

To: Board of Directors

Date: December 8, 2021

From: Rick Ramacier, General Manager

SUBJECT: How the PEPRA – 13(c) Dispute Could Impact County Connection

Background

As reported to the Board of Directors in November, the USDOL is indicating that they may begin holding up California federal transit grants later this month based on their current belief that PEPRA violates the bargain rights of unions under Section 13(c) of the federal transportation authorization. PEPRA is the 2013 state law that implemented public pension reform.

While staff is just starting to ascertain how this could impact County Connection, we can say a few preliminary things in terms of some of possible financial boundaries of this issue.

Near Term County Connection Federal Grants at Stake

Should the USDOL begin holding up grants later this month, the process to end that hold will likely take at least two years as it did the last time this happened in 2014 or so. Thus, we can project that the following federal grants for County Connection could get held should USDOL proceed as anticipated:

- FY22 ARP funds (Covid 19 relief money meant to keep transit employed during the pandemic) in the amount of \$10.4 million.
- FY22 ADA paratransit operating support - about \$1.4 million.
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- FY23 Bus procurement 40 buses (some likely to be hydrogen fuel cell) to replace 13 year-old diesel buses in the amount of \$28.9 million.

The total potential loss of federal funding with these four items is about \$42 million.

Potential Responses and Consequences to Federal Grant Losses or Delays

At this time, we can identify in general ways County Connection how could respond to lost federal grants. First, we should keep in mind that of the four grants listed above, one is a major capital grant and the other three would support our operating budget.

The most immediate risk is to our FY22 ARP funds. Staff, at the request of the Federal Transit Administration (FTA) and MTC have applied for these funds recently. However, we have yet to begin the FY23 budgeting work on how we would use these funds. Thus, a hold up of these funds could be endured for some yet to be determined time. However, there is a federal deadline as to when these funds must be spent. To cover any significant delay in receiving our ARP funds, we can use funding from TDA reserves.

We are line to receive FY22 and FY23 grants that can be used to help pay the cost of our paratransit operating and maintenance contract, because this is competitively bid. Between the two grants, we are set to receive about \$3 million in such support, provided USDOL does not hold them up. This would represent about 20% of our paratransit operating budget revenue in each of FY22 and FY23. Again, this could be covered by TDA reserves in the short term.

Perhaps the biggest project at risk in the immediate timeframe is our 40 bus replacement project. This project is projected to cost \$36 million and change. We are due to receive \$29 million in federal grants. If we do not receive this funding or if it delayed beyond six months or so, the project will be in great jeopardy. We do not have anywhere near enough reserve funding to cover this potential federal funding loss.

If we do not replace these 40 buses soon, they will become very unreliable and overly expensive to maintain. They are also older diesel technology buses. Furthermore, staff is contemplating asking the Board to consider a purchase of up to 20 Hydrogen Fuel Cell (HFC) buses as part of this project when it comes to the Board sometime next year. If these buses cannot be replaced, we will fall behind on our effort to comply with the state mandate to move to Zero Emission Based (ZEB) buses, and eventually our fleet total will greatly shrink. This will force massive service cuts as we won't have the vehicles to provide the related service.

Without this particular grant, we will likely not be able to successfully compete for matching funds from the state. In this year's state budget and in the one likely to be proposed for FY23 in January, there is quite a lot of one time only money in those budgets to help California transit operators pay for the buses and the charging equipment. These funds will be competitively awarded in most cases. County Connection is well poised to compete for those funds – if we have our federal shares in hand!

While staff will have a more precise figure for you in January, we can estimate that our TDA reserves sit at about \$29 million. We hope to have a new financial forecast for you in January as well. However, if we were to use all that reserve to cover federal funding losses, we would likely be cutting service by the end of calendar 2022. Particularly, using reserves to fund the 40 bus replacement project is highly unrealistic if we are to maintain any kind of reserve. Furthermore, the loss of the ARP funds would likely lead to major service cuts sometime in FY24. But, more to come on this in January.

Action Requested

No action is requested. Staff will make brief verbal presentation on this at the December board meeting.