhancements, Orange Line signal infrastructure modernization, signaling system, track improvements, VMS & station improvements, Orange Line modernization project total budget, trolley service enhancements, bus service enhancements, additional bus service, bus stop accessibility improvements, Otay Mesa service improvements, reduced fare programs, capital & operations funding, and the project timeline.

Public Comment

Jay Robinson-Duff – Provided a written statement to the Board prior to the meeting. The written comment is included in the November 2, 2023 Final Meeting Packet.

Manny Rodriguez – Provided a verbal statement to the Board during the meeting. Rodriguez supported the social equity funding target of SB 125 and MTS's use of CalEnviroScreen tool to identify transit reliant communities. Rodriguez requested that staff showcase the correlation of the bus route frequency increases and CalEnviroScreen communities and that service increase is implemented as soon as 2024.

Ariana Federico – Representing Mid-City CAN, provided a verbal statement to the Board during the meeting. Federico encouraged the Board consider to contribute additional two years to the Youth Opportunity Pass Program (YOP).

Guadalupe Rojas – Representing Mid-City CAN, provided a verbal statement to the Board during the meeting. Rojas listed the benefits of YOP and encouraged the Board to consider contributing additional funds to be allocated to YOP.

Janet Rogers – Representing The Train Coalition made a verbal statement to the Board during the meeting. Rogers supported transit to the airport on a trolley line and encouraged the expansion to Liberty Station, Midway and various beaches.

Katheryn Rhodes – Provided a verbal statement to the Board during the meeting. Rhodes encouraged the Board to consider additional funds to be allocated to YOP. Rhodes encouraged free transit for all and low-income transit passes. Rhodes also encouraged the agency invest in a corridor that connects the Border to Pacific Beach and the use of transit to the airport.

Zack Defazio – Representing Ride SD made a verbal statement to the Board during the meeting. Defazio supported the increased frequencies, 15-minute frequencies on the Green and Orange line, extended 7-minute frequencies on the Blue Line and Cross Boarder Express (CBX) transportation.

Committee Comments

Board Member Moreno supported the additional bus stop improvements and the study to assess Otay Mesa transportation. She encouraged staff's collaboration with the Transportation Equity Working Group. She appreciated staff's proposed plan which incorporated both Board and public feedback. She reiterated that the proposed projects could be changed at a later date.

Board Member Elo-Rivera thanked members of the public for their participation and staff for their work in accessing these funds. He asked about the Zero Emission Transit Capital Program and the opportunity to create cost recovery charging options. Ms. Cooney did not believe the grant guidelines would limit infrastructure profitability, but noted that the agency's fleet charging infrastructure would take priority. He encouraged staff to consider these options during the construction portion of the project. He asked staff if there any conversations about existing opportunities. Ms. Cooney noted that the overhead catenary charging system was a distinctive infrastructure that may not accommodate to other fleet types. She added that the charging infrastructure is currently proprietary although it is not projected to be in the future. Mike Wygant, Chief Operating Officer for Bus, added that the overhead charging system is specific to transit vehicle, where conventional vehicles would not be compatible for use. He also added that the agency was constructing an overhead charging station due to limited space at the facilities. He added that the current pilot program plug-in chargers do host standard plug-in vehicles, however the agency would have to administratively separate the electricity credits that are exclusively for transit use. He did note that hydrogen private use could be available for third party use in the future. He added that if the agency were to ever administer on-route charging, that charging stations could be used for third parties. Ms. Cooney noted that the Clean Transit Advancement Campus could potentially be a future opportunity to deploy that type of infrastructure.

Board Member McCann thanked staff for their proactive efforts and the public's participation. He noted that a top priority was to increase frequency, which would increase ridership.

Board Member Bush thanked staff and the public for their participation. He asked if public restrooms would be incorporated in the funding package. Ms. Cooney replied that the restrooms were not included, since the qualifications of the projects were meant to target greenhouse gas reductions. She added that restrooms could potentially be added to the Capital Improvement

Program budget. Board Member Bush asked staff to confirm that restroom funding met the criteria of the SB 125 funding. Ms. Cooney said that she could always check with the California State Transportation Agency (CalSTA) to confirm that restrooms were not an eligible expense. Board Member Bush encouraged the incorporation of restrooms on the system.

Vice Chair Goble asked if the agency was accounting for the additional staff that may be needed to support the agency's growth and additional programs. Ms. Cooney noted that additional staff has been added in anticipation to support programs. Vice Chair Goble encouraged an increase in staff to properly support the system.

Chair Whitburn thanked staff for the funding proposal and members of the public for their participation. He distinguished the addition of riders with an increase in frequency on buses and trolleys. He noted that the public's feedback such as adding security, extending hours, adding frequency and enhancing infrastructure were vital changes for the region.

Action Taken

Informational item only. No action taken.

OTHER ITEMS

5. Review of Draft November 9, 2023 Board Agenda

<u>Recommended Consent Items</u>

4. Approval of Minutes
Action would approve the October 19, 2023 Board of Directors meeting minutes.

5. Adoption of the 2024 San Diego Metropolitan Transit System (MTS) Executive Committee and Board of Directors Meeting Schedule
Action would adopt the 2024 Executive Committee and Board of Directors meeting schedule

6. Repeal of MTS Board Policy No. 24, "Regional Transit Service Dispute Resolution"
Action would repeal MTS Board Policy No. 24, "Regional Transit Service Dispute Resolution" as of January 1, 2024.

7. Quarter Ending September 30, 2023 – Investment Report

8. Pay Phone Services – Contract Award
Action would authorize the Chief Executive Officer (CEO) to: (1) Execute MTS Doc. No. L1462.0-23 (in substantially the same format as Attachment A), with Western Automated Solutions, Inc. ("Wescomm"), for the provision of pay phone services for one and a half (1.5) base years with four (4), one (1)-year options for a total of $1,362,900.00; and (2) Exercise the option years at the CEO's discretion.

9. Bus Operator and Supervisor Uniforms – Contract Award
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. B0756.0-23, with Bordova Innovations Inc., for the purchase of bus operator and supervisor uniforms, for five (5) years effective January 1, 2024 through December 31, 2028, in the amount of $2,612,786.76.

10. **Railroad Ties – Contract Award**
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc No. L1651.0-24, with Phoenix Contracting in the amount of $182,700.90 for railroad ties.

11. **Heating, Ventilation and Air Conditioning (HVAC) Preventative Inspection and Maintenance Services and As-Needed Repairs – Contract Award**
Action would authorize the Chief Executive Officer (CEO) to: 1) Execute MTS Doc. No. PWG372.0-23, with Comfort Mechanical, Inc., a Small Business (SB), for HVAC preventative inspection and maintenance services and as-needed repairs for a three (3) year base period, with two (2) 1-year options for a total of $715,596.93; and 2) Exercise the option years at the CEO's discretion.

12. **Davra Network RuBAN Software Support and Development – Sole Source Contract Award**
Action would authorize the Chief Executive Officer (CEO) to: 1) Execute MTS Doc. No. G2795.0-24, with Davra Networks (Davra), in the amount of $1,288,800.00 , for a period of three (3) base years, and two (2) one-year options for the provision of RuBAN software licensing support and development; and 2) Exercise the option years at the CEO's discretion.

13. **Janitorial Services – Contract Amendment**
Action would 1) Ratify Amendment 4 to MTS Doc. No. G2613.4-22 with NMS Management Inc. (NMS), a Disadvantage Business Enterprise (DBE), in the amount of $13,316.30; and 2) Authorize the Chief Executive Officer (CEO) to execute Amendment 5 to MTS Doc. No. G2613.5-22 with NMS, in the amount of $274,423.08.

14. **Landscape Maintenance Services – Contract Amendment**
Action would 1) Ratify Amendment 2 to MTS Doc No. PWG302.2-20 with Aztec Landscaping, Inc. (Aztec) in the amount of $50,000.00 for as-needed landscaping services at multiple Bus Rapid Transit (BRT) locations; 2) Ratify Amendment 3 to MTS Doc No. PWG302.4-20 with Aztec, at no additional cost, for as-needed landscaping services at the Pyramid Building; and 3) Ratify Amendment 4 to MTS Doc No. PWG302.4-20 with Aztec in the amount of $26,877.00 for as-needed landscaping services for the channel clearing of nonnative, invasive, and channel blocking landscaping in the Alvarado Creek near Grantville Transit Center, and to San Diego River property near Hotel Circle for as needed landscaping services for the Land Management (LM) program; and 4) Authorize the Chief Executive Officer (CEO) to execute Amendment 5 to MTS Doc No. PWG302.5-20 with Aztec in the amount of $100,083.00 for as-needed landscaping services for the Coronado track line and Palomar station cleanups for the LM program.

15. **Baltimore Junction and Euclid Avenue Planning Study – Work Order Agreement**
Action would authorize the Chief Executive Officer (CEO) to execute Work Order WOA355-AE-32 under MTS Doc. No. PWL355.0-22 (in substantially the same format as Attachment A) with Psomas, in the amount of $699,915.43 to provide planning services for the Baltimore Junction and Euclid Avenue Grade Separation Study.

16. **Federal Fiscal Year (FFY) 2022 Federal Transit Administration (FTA) Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities (FTA Section 5310) – Amended and Restated Grant Award**
Action would: (1) Authorize the Chief Executive Officer (CEO) to execute amended and restated grant agreement, MTS Doc. No. G2697.1-23 (in substantially the same format as Attachment A), awarded by the San Diego Association of Governments (SANDAG) in the amount of $599,999.00 in FFY 2022 FTA Section 5310 funding for paratransit vehicle replacement; and (2) Authorize $693,076.42 in local matching funds to fully fund the purchase of seven (7) Americans with Disabilities Act (ADA) paratransit vehicles.

17. **Mills Building 1st Floor Security Breakroom and Transit Store Office Rehabilitation – Change Order**
Action would authorize the Chief Executive Officer (CEO) to execute Change Order (CCO) 02 to Work Order MTSJOC324-18.02 under Job Order Contract (JOC) MTS Doc. No. PWG324.0-21 (in substantially the same format as Attachment A) with ABC General Contracting, Inc. (ABCGC), in the amount of $100,497.50, for replacing the Heating, Ventilation and Air Conditioning (HVAC) serving the new MTS Security Field Office and Transit Store Office at the Mills Building, as well as providing and installing additional access controls and Closed-Circuit Television (CCTV) systems.

6. Next Meeting Date

The next Executive Committee will be on December 7, 2023, at 9am. The next meeting date for the Budget Development Committee is November 30, 2023 at 9am.

7. Adjournment

The meeting was adjourned at 9:48 a.m.

Chairperson
MTS Executive Committee

Chairperson
MTS Budget Development Committee

Clerk of the Board
San Diego Metropolitan Transit System

Attachment: Roll Call Sheet

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
JOINT MEETING OF THE EXECUTIVE AND BUDGET DEVELOPMENT MEETING

ROLL CALL

MEETING OF (DATE):	November 2, 2023	CALL TO ORDER (TIME):	9:01am
RECESS:		RECONVENE:	
CLOSED SESSION:		RECONVENE:	
PUBLIC HEARING:		RECONVENE:	
ORDINANCES ADOPTED:		ADJOURN:	9:48 am

REPRESENTING	MEMBER		EC ALTERNATE		PRESENT (time arrived)	ABSENT (time left)
EC Member	Bush	☒	Leyba-Gonzalez	☐	9:01am	9:48am
BDC & EC Member	Elo-Rivera	☒	Montgomery Steppe	☐	9:01am	9:48am
BDC & EC Member	Goble	☒	No Alternate	☐	9:01am	9:48am
EC Member	Hall	☒	Frank	☐	9:01am	9:48am
BDC Member	McCann	☒	No Alternate		9:07am	9:48am
BDC Chair & EC Member	Moreno	☒	Bush	☐	9:01am	9:48am
BDC & EC Member	Vacant	☐	Vargas	☐	ABSENT	ABSENT
EC Chair & BDC Member	Whitburn	☒	No Alternate	☐	9:01am	9:48am

SIGNED BY THE CLERK OF THE BOARD: /S/ Dalia Gonzalez

Metropolitan
Transit
System

Agenda Item No. 4

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BUDGET DEVELOPMENT COMMITTEE (BDC)

November 30, 2023

SUBJECT:

San Diego Transit Pension Plan (Liz Masson, Hanson Bridgett LLP, And Anne Harper/Alice Alsberghe, Cheiron)

INFORMATIONAL ONLY

Budget Impact

None at this time.

DISCUSSION:

The MTS Board of Directors has given direction to staff to study the San Diego Transit Defined Benefit (DB) / Defined Contribution (DC) plans to understand the budgetary impact of creating a new DB plan for Amalgamated Transit Union (ATU) and International Brotherhood of Electrical Workers (IBEW) represented employees. Staff has been working with outside consultants and actuaries to review plan design (formula) options, collective bargaining considerations, and estimated budgetary costs.

Liz Masson of Hanson Bridgett LLP Staff will present an analysis of certain options and legal issues associated with revising the current retirement plan structure for Represented Employees under the Public Employees' Pension Reform Act of 2013 (PEPRA). This will include questions about plan design options, employee cost sharing, as well as collective bargaining considerations.

Anne Harper and Alice Alsberghe of Cheiron, the plan's current actuaries, will present the estimated cost of PEPRA benefits for current IBEW/ATU DC plan members for two different benefit formulas.

/s/ Sharon Cooney

Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Attachments: A. Pension Plan Options for Represented Employees of San Diego Transit Corporation
B. Cheiron Memo Anne Harper/Alice Alsberghe

HansonBridgett

Memorandum

TO: Budget Development Committee
Board of Directors, San Diego Metropolitan Transit System

FROM: Liz Masson

DATE: November 15, 2023

RE: Pension Plan Options for Represented Employees of San Diego Transit Corporation

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San Diego Transit Corporation (SDTC) provides a tax-qualified, individually designed defined benefit retirement plan ("DB Plan") for its three employee groups: employees represented by the Amalgamated Transit Union, Local 1309 (ATU); employees represented by the International Brotherhood of Electrical Workers, Local Union 465 (IBEW); and "non-contract" employees. Several years ago, SDTC collectively bargained with the ATU and IBEW to close the DB Plan to new employees in those groups and, going forward, to make contributions for such employees ("Represented Employees") to a defined contribution "money purchase" plan, qualified under Internal Revenue Code section 401 ("401(a) Plan"), pursuant to their respective collective bargaining agreements (CBAs).

This memorandum provides an analysis of certain options and legal issues associated with revising the current retirement plan structure for Represented Employees. An Executive Summary in the form of questions-and-answers is followed by detailed analysis and discussion of the legal issues associated with the options presented for review.

I. EXECUTIVE SUMMARY

Q-1 Could SDTC contract with the California Public Employees' Retirement System (CalPERS) to provide pension benefits for Represented Employees?

A-1 No, SDTC could not contract with CalPERS to provide pension benefits only for Represented Employees and not for other SDTC employees. Under the CalPERS contracting rules, retirement benefits must be provided to all employees in a "membership classification."[1] For SDTC, CalPERS membership classifications would be divided into "local safety employees" and all other, non-safety employees, referred to as "local miscellaneous members." For example, SDTC could not have any bus operators, mechanics, office staff, or managers covered by CalPERS unless all such employees were also covered by CalPERS. Accordingly, all SDTC employees (other than those who meet the definition of "local safety employee", e.g., law enforcement or firefighter/EMT) would have to be covered by a new CalPERS contract, which means that contracting with CalPERS is not an option while any SDTC employee remains covered by the existing DB Plan.

Q-2 Could SDTC establish a new defined benefit plan for Represented Employees, to be

[1] Cal. Gov. Code § 20479.

effective on a prospective basis only, and, if so, what limitations would apply to plan design, eligibility, employee cost-sharing, etc.?

A-2 Yes, SDTC could establish a new individually designed defined benefit plan for Represented Employees that would be effective on a prospective basis only. The plan would need to meet the tax-qualification requirements in Code section 401(a), in order for contributions and investment earnings to be excluded from employees' taxable income.[2] The new plan would also need to comply with the Public Employees' Pension Reform Act of 2013 ("PEPRA") with respect to the benefit formula, employee cost-sharing (employees must pay 50% of the normal cost of benefits), limits on pensionable compensation, and other provisions. These are explained in detail in Section III.A, below.

Q-3 If a new defined benefit plan were established for Represented Employees, could the assets of that plan be commingled with the assets of the existing SDTC DB Plan? If so, what are the advantages and disadvantages of commingling plan assets?

A-3 Yes, if a new defined benefit plan were established for Represented Employees on a prospective basis, the plan could be structured to allow for commingling of assets with SDTC's current DB Plan in accordance with the IRS rules for "group trusts." The main advantage of commingling plan assets is to realize economies of scale with respect to plan investment fees and expenses, including costs for an investment consultant and other service providers. This would also streamline plan administration, with the current Retirement Board acting as the fiduciary and overseeing the investments of the new plan as part of its current role with the existing DB Plan. There are no disadvantages to commingling the assets, given that the group trust rules permit the liabilities of each plan to be accounted for separately.

Q-4 Could current Represented Employees' existing account balances in defined contribution plans (e.g., the 401(a) Plan) be used to make employee contributions to a new defined benefit plan on a prospective basis?

A-4 Potentially, although we would recommend that MTS request a private letter ruling ("PLR") from the Internal Revenue Service to ensure that the transaction would comply with applicable tax rules and would not result in negative tax consequences for affected employees.[3] If part of the proposal, the PLR request should include a ruling on allowing current employees to elect whether to use their 401(a) Plan account balances for making the required contributions to the new defined benefit plan, or having those contributions be made as "employer pick-up" contributions through salary reduction, which would be the required method for newly hired employees and current Represented Employees when their 401(a) Plan account balance was depleted.

If the proposal involved terminating the 401(a) Plan, a transfer of funds in Represented Employees' account balances to the new defined benefit plan must result in a benefit that is

[2] The governing documents of the existing DB Plan, which incorporate these tax requirements, could be used as a starting point for drafting necessary documents for a new defined benefit plan.
[3] The process for obtaining a private letter ruling from the IRS for this type of situation would entail compiling and filing specific information about the plans involved and the proposed transaction, and payment of a "user fee" of $38,000. We have significant experience in preparing and filing PLR requests and can provide a budget estimate for this work, if requested.

equal to or greater than the benefit they would have been entitled to immediately before the transfer, to comply with applicable tax rules and the 401(a) Plan document.[4]

Q-5 Could Represented Employees be offered a choice between a defined benefit plan and a defined contribution plan prospectively?

A-5 Yes, newly-hired employees could be provided an opportunity to make an irrevocable election to participate in a defined benefit plan or a defined contribution plan on a prospective basis. For current Represented Employees, we recommend that no such election be provided unless a favorable PLR on this issue were obtained from the IRS. Given the PEPRA, tax compliance and other issues associated with offering a choice between a defined benefit plan and a defined contribution plan to current Represented Employees, it likely would be much less expensive and pose less of a legal risk to retain the current 401(a) Plan structure for current Represented Employees, even if a defined benefit plan were provided as an option for newly hired employees in those groups.

Q-6 Could the existing DB Plan be opened for Represented Employees on a prospective basis?

A-6 Yes, the existing DB Plan could be reopened for Represented Employees on a prospective basis, for example as of July 1, 2025, meaning that current Represented Employees would begin accruing benefits under the DB Plan as of that date, and Represented Employees hired as of that date would participate in the DB Plan. This proposal would involve additional compliance issues, including:

(a) if the proposal to reopen the DB Plan were to involve using 401(a) Plan account balances to fund the cost of future service credit, requesting a private letter ruling from the IRS to ensure that implementation of the proposal would comply with applicable tax rules and would not result in negative tax consequences for employees; and

(b) if the proposal involved terminating the 401(a) Plan, determining that the transfer of funds in Represented Employees' account balances would result in a benefit that is equal to or greater than the benefit they would have been entitled to immediately before the transfer, to comply with applicable tax rules and the 401(a) Plan document.

Q-7 Could the existing DB Plan be reopened for Represented Employees on a retroactive basis, so that current Represented Employees would receive service credit for prior years of employment with SDTC beginning with 2013?

A-7 The existing DB Plan potentially could be reopened for Represented Employees on a retroactive basis, so that current Represented Employees would receive service credit for prior years of employment with SDTC beginning with 2013. However, in addition to the compliance issues described in Q/A-6 (assuming this option would also include reopening the existing DB Plan on a prospective basis for current Represented Employees), this option would involve the

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[4] See IRC § 401(a)(12); MissionSquare Retirement Governmental Money Purchase Plan, § 16.08.

following issues:

(a) whether and how the proposal could comply with legal requirements applicable to California public agency retirement plans under PEPRA, including the requirement that PEPRA members pay at least 50% of the "normal cost" of their benefits under the Plan. Because the employer cannot pay any portion of a PEPRA member's required contribution, current Represented Employees would need to fund those retroactive contributions either by transferring their 401(a) Plan account balances to the DB Plan, or on an out-of-pocket basis. This would also require an actuarial analysis of each employee's 401(a) Plan benefit compared to their benefit under the DB Plan, to determine whether this option could comply with the statutory prohibition on retroactive benefit enhancements under PEPRA; and

(b) if the proposal to reopen the DB Plan were to involve using 401(a) Plan account balances to fund the cost of prior service credit, requesting a private letter ruling from the IRS to ensure that implementation of the proposal would comply with applicable tax rules and would not result in negative tax consequences for employees.

II. BACKGROUND

SDTC sponsors three individually designed tax-qualified defined benefit pension plans established under Code section 401(a) to provide retirement benefits for its employees: 1) the Retirement Plan for A.T.U. Local 1309 Contract Employees of the San Diego Transit Corporation (the "ATU Plan"); 2) the Retirement Plan for I.B.E.W. Local 465 Contract Employees of San Diego Transit Corporation (the "IBEW Plan"); and 3) the Retirement Plan for Non-Contract Employees of the San Diego Transit Corporation (the "Non-Contract Plan"; collectively, the "DB Plan"). The DB Plan is jointly administered by a retirement board consisting of three members appointed by the San Diego Metropolitan Transit System (MTS), three members appointed by the ATU, and three members appointed by the IBEW.

Although the ATU Plan, the IBEW Plan and the Non-Contract Plan each were established and are maintained pursuant to three separate written instruments, their assets and liabilities (although separately accounted for) are aggregated for purposes of investing plan assets, making actuarial projections and valuation reports, and inclusion in MTS' annual comprehensive financial report (ACFR).

Effective as of November 2012 for the ATU Plan, and April 2011 for the IBEW Plan, the DB Plan was closed to newly-hired employees pursuant to the terms of the new collective bargaining agreements (CBAs). For those employees (referred to herein as "Represented Employees"), SDTC makes employer contributions based on a percentage of employees' compensation (currently 6%) to a defined contribution "money purchase" plan qualified under Code section 401(a) (the "401(a) Plan"). Employees vest in their benefits under the 401(a) Plan on a graduated vesting schedule, and become fully-vested after five years of employment. The 401(a) Plan is maintained and administered by a third-party service provider, MissionSquare, and employees direct the investment of their account balances in various funds made available through MissionSquare.

For Represented Employees, SDTC also matches voluntary employee contributions to a deferred compensation retirement plan established under Code section 457(b) (the "457(b) Plan"), up to a maximum of 2%.[5] Employees who were participants in the ATU Plan and the IBEW Plan as of the dates those plans were closed to new employees continue to participate in the DB Plan, and do not participate in the 401(a) Plan.

SDTC makes employer contributions to the DB Plan based on the actuarially determined total contribution, as revised annually, reduced by the required employee contribution for each employee group. Currently the required employee contribution rate is 8% for participants in both the ATU and IBEW Plans.

The Non-Contract Plan remains open to newly hired employees, with all eligible employees hired on or after January 1, 2013 participating as "new members" (also referred to as "PEPRA members"). According to the latest Actuarial Valuation Report (AVR), the PEPRA-mandated contribution rate for PEPRA members of the Non-Contract Plan increased from the prior rate of 7.75% to 9.5%, effective for the July 1, 2022 valuation. All other Non-Contract participants contribute 8% to the DB Plan.

Recently, MTS staff were asked to evaluate various options for revising the current retirement plan structure for Represented Employees, including: contracting with CalPERS to provide a defined benefit plan; establishing a new, individually-designed defined benefit plan; and reopening the DB Plan for currently excluded and newly hired Represented Employees, including, potentially, granting retroactive service credit under the DB Plan for prior years of employment. We were asked to analyze legal issues associated with the various proposals.

III. DISCUSSION AND ANALYSIS

A. PEPRA Compliance Issues

Effective January 1, 2013, the California Public Employees' Pension Reform Act of 2013 ("PEPRA") mandates significant changes to the benefits for "new members", which generally includes all individuals who first become participants in a public agency's retirement plan after December 31, 2012, and who are not subject to "reciprocity" under the public agency's retirement plan.[6] SDTC employees hired on or after January 1, 2013 are treated as "new" or "PEPRA" members.

Retirement plans covering PEPRA members are subject to certain PEPRA-mandated provisions, which include specific benefit formulas, limits on pensionable compensation, and required cost-sharing for employees. Under PEPRA, the following rules apply to a public employer's retirement plan – these rules would apply to any newly-adopted defined benefit plan, as well as the existing DB Plan, if it were reopened for Represented Employees, for employees hired after January 1, 2013:

1. If the employer provides a defined benefit plan, the plan must provide for a prescribed formula for PEPRA general (i.e. non-safety) members that is equal to a "2% @ 62"

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[5] Based on the latest 457(b) Plan Adoption Agreement document provided by MTS, dated July 2020, all SDTC employees are eligible to make voluntary employee contributions to the 457(b) Plan.
[6] Cal. Gov. Code § Section 7522.04(f).

formula (meaning the benefit amount is calculated based on 2% of the employee's final compensation, multiplied by years of service, for a retirement at age 62), with actuarial reductions for earlier retirement and an increase in the multiplier to 2.5% at age 67.[7]

Thus, if a new defined benefit plan were adopted, or the existing DB Plan were reopened for Represented Employees, the benefit formula would need to match the non-safety member benefit formula in PEPRA (or another formula certified to be of no greater risk or cost to SDTC that is approved by the California Legislature).

2. Unless a higher employee contribution rate is agreed to through collective bargaining, PEPRA members must pay at least 50% of the "normal cost" of their benefits under the retirement plan, and the employer cannot pay any portion of the required PEPRA employee contribution.[8]

   Tax issues related to using current Represented Employees' account balances in the 401(a) Plan for making required PEPRA employee contributions are discussed in Section III.B, below.

3. PEPRA defines the "pensionable compensation" on which PEPRA members' retirement benefits (and contributions to the plan) may be based. The definition of "pensionable compensation" includes an annual (adjusted) dollar limit on the amount of compensation that can be taken into account for retirement plan contributions and benefit calculations. PEPRA also excludes a number of types of pay from the definition of "pensionable compensation", including bonuses, overtime, leave cash-outs at termination, certain types of "premium" pay; uniform allowances, etc.[9] A new defined benefit plan, or the existing DB Plan, if reopened, would need to provide for mandatory PEPRA member contributions, and incorporate the limits on pensionable compensation for purposes of contributions and benefit calculations.[10]

4. Any enhancement to an employee's retirement formula or retirement benefit adopted on or after January 1, 2013 can apply only to service performed on or after the "operative date" of the enhancement and cannot be applied to any service performed prior to such date.[11] For plans that are subject to collective bargaining, the "operative date" of the enhancement generally means the date the collective bargaining agreement (CBA) is signed or a later date agreed to by the parties.[12] If a CBA is signed after the expiration of the prior CBA, the parties can agree on a retroactive operative date that is the later of 12

[7] Cal. Gov. Code §§ 7522.02(d),(e); 7522.15; 7522.20. A new defined benefit plan can provide a different formula only if the formula is determined and certified by the plan's actuary and the retirement board to have no greater risk and no greater cost to the employer than the defined benefit formula required by PEPRA, and the formula is approved by the California Legislature. See Cal. Gov. Code § 7522.02(e).
[8] Cal. Gov. Code §§ 7522.30(a), (e). The "normal cost" means the portion of the present value of projected benefits attributable to each year of service, as determined by the plan actuary.
[9] Cal. Gov. Code §§ 7522.10; 7522.34.
[10] The ATU and IBEW Plan documents would need to be amended to comply with PEPRA, which would involve making changes similar to those in the Fourth Amended and Restated Non-Contract Plan document, effective as of January 1, 2022.
[11] Cal. Gov. Code § 7522.44(c).
[12] Cal. Gov. Code § 7522.44(c)(3).

months prior to the date of the new CBA, or the day after the prior CBA expired.[13]

PEPRA also provides rules that are specific to defined contribution plans. However, because SDTC's 401(a) Plan was established before the effective date of PEPRA (January 1, 2013), the 401(a) Plan is not subject to PEPRA. Accordingly, SDTC's contributions to the 401(a) Plan are not subject to the rules regarding "pensionable compensation" for employees hired after January 1 2013. This means that SDTC may contribute to the 401(a) Plan based on employees' compensation in excess of the annual "pensionable compensation" maximum (which is closely tied to the annual Social Security wage base), and that SDTC contributions can be based on earnings that include pay types specifically excluded from the PEPRA definition of "pensionable compensation", such as bonuses, overtime and termination cash-outs.

- Special PEPRA Compliance Issues Related to Providing Retroactive Service Credit for Current Represented Employees if Existing DB Plan Were Reopened

If a proposal to reopen the DB Plan for Represented Employees were to include providing service credit under the DB Plan for prior years of employment, the DB Plan's actuary would need to determine whether providing such service credit, even if employees paid 50% of the normal cost for that service credit, would result in an "enhancement" of those employees' retirement benefits, which is prohibited by PEPRA. This could require an individualized analysis, given that each Represented Employee's current retirement benefit under the 401(a) Plan is different.

The DB Plan's actuary would need to determine the amount of employee contributions to the DB Plan that would be necessary to comply with the 50% cost-sharing rule under PEPRA, given that SDTC could not pay any portion of the employees' required contributions (meaning that SDTC could not agree to pay for any part of the "normal cost" associated with providing such service credit for prior years).[14] This contribution requirement would be separate and in addition to the amount PEPRA members would be required to pay on a prospective basis for coverage under the DB Plan.

Subject to approval of the proposed transaction by the IRS, to mitigate financial hardships imposed on PEPRA members with respect to retroactive employee contributions required to comply with the PEPRA 50% cost-sharing rule, SDTC could consider whether Represented Employees could use their current account balances under the 401(a) Plan to meet the contribution requirement for retroactive service credit under the DB Plan. This approach would require having an actuary determine whether the vested 401(a) Plan account balance of each employee would be sufficient to "fund" the 50% normal cost contributions required under PEPRA.

As discussed further below, we would recommend that MTS request a private letter ruling from the IRS with respect to a proposal that includes using account balances in the 401(a) Plan to

[13] Cal. Gov. Code § 7522.44(c).
[14] Although PEPRA does not specify that the 50% cost-sharing rule applies to retroactive service credit granted when a "frozen" plan is reopened, there is nothing in the statute to indicate that it would not apply in that situation, Accordingly, if the existing DB Plan were to be reopened for Represented Employees who are currently excluded from the Plan, and service credit were provided for prior years of employment, employees should pay 50% of the cost of such service, to avoid violating PEPRA.

fund the cost of prior service credit under the DB Plan through a trustee-to-trustee transfer, including whether Represented Employees whose account balances are insufficient to fund prior service credit could make pre-tax salary reduction contributions to make up the difference. Other issues to consider would be how current non-vested employees and terminated vested employees would be treated under the proposal, including whether those employees could make after-tax contributions to fund the cost of prior service credit.

B. Tax Qualification Issues

Both the DB Plan and the 401(a) Plan are tax-qualified plans in accordance with Code section 401(a), under which contributions to the plan and earnings attributable to plan contributions will accumulate tax-deferred.[15] A newly-adopted defined benefit plan would also be a tax-qualified plan under Code section 401(a). A trust used to fund a tax-qualified plan will be tax-exempt.[16] Tax-qualified plans must comply with myriad Code and regulatory requirements in order to retain the tax-favored status of contributions and earnings thereon.

To mitigate any risk that actions taken to implement a proposal involving funding the cost of service credit under a newly-adopted defined benefit plan, or the reopened DB Plan through the use of 401(a) Plan account balances would violate applicable tax rules, we would recommend that MTS obtain a private letter ruling from the IRS on the proposed transaction. A PLR is a written determination from the IRS that interprets the tax laws and applies them to the requesting entity's particular facts and circumstances to provide a ruling on the tax effects of the proposed acts or transactions. A favorable PLR can be relied upon by the requesting entity in any subsequent inquiry by the IRS with respect to the transaction. The IRS has issued private letter rulings regarding similar proposed transactions, including the transfer of employees' account balances under a governmental defined contribution plan to a governmental defined benefit plan to provide for prior service credit under the defined benefit plan.[17]

If the proposal to reopen the DB Plan were to be implemented in a manner that involved providing service credit for current Represented Employees under the DB Plan for prior years of employment with SDTC, we would recommend that SDTC request a PLR from the IRS that describes the proposed transaction, and requests rulings to the effect that:

- Amounts transferred from PEPRA employees' account balances in the 401(a) Plan to the DB Plan to satisfy mandatory employee contribution obligations under PEPRA will not be deemed to be an actual or constructive distribution to employees and will not be includable in employees' taxable income under Code sections 402 or 451, or treated as distributions for purposes of Code section 72(t);

- The transfers will not jeopardize the tax-qualified status of either plan (a draft DB Plan amendment to allow for the transfers could be included with the PLR request, to demonstrate that, if approved, the transfers, in operation, would comply with the

[15] Code § 401(a).
[16] Code § 501(a).
[17] See, e.g., PLR 200230042 (7/26/2002). While private letter rulings may only be relied upon by the taxpayer receiving the ruling, they do provide useful information about how the IRS would likely view certain arrangements.

terms of the written plan instrument);

- The transferred amounts will retain their character as employer contributions for tax purposes; and

- The transferred amounts will not be treated as annual additions for purposes of section 415(c) of the Code, or subject to the limitation under section 415(b) of the Code.

Depending on the agreed-upon structure of the proposal, the PLR request might also request a ruling that employees whose 401(a) Plan account balances were insufficient to fund prior or current year service credit under the DB Plan could make pre-tax salary reduction contributions to make up the difference. Similarly, if the 401(a) Plan were not terminated as part of the implementation of the proposal, we would recommend including a request for a ruling that any employee whose account balance exceeded the amount necessary to pay for the 50% normal cost-sharing applicable to prior service credit under the DB Plan could retain the excess in their 401(a) Plan account, although no additional employer (or employee) contributions to the 401(a) Plan would be made, without affecting the 401(a) Plan's tax-qualified status.

MTS asked whether current employees could be given the option to individually elect whether to participate in the DB Plan, including whether to transfer their 401(a) Plan account balances to the DB Plan to pay for prior service credit under the DB Plan, or to continue participating in the 401(a) Plan with SDTC contributions pursuant to the applicable CBA. Based on Treasury regulations applicable to Code section 401(a) plans, which prohibit elections for currently eligible employees between participation in one or more tax-qualified plans maintained by the same employer, if the election results in a "cash or deferred arrangement", the IRS could refuse to provide a favorable ruling on such an election for current employees.[18] Such an election does not result in an impermissible "cash or deferred arrangement" where a newly eligible employee can make an irrevocable election between receiving taxable compensation (cash) or having salary reduction contributions made to a tax-qualified plan.[19] Here, for current Represented Employees who participate in the 401(a) Plan, giving those employees an election to either continue participating in the 401(a) Plan or participate in a new defined benefit plan (or the reopened DB Plan), might not be considered an irrevocable election within the meaning of the Treasury regulations, because those employees are already eligible under the 401(a) Plan.[20]

If an employee who is not yet eligible for any employer-sponsored plan (i.e. a newly-hired employee) is given a one-time, irrevocable election to participate in a money purchase plan through employer contributions (with corresponding reductions in employees' compensation) or accrue benefits under a defined benefit plan sponsored by the employer, and the election applies for the duration of the employee's employment, the election is not treated as a "cash or deferred arrangement."[21] However, that type of election is not permissible for employees who are already eligible for any tax-qualified plan sponsored by the employer.[22]

[18] See Treas. Reg. §§ 1.401(k)-1(a)(3)(v); (vi) Ex. 5.
[19] See Treas. Reg. § 1.401(k)-1(a)(3)(v).
[20] See Treas. Reg. § 1.401(k)-1(a)(3)(vii), Ex. 5.
[21] See *id*.
[22] See *id.*

Although it is not clear that the IRS would take the position that an election provided to current employees between continuing employer contributions to the 401(a) Plan and participation as a PEPRA member in a new defined benefit plan or the reopened DB Plan would be impermissible under the "cash or deferred arrangement" rules, the IRS generally disfavors such elections for current employees. One option would be to include a request for a ruling on the individual election issue in the initial PLR request; in these types of situations, the IRS typically indicates informally that an unfavorable ruling will be made before issuing the final rule, which provides an opportunity for the plan sponsor to amend its PLR request to remove the specific request, rather than receive a final, unfavorable ruling.

Under the tax rules described above, employees hired after the effective date of a new defined benefit plan, or the date the DB Plan were reopened for ATU and IBEW employees could be given the opportunity to make a one-time, irrevocable election to participate in either the new defined benefit plan or reopened DB Plan as PEPRA members, or to participate in the 401(a) Plan with SDTC contributions pursuant to the applicable CBA.

C. Compliance with Government Code Section 7507

Another legal issue to consider in evaluating these proposals is compliance with California Government Code section 7507, which requires that the governing body of a public agency take certain steps when "considering changes in retirement benefits or other postemployment benefits" prior to implementation of the changes.[23] Under this statute, prior to authorizing changes in public retirement benefits, a public agency's governing board is required to review a statement from an actuary regarding the actuarial effect of the proposed changes on future costs of retirement benefits and make that information public at a public meeting at least two weeks prior to the adoption of the proposed changes.[24]

If the future costs of the changes (whether those costs will be borne by the public agency, its employees, or both) exceed one-half of one percent of the "future annual costs" of existing benefits, the actuary must be present at the public meeting where the adoption of the change is considered, and the adoption of any benefit change cannot be placed on the consent calendar.[25] Upon adoption of the change, the CEO of the agency must acknowledge in writing that they understand the current and future cost of the benefit as determined by the actuary.[26]

Accordingly, before any of these proposals for revising the current retirement benefit structure for Represented Employees is implemented, MTS should engage an actuary to determine the effects on future cost changes in existing benefits of the change, make the results public at a public meeting at least two weeks prior to the effective date of the change, and, if applicable, comply with the requirement to have the actuary present at the public Board meeting where the proposal is considered.

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[23] Cal. Gov. Code § 7507.
[24] Cal. Gov. Code § 7507(b).
[25] Cal. Gov. Code § 7507(c).Future annual costs includes annual dollar changes, or the total dollar changes involved when available, as well as normal cost and any change in accrued liability. Cal. Gov. Code § 7507(a)(2).
[26] Cal. Gov. Code § 7507(d).

If you have any questions, or if we can be of further assistance, please let us know.

EJM:EJM

CC: Steve Miller, Esq.

MEMORANDUM

TO: Larry Marinesi and MTS' Budget Development Committee

FROM: Anne Harper and Alice Alsberghe, Cheiron

DATE: November 27, 2023

SUBJECT: San Diego Transit Corporation (SDTC) Retirement Plans for ATU and IBEW Employees who are not participants of the current defined benefit plans

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At your request, we have performed an actuarial analysis to estimate the normal cost of two potential PEPRA benefit formulas for ATU and IBEW employees who are currently participants in a defined contribution plan rather than the closed defined benefit Retirement Plans of SDTC.

Background

SDTC Retirement Plans consist of three employee groups: Non-Contract Employees, ATU Employees, and IBEW Employees. Non-contract employees have been, and continue to be, covered by the defined benefit Retirement Plans of SDTC. ATU Employees and IBEW Employees, hired prior to November 1, 2012 and May 1, 2011, respectively, also participate in the defined benefit Retirement Plans of SDTC. ATU and IBEW employees hired on or after these dates are participants in a defined contribution plan. This analysis focuses on the ATU and IBEW employees currently in the defined contribution plan. A simplified overview of the ATU and IBEW retirement plans is as follows:

- *Current* defined contribution (DC) plan for ATU and IBEW employees:
  - Employee contributions are optional
  - Employer contributes 6% of compensation, plus up to 2% match
  - Current DC plan contribution levels can be found in Cheiron's presentation to MTS' Budget Development Committee dated November 30, 2023

- *Proposed* PEPRA defined benefit plan for ATU and IBEW employees:
  - Implement a benefit formula consistent with PEPRA, either:
    - 2% of pay at age 62, per year of service
    - 1.5% of pay at age 65, per year of service
  - Employees and employers each contribute approximately half of the plan's total normal cost

Estimated Costs

The results of our analysis are shown below, including the estimated total normal cost rates and member contribution rates for both potential new DB benefit formulas, as well as the rates for the current Non-Contract PEPRA members in the SDTC Plan as of the July 1, 2022 valuation, for comparison purposes only.

San Diego Transit Corporation PEPRA Normal Cost Contribution Rates			
Group	Current PEPRA	New DB Members	New DB Members
PEPRA Formula	2% @ 62	2% @ 62	1.5% @ 65
Cost-of-Living Plan Provision	Max 2%/ Year	0%	0%
Total Normal Cost Rate	**18.81%**	**17.34%**	**10.93%**
50/50 Cost Sharing Rate for Members	9.40%	8.67%	5.46%
Member Contribution Rate *(rounded to nearest quarter %)*	**9.50%**	**8.75%**	**5.50%**
Active PEPRA Membership Statistics			
Number	23	457	457
Average Age	46.8	43.7	43.7
Average Service	7.1	0.0	0.0
Average Age at Hire Date	39.7	43.7	43.7

The estimated normal cost calculations are based on the following data and actuarial assumptions:

- The proposed defined benefit plan is *prospective* only. There is no past service granted or past service included in the cost estimates.
- The calculations are based on the current active members in the DC plan.
- All DC members are assumed to enter the defined benefit plan as of July 1, 2023, unless otherwise noted.
- Annual salary increases are assumed to be 3% of pay.
- Rate of investment return and discount rate is assumed to be 6%.
- All actuarial assumptions and methods can be found in the July 1, 2022 actuarial valuation report for the Retirement Plans of SDTC.

Disclosures

In preparing our estimates, we relied on information (some oral and some written) supplied by the MTS staff. This information includes, but is not limited to, census data for the current ATU and IBEW members in the defined contribution plan and potential PEPRA benefit formulas available to SDTC. We performed an informal examination of the obvious characteristics of the data for reasonableness and consistency in accordance with Actuarial Standard of Practice No. 23. The data for the current Non-Contract PEPRA members in the SDTC Retirement Plan and actuarial assumptions used are described in our July 1, 2022 actuarial valuation report.

Future results may differ significantly from the current results presented in this memo due to such factors as the following: plan experience different from that anticipated by the assumptions; changes in assumptions; changes in active member demographics; and any change in plan provisions or applicable law.

Cheiron utilizes ProVal actuarial valuation software leased from Winklevoss Technologies (WinTech) to calculate liabilities and project benefit payments. We have relied on WinTech as the developer of ProVal. We have a basic understanding of ProVal and have used ProVal in accordance with its original intended purpose. We have not identified any material inconsistencies in assumptions or output of ProVal that would affect this valuation.

This memo and its contents have been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board as well as applicable laws and regulations. Furthermore, as credentialed actuaries, we meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this memo. This memo does not address any contractual or legal issues. We are not attorneys and our firm does not provide any legal services or advice.

Finally, this memo was prepared for the MTS Budget Development Committee for the purpose described herein. This memo is not intended to benefit any third party, and Cheiron assumes no duty or liability to any such party.

HansonBridgett

Metropolitan Transit System
San Diego Transit Corporation (SDTC)
Pension Plan Options for Represented Employees

MTS BUDGET DEVELOPMENT COMMITTEE – NOVEMBER 30, 2023

HansonBridgett

Topics for Discussion

- Background on current retirement plan for represented employees
- Review of legal issues with proposals for changes
- Questions

Background on Current Retirement Plan for Represented Employees (IBEW & ATU)

- Current Defined Benefit (DB) Pension Plan is closed to new represented employees
  - Agreed to in Collective Bargaining Agreements in 2011 (IBEW) and 2012 (ATU)
  - All newly-hired represented employees participate in defined contribution (DC) "401(a) Plan"
    - MTS contributes at the rate of 6% of employees' compensation to 401(a) Plan
    - MTS also makes matching contributions to 401(a) Plan for employee's voluntary contributions to 457(b) Plan, up to 2% of employees' compensation
    - 2% employee contribution generates 10% in total DC contributions
- MTS Board directed staff to evaluate options for revising current retirement plan structure for represented employees

Legal Issues with Proposals for Changes

- Proposals for revising current retirement plan structure for represented employees include:
  - Contracting with CalPERS to provide a DB plan
  - Establishing a new, individually-designed DB plan
  - Reopening existing DB Pension Plan for current employees and new hires, including two options:
    - Prospectively only, for current employees and new hires
    - Prospectively and retroactively with prior service credit for current employees

Legal Issues with Proposals for Changes

- Q-1 Could SDTC contract with the California Public Employees' Retirement System (CalPERS) to provide pension benefits for represented employees only?

- A-1 No, SDTC could not contract with CalPERS to provide pension benefits only for certain represented employees and not for all SDTC represented employees. Under the CalPERS contracting rules, retirement benefits must be provided to all employees (except safety employees).

Legal Issues with Proposals for Changes

- Q-2 Could SDTC establish a new DB plan for represented employees, to be effective on a prospective basis only?

- A-2 Yes, SDTC could establish a new individually-designed DB plan for represented employees, effective prospectively. This would require compliance with applicable tax rules and California Pension Reform ("PEPRA").

PEPRA Compliance Issues

- Benefit formula requirements
  - 2.0% @ 62 (highest formula)
  - Could be lower formula only if approved by CA Legislature
- Limits on pensionable compensation
  - Annual dollar limits on current income that is “pensionable compensation”
    - Excludes: bonuses, OT, leave cash-outs, etc.
- Required cost-sharing for employees
  - PEPRA members must pay at least 50% of the “normal cost” of their benefits
    - Employer cannot pay any portion of the employee contribution
    - Employer contributions, when combined with employee contributions, cannot be less than “normal cost” for each fiscal year
- There are PEPRA rules for DC plans as well
  - Current 401(a) Plan was established prior to PEPRA (Jan 2013) so current DC Plan is not subject to PEPRA

Legal Issues with Proposals for Changes

- Q-3 Could assets of new DB plan be commingled with the assets of the existing DB Pension Plan?

- A-3 Yes, which would result in economies of scale with respect to expenses and administration.

Legal Issues with Proposals for Changes

- Q-4 Could current represented employees' existing account balances in the 401(a) Plan be used to make required employee contributions to a new DB plan on a prospective basis?

- A-4 Potentially; MTS would need to request a private letter ruling ("PLR") from the Internal Revenue Service (IRS) to ensure compliance with applicable tax rules.

Legal Issues with Proposals for Changes

- Q-5 Could represented employees be offered a choice between a DB plan and the 401(a) Plan, prospectively?

- A-5 Yes, new hires could have a one-time, irrevocable election between the DB plan and the 401(a) Plan. IRS approval would be required to include option for election between DB Plan and 401(a) Plan for current employees in the 401(a) Plan.
  - Unlikely to be approved by the IRS based on current tax rules.

HansonBridgett

Legal Issues with Proposals for Changes

- Q-6 Could the existing DB Plan be reopened for represented employees on a prospective basis?

- A-6 Yes, the existing DB Plan could be reopened for new hires on a prospective basis and possibly for current represented employees (dependent on IRS PLR and PEPRA).
  - Requires PEPRA compliance (e.g., 2.0% @ 62 formula)
  - Other compliance issues would apply if:
    - 401(a) Plan accounts were used to fund future service credit, or
    - Proposal involved terminating 401(a) Plan

Legal Issues with Proposals for Changes

- Q-7 Could the existing DB Plan be opened for represented employees both on a prospective basis and retroactive basis?

- A-7 Possible but unlikely. The existing DB Plan could be reopened for current represented employees on both a prospective and retroactive basis, pending actuarial analysis regarding PEPRA compliance and IRS PLR.
  - Other compliance issues would apply if:
    - 401(a) Plan accounts were used to fund prior or future service credit, or
    - Proposal involved terminating 401(a) Plan

Retroactive Service Credits – PEPRA Rules

- All employee-owed 50% normal cost would need to be funded from date of hire by employee contributions.
  - Could be funded from existing DC Plan Accounts? This would require IRS PLR to determine.
- Employer portion of "normal cost" for prior years would become part of unfunded actuarial liability (UAL)
- Other legal requirements applicable to PEPRA members:
  - Actuarial analysis for each employee to determine potential "enhancement" of participant benefits over the date of hire to current.

Summary / Complexity

- New DB Plan possible and must include PEPRA compliance.
- New DB Plan can be administered with current SDTC Pension Plan with funds commingled.
- Prospective election into PEPRA DB or existing DC Plan possible
  - Yes, for new hires – one-time, irrevocable election at hire date
  - Unlikely for current DC members – requires IRS PLR (complex item)
- If election of DB prospectively, current employees’ usage of existing DC funds to pay future normal cost requires IRS PLR (complex item)
- Option for retroactive service credit unlikely; requires IRS PLR and Actuarial assessment (complex item)
- Next presentation to analyze cost / budget impacts.

San Diego Transit Corporation
Retirement Plans

Classic Values, Innovative Advice

Defined Contribution and Defined Benefit Retirement Plans

November 30, 2023

Anne D. Harper, FSA, EA, MAAA
Alice I. Alsberghe, ASA, EA, MAAA

Background

- New employees of San Diego Transit Corporation are Participants in a Defined Contribution Plan
  - For ATU, if hired on or after November 1, 2012
  - For IBEW, if hired on or after May 1, 2011
  - There are currently 457 members, with an average age of 44
  - SDTC contributes 6% of pay, with up to 2% match
- ATU and IBEW employees hired before those dates are participants in the Defined Benefit Retirement Plan
  - ATU and IBEW participants contribute 8% of pay

SDTC Defined Contribution Plan

Current DC Plan Participation		
Level of Contribution	**Number of Employees**	**%**
None	132	29%
<=2%	145	32%
>2% - 5%	99	22%
>5% - 8%	29	6%
>8%	52	11%
	457	

- More than 60% contribute less than 2% of pay
- With only 17% contributing more than 5% of pay
- Average DC plan member salary is $56,000

Defined Contribution vs. Defined Benefit

Defined Benefit (DB)	vs	Defined Contribution (DC)
Known in advance; Guaranteed	**Benefit**	Unknown in advance; Not guaranteed
Fixed Benefit for life	**Payout Basis**	Contribution levels; Investment performance
Employer	**Risk-bearer**	Employee
Generally higher	**MTS Investment Management Fees**	Generally lower
No	**Portability**	Yes

Defined Contribution vs. Defined Benefit

Defined Benefit (DB)	vs	Defined Contribution (DC)
PEPRA → 50/50 Employer/Employee split of benefit cost Employer level adjusted as needed to fund the Plan	**Contributions**	Current Plan: Employee – Optional % Employer: 6% of pay, up to a 2% match on employee contributions
Cannot outlive benefit payments	**Mortality Risk**	Can outlive account balance
Benefit doesn't change with investment performance	**Investment Risk**	Account balance changes with investment gains and losses
MTS Board responsible; Funds are pooled and managed professionally	**Investment Management**	Participant responsible for investment and drawdown decisions

PEPRA – Potential New Defined Benefit Plan

- January 2013 – Public Employees' Pension Reform Act "PEPRA"
- Benefit formulas limited and defined in the law
- Final Average Compensation (FAC Period) based on highest 36 consecutive months
- "Pensionable Compensation" excludes certain pay elements such as overtime, unused vacation or sick leave pay

PEPRA – Potential New Defined Benefit Plan

- Equal sharing of normal cost contributions between employer and employee
- Normal Cost will depend on the benefit formula and the average age of entry into the DB plan
- Average age for the 457 DC plan members is 44
- It is our understanding
  - No past service with SDTC will be granted
  - Members may have a choice between the DC and DB plan
- Deviations in plan experience compared to actuarial assumptions are generally paid for by the Employer as an Unfunded Actuarial Liability Payment

PEPRA – New Defined Benefit Plan

San Diego Transit Corporation Estimated PEPRA Contribution Rates		
PEPRA Formula	2% @ 62	1.5% @ 65
Total Normal Cost Rate	17.34%	10.94%
50/50 Member Cost Sharing Rate	**8.67%**	**5.47%**
Employer Normal Cost Rate	8.67%	5.47%
Initial UAL Payment Rate	0.00%	0.00%
Total Employer Contribution Rate	**8.67%**	**5.47%**

- Normal Cost rates will vary based on the demographics of the active membership
- Especially the entry age of members who opt into DB plan
  - If only the oldest 25th percentile (age 54+) opt in, the member rates would be **11.2%** for 2%@62 and **7.0%** for the 1.5%@65
  - If only the youngest 25th percentile (age < 32) opt in, the member rates would be **6.0%** for 2%@62 and **3.9%** for 1.5%@65

Examples of DC and DB Plan Benefits

- 40-year-old member
- $56,000 salary
- Works 25 years and retires at age 65

- Assumptions
  – Annual salary increases of 3%
  – Investment returns 6%
  – Life expectancies based on mortality from the July 1, 2022 actuarial valuation

Examples of DC and DB Plan Benefits

Defined Contribution Plan

- Employee contribution 2% of pay
- Employer contribution 6% with 2% match

- Total employee contributions: $ 40,800
- Total employer contributions: $163,300
- Investment returns @ 6%: $206,100

Total Account Balance at 65: $410,200

Examples of DC and DB Plan Benefits

Defined Benefit Plan

- PEPRA benefit formula 2% @ 62
  - 2% x Final Average Salary x Service

- Employee contribution 8.67% of pay
- Employer contribution 8.67% of pay
- Approximately $177,000 each over 25 years

- Estimated Final Average Salary: $110,550
- Service at 65: 25 years

Annual benefit at age 65 for life: $55,275

Examples of DC and DB Plan Benefits

<u>Defined Benefit Plan</u>

- PEPRA benefit formula 1.5% @ 65
  - 1.5% x Final Average Salary x Service

- Employee contribution 5.47% of pay
- Employer contribution 5.47% of pay
- Approximately $112,000 each over 25 years

- Estimated Final Average Salary: $110,550
- Service at 65: 25 years

Annual benefit at age 65 for life: $41,456

DC and DB Plan Benefit Summary

Estimated Retirement Benefits at age 65						
	Current Defined Contribution Plan		Defined Benefit (PEPRA) 2% @ 62		Defined Benefit (PEPRA) 1.5% @ 65	
Total Expected Account Balance	$410,200		n/a		n/a	
Annual Benefit for Life	n/a		$55,275		$41,456	
Equivalent Annual Benefit for Life	$37,680		n/a		n/a	
Equivalent Total Account Balance	n/a		$601,748		$451,308	
Total Estimated Contributions		*Rate of Pay*		*Rate of Pay*		*Rate of Pay*
Employer Contributions	$163,300	*8.0%*	$177,000	*8.7%*	$111,700	*5.5%*
Employee Contributions	$40,800	*2.0%*	$177,000	*8.7%*	$111,700	*5.5%*
Total Contributions	$204,100	*10.0%*	$354,000	*17.3%*	$223,400	*10.9%*

- The expected DC Account Balance assumes investments earn 6% each year
  - If investments earn 3% each year, the DC Account Balance is estimated to be $284,500
  - If investments earn 9% each year, the DC Account Balance is estimated to be $609,300
- The Employer Contribution estimates assume that all actuarial assumptions are met, including the 6% assumed return each year

Reliance

The purpose of this presentation is to discuss and compare the differences in defined contribution and defined benefit Retirement Plans for the San Diego Transit Corporation.

In preparing this presentation, we relied on information (some oral and some written) supplied by the plan administrator. This information includes, but is not limited to, the Plan provisions, employee data, and financial information. We performed an informal examination of the obvious characteristics of the data for reasonableness and consistency in accordance with Actuarial Standard of Practice No. 23. The results found in this presentation as based on the assumptions and methods outlined in the July 1, 2022 actuarial valuation, unless otherwise noted.

Cheiron utilizes ProVal, an actuarial valuation application leased from Winklevoss Technologies (WinTech) to calculate liabilities and project benefit payments. We have relied on WinTech as the developer of ProVal. We have a basic understanding of ProVal and have used ProVal in accordance with its original intended purpose. We have not identified any material inconsistencies in assumptions or output of ProVal that would affect this valuation.

Future results may differ significantly from the current results presented herein due to such factors as the following: changes in active member demographics, plan experience differing from that anticipated by the assumptions; changes in assumptions; and changes in Plan provisions or applicable law.

This presentation has been prepared in accordance with generally recognized and accepted actuarial principles and practices and our understanding of the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board as well as applicable law and regulations. Furthermore, as credentialed actuaries, we meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this presentation. This presentation does not address any contractual or legal issues. We are not attorneys, and our firm does not provide any legal services or advice.

This presentation was prepared exclusively for the Metropolitan Transit Corporation (MTS) Budget Development Committee for the purposes described herein. Other users of this presentation are not intended users as defined in the Actuarial Standards of Practice, and Cheiron assumes no duty or liability to any other user.

Anne D. Harper, FSA, EA, MAAA
Principal Consulting Actuary

Alice I. Alsberghe, ASA, EA, MAAA
Consulting Actuary

Agenda Item No. 5

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BUDGET DEVELOPMENT COMMITTEE

November 30, 2023

SUBJECT:

Fiscal Year (FY) 2024 Operating Budget Forecast (Gordon Meyer)

RECOMMENDATION:

That the San Diego Metropolitan Transit System (MTS) Budget Development Committee receive a report regarding updated short-term financial forecasts.

Budget Impact

None at this time.

DISCUSSION:

Staff will review and update key assumptions within the FY 2024 operating budget. Staff will provide updated assumptions on passenger levels, operating revenues, subsidy revenues, and operating expenses to reflect the current environment that has developed over the last six months.

/s/Sharon Cooney

Sharon Cooney
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, Julia.Tuer@sdmts.com

Metropolitan Transit System
FY 2024 Operating Budget Overview

MTS Budget Development Committee

November 30, 2023

Fiscal Year 2024 Operating Budget Development

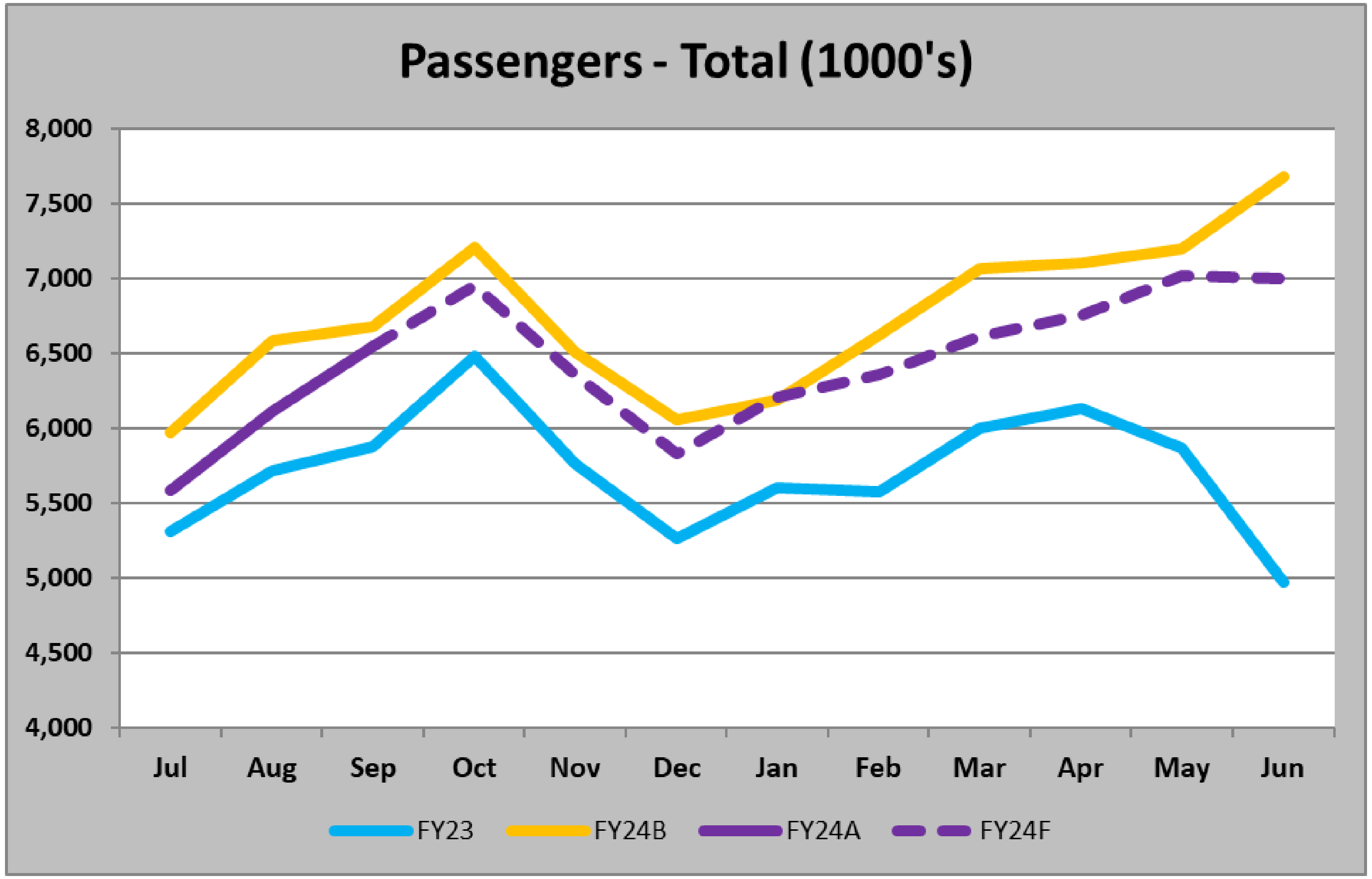
- FY24 Operating Budget
  - Adopted May 18th, 2023
  - Monthly financial status updates to Board
    - Year-to-date variances
    - Identify major trends
  - Next budget development cycle begins in January
    - FY24 midyear amendment – March 2024
      - Meet with managers and review expenses and revenue trends (Jan – Feb)
      - Rollup budget adjustments (February)
      - Present to BDC in Feb/Mar and Board in March 2024
    - FY25 Operating Budget Development
      - Begins concurrently
      - Zero based budgeting process
      - Multiple BDC meetings with adoption planned for May 2024

Fiscal Year 2024 Operating Budget Overview

- FY24 Major Themes
  - Ridership recovery
    - Ridership growing, but slower than assumed in budget
  - Implementation of SB-125 funds in FY24
    - Security Enhancements
    - Iris Rapid Operations
  - Bus Service Restorations
    - Service reduced in FY23 due to driver shortages
    - FY24 operating budget assumed restoration of cut services in January 2024
    - Drivers shortage has improved, but not materially enough to drive significant service increases
  - Large Structural Deficit covered by federal stimulus funds
    - $51.1M structural deficit in adopted FY24 budget
- Forecast includes major expense/revenue assumption changes
  - Actuals through September 2023

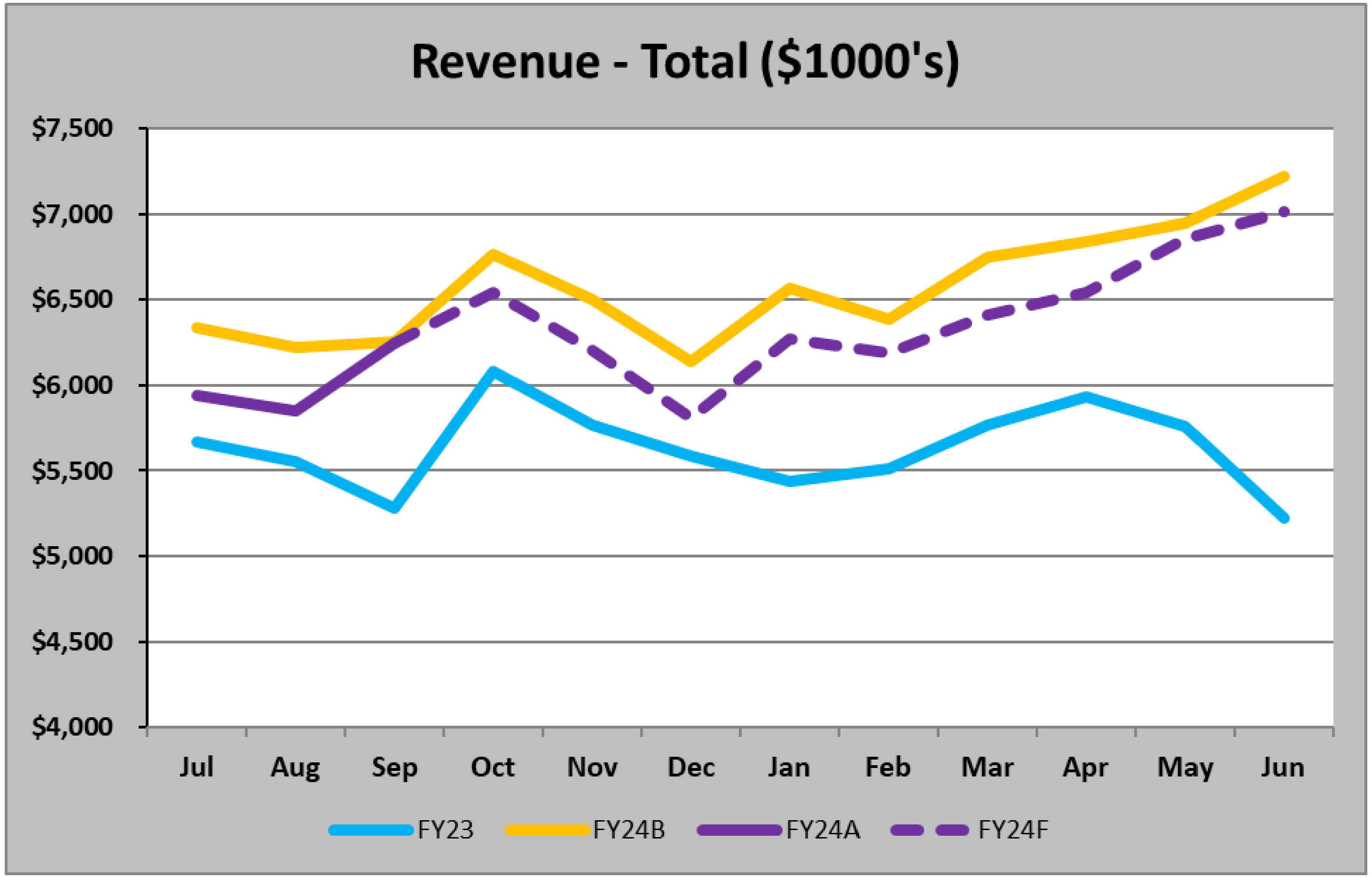
Fiscal Year 2024 Operating Budget
Revenue Assumptions - Passenger Levels

- <u>Ridership update</u>
  - Budget of 80.7M passengers in FY24
  - Budget target 17.8% over FY23 actual ridership
    - Strike in May/June last year
    - 7.9% ridership growth YoY through September
  - Now projecting 77.3M passengers
    - -3.4M (-4.3%) reduction in ridership versus budget
    - 12.8% YoY growth



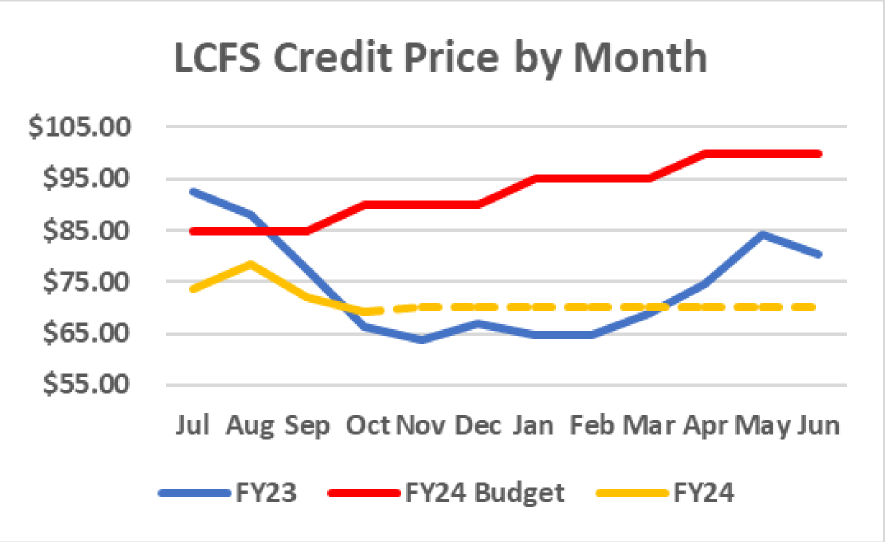
Fiscal Year 2024 Operating Budget
Revenue Assumptions - Passenger Revenue

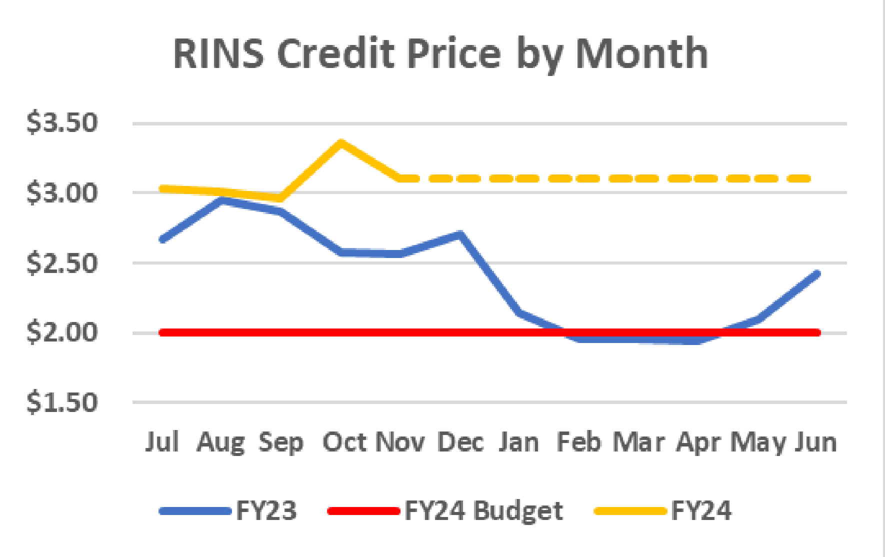
- Passenger Revenue
  - Budget of $78.9M
    - 16.8% over FY23 actual revenue
  - $774K (-4.1%) unfavorable to budget through September
    - 9.3% growth YoY through September
  - Now projecting $75.9M
    - Reduction of $3.1M (-3.9%) versus budget
    - 12.3% YoY growth



Fiscal Year 2024 Operating Budget
Revenue Assumptions - Other Revenue

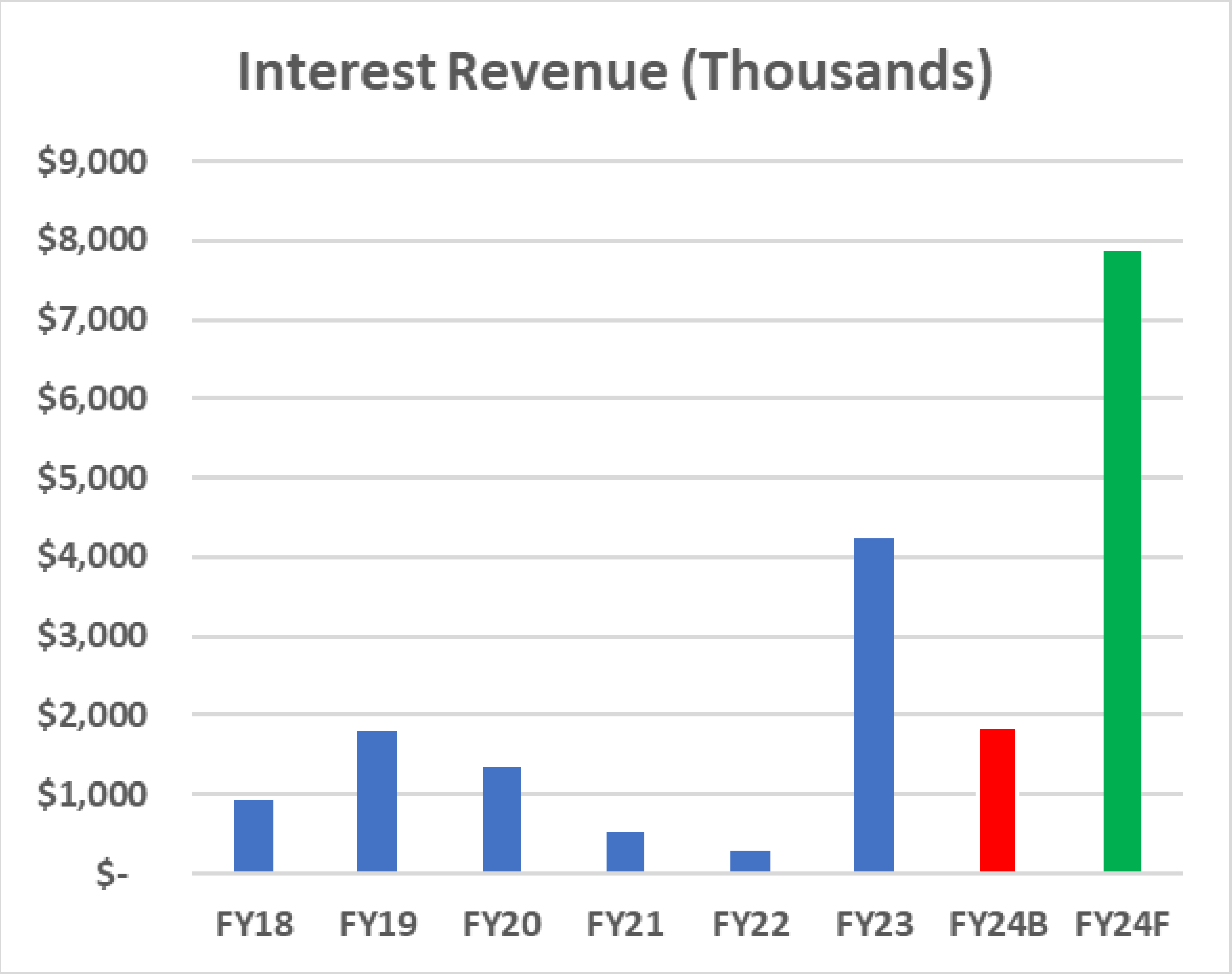
- Energy Credits
  - LCFS and RINS programs
  - Generate credits based on consumption of RNG, electricity, and propane
  - Credits sold in market place – generate $8M annual revenue on average
  - LCFS credit price
    - Budget: $92.50
    - YTD: $73.40
    - Forecast: $70.00
  - RINS price
    - Budget: $2.00
    - YTD: $3.09
    - Forecast: $3.10
  - Not adjusting forecast, minimal change overall





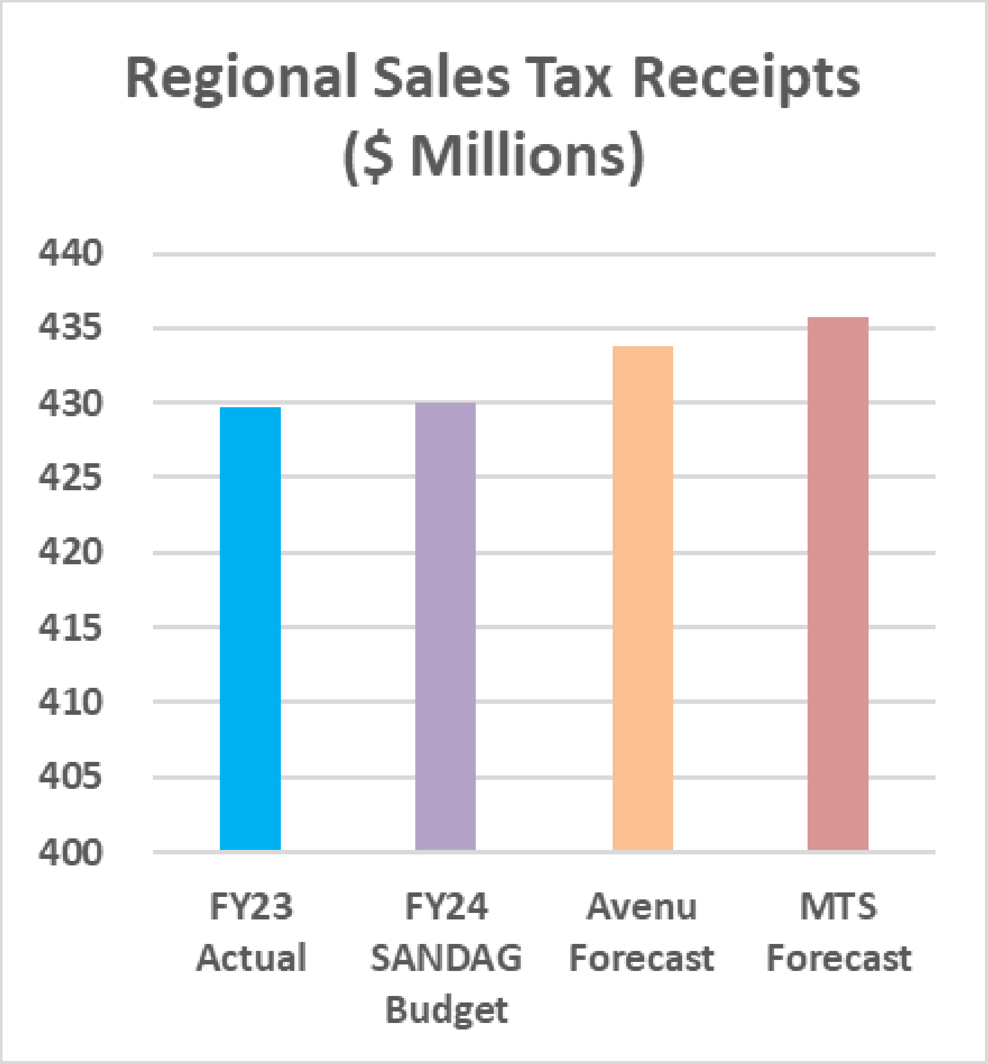
Fiscal Year 2024 Operating Budget
Revenue Assumptions - Other Revenue

- Interest Revenue
  - Budget of $1.9M
  - Average cash balance: $60-70M
    - FY23: $144M
    - FY24: $180M projected
      - Stimulus draws
      - Higher FTA formula funds
  - Fed interest rate at 22-year high (5.5%)
  - Forecasting $7.9M for FY24, increase of $6.0M



Fiscal Year 2024 Operating Budget
Revenue Assumptions - Sales Tax Revenues

- TransNet formula funding
  - Used SANDAG budget of $430.0M for budget
    - Represented 1.0% growth over FY23 budget
    - MTS share of $46.8M
  - Cash receipts down -1.6% YoY through Oct
    - Trend skewed due to postponed filing deadlines
    - Still expecting YoY growth with delayed payments
  - Avenu forecasting $432.7M
    - $300K increase for MTS share
  - MTS forecasting $435.7M
    - $617K increase for MTS share
  - Not increasing budget in this forecast
    - Waiting for revised SANDAG target and additional cash receipts for more reliable data



Fiscal Year 2024 Operating Budget
Revenue Assumptions - Sales Tax Revenues

- Transportation Development Act (TDA)
  - Claim process determines MTS revenue
    - MTS submits a claim based on the SANDAG budget
    - County receives the cash, reserve balances over/under amounts from budget to actual
  - FY24 MTS Budget is $135.5 million
    - $92.9M in operating budget, rest in capital
    - TDA receipts tracking closely to budget so far
  - No proposed changes included in this forecast

Fiscal Year 2024 Operating Budget
Revenue Assumptions - State Transit Assistance (STA)

- State Transit Assistance (STA)
  - State sales tax on diesel fuel
    - Distributed based on population and agency revenue formulas
    - Two distributions, regular STA and State of Good Repair
  - FY 2024 Budgets based off State Controllers Office January projection of MTS apportionment: $39.4 million
    - Funding included in both Capital and Operating Budgets
  - Updated forecast: $40.4 million, increase of $1.1 million
    - Based on August update from the State Controllers Office
      - The actual amount will be determined by the State budget May revise
    - Typically the Operating Budget remains fixed and any variances are reflected in the Capital Budget
      - No changes to operating budget at this time

Fiscal Year 2024 Operating Budget
Revenue Assumptions - Senate Bill (SB) 125

- Senate Bill (SB) 125 Funding
  - $4 billion in state funding distributed to transit agencies through TIRCP program
    - Distribution based on population
  - Funds operations or capital, but must meet criteria for increasing service, reducing GHGs, serving disadvantaged communities, etc.
  - $284 million for MTS over multiple fiscal years
  - Including $4.5 million in FY24 operating budget forecast
    - $3.0M for Iris Rapid operations
    - $1.5M for Security Enhancements

Fiscal Year 2024 Operating Budget
Revenue Summary ($000s)

	FY 2024 Budget	FY 2024 Forecast	Var.	Var. %
Passenger Revenue	$ 78,925	$ 75,873	$ (3,052)	-3.9%
Other Operating Revenue	24,710	30,510	5,800	23.5%
Total Operating Revenue	**$ 103,635**	**$ 106,383**	**$ 2,748**	**2.7%**
Federal	$ 70,771	$ 70,771	$ -	0.0%
Federal Stimulus Funds	$ 85,000	$ 85,000		
TDA	92,858	92,858	-	0.0%
TransNet Formula	42,027	42,027	-	0.0%
TransNet Operating	30,684	30,684	-	0.0%
STA	11,300	11,300	-	0.0%
SB-125	-	4,500	4,500	0.0%
Other	4,603	4,523	(80)	-1.7%
Total Subsidy	**$ 337,243**	**$ 341,663**	**$ 4,420**	**1.3%**
Reserves	$ (33,882)	$ (33,882)	$ -	-
Total Revenue	**$ 406,997**	**$ 414,165**	**$ 7,168**	**1.8%**

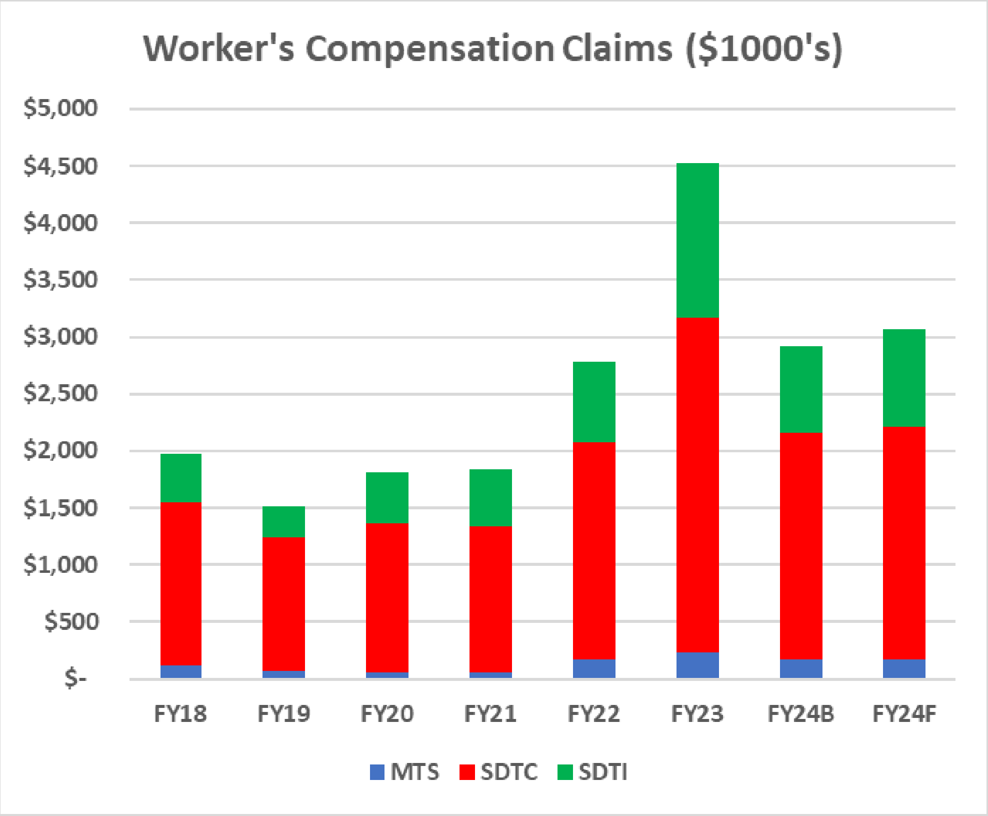
- **Reserves include Operating Deficit Reserve as well as reserves for SD&AE and FHV Administration**

Fiscal Year 2024 Operating Budget
Expense Assumptions - Personnel

- Wages
  - Board approved addition of 54 positions for Security Enhancements
    - 45 to be hired by end of FY24
      - 32 of 41 Code Compliance Inspectors (CCI), 6 CCI Supervisors, 5 Dispatchers, 2 Admin staff
  - Wages increasing $1.3M
- Pension
  - Increasing CalPERS management payment for SDTI employees by $519K
- Health & Welfare
  - Trending unfavorable in SDTC premiums and deductions
  - Premiums increasing 12-13% versus 10% assumed (eff. January 2024)
  - Forecasting $942K increase over original budget

Fiscal Year 2024 Operating Budget
Expense Assumptions - Personnel

- Worker's Compensation
  - FY23 was very high, large case settled
  - FY24 $160K unfavorable through September
  - Forecasting $160K increase over budget
- Cost Recovery
  - Reducing NCTD Pronto cost recovery
  - Increasing flagger cost recovery
  - Net decrease of $144K



- Personnel forecasted to increase $3.1M (1.8%) in total

Fiscal Year 2024 Operating Budget
Expense Assumptions - Outside Services

- Purchased Transportation
  - Fixed Route
    - Bus service was reduced in FY23 due to staffing shortages
    - FY24 budget assumed restoration of most cut services in January 2024
    - Reducing service levels by -0.9% overall, -$1.2M decrease in expenses
  - ADA Paratransit
    - Decreasing forecast by $111K
- Other Outside Services
  - Repair/Maintenance services projected to increase $56K
  - Favorable Engines/Transmissions experience so far, projecting $100K favorable
  - General O/S projected to decrease $1.0M – Pronto regional expenses
- Outside Services in total projected to decrease by $2.4M

Fiscal Year 2024 Operating Budget
Expense Assumptions – Materials & Supplies

- Materials & Supplies
  - Revenue vehicle parts and equipment maintenance supplies main drivers
    - Trending close to budget through September
    - No change to forecast at this time based on current expense trends
  - Security equipment
    - $540K for equipment for new security staffing (radios, body cameras, etc.)
  - Total costs projected to increase by $540K

Fiscal Year 2024 Operating Budget
Expense Assumptions - Energy

- Energy Budget
  - Electricity
    - Traction power and facility electric
    - Commodity rates higher than expected – forecasting 5.7% increase in rate
    - Increase of $1.0M
  - Compressed Natural Gas
    - Commodity rates slightly lower than budget so far ($1.52 vs $1.53)
    - Projecting slight increase in consumption (even with service reduction)
    - Not adjusting forecast at this time
  - Energy projected to increase by total of $1.05M

Fiscal Year 2024 Operating Budget
Expense Assumptions – Risk Management

- Risk Management Budget
  - $386K favorable through September
    - Recoveries favorable $96K
    - Claim payouts favorable $63K
    - Legal expenses favorable $199K
  - Not carrying trend forward, but reflecting experience so far in forecast
  - Projecting decrease of $386K in Risk Management expenses

Fiscal Year 2024 Operating Budget Expenses Summary ($000s)

	FY 2024 Budget	FY 2024 Forecast	Var.	Var. %
Personnel Expenses	$ 172,823	$ 175,888	$ 3,065	1.8%
Purchased Transportation	104,821	103,521	(1,300)	-1.2%
Outside Services	47,466	46,402	(1,064)	-2.2%
Materials and Supplies	16,215	16,755	540	3.3%
Energy	48,068	49,114	1,046	2.2%
Risk Management	9,059	8,673	(386)	-4.3%
Other	8,544	8,544	-	0.0%
Total Expenses	**$ 406,997**	**$ 408,898**	**$ 1,901**	**0.5%**

Fiscal Year 2024 Operating Budget
Consolidated Revenues less Expenses ($000s)

	FY 2024 Budget	FY 2024 Forecast	Var.	Var. %
Operating Revenues	$ 103,635	$ 106,383	$ 2,748	2.7%
Recurring Subsidy	252,243	252,163	(80)	0.0%
Total Recurring Revenues	**$ 355,879**	**$ 358,547**	**$ 2,668**	**0.7%**
Total Expenses	**406,997**	**408,898**	**$ 1,901**	**0.5%**
Structural Deficit	**$ (51,118)**	**$ (50,351)**	**$ 767**	**1.5%**
Reserves	(33,882)	(33,882)	-	0.0%
Federal Stimulus	85,000	85,000	-	0.0%
SB-125 Funding	-	4,500	4,500	
Revenues Less Expenses	**$ 0**	**$ 5,267**	**$ 5,267**	

- $360M in total Stimulus (CARES and ARP) funding
  - $244M drawn to date, $116M remaining
- Between Stimulus and SB125, structural deficit balanced through FY28