

To: MST Board of Directors
From: Lisa Rheinheimer, Assistant General Manager
Subject: SURF! Busway and Bus Rapid Transit Project

RECOMMENDATION:

- 1) Review and consider comments and MST's responses on the applicability of the California Environmental Quality Act (CEQA) Exemptions under Pub. Res. Code §21080.25 to the SURF! Project (Exhibit 6).
- 2) Approve Resolution 2023-30 included as Exhibit 7 Adopting California Environmental Quality Act (CEQA) Exemptions pursuant to Pub. Res. Code §21080.25(b) [as amended by Senate Bill (SB) 922 (2022)] for MST's SURF! Busway and Bus Rapid Transit Project ("Project") and adopting project conditions.

FISCAL IMPACT:

The Project is funded with Transportation Agency for Monterey County (TAMC) Measure X, State Local Partnership Program (LPP), Federal Section 5307, a Senator Laird sponsored State Earmark, and State Transit and Intercity Rail Capital Program funds.

Full funding for the Project will be updated through the construction phase in the MST Capital Improvement Program for fiscal years 2024 through 2026. Based on a 2022 estimate of Project cost, the total cost of the Project including planning and preconstruction work is \$66 million and escalated to year of expenditure dollars.

The economic impact of this Project can be expressed in two ways: job creation and economic return. As noted by the California Legislature in SB 288, investments in public transportation result in an average of 13 jobs per one million dollars spent and have a 5 to 1 economic return. Taken as a whole, this Project will conservatively create 850 jobs and yield an economic return of \$330 million.

POLICY IMPLICATIONS:

In 2021, the MST Board of Directors adopted a Strategic Plan 2022-2025 which included "Goal #2: Provide quality transit and mobility service for the communities we serve." Part of that goal included a tactic to "Continue planning activities for SURF! Busway and BRT transit improvements". Furthermore, that commitment was reaffirmed

with the Board's 2-Year Action Plan contained in the FY 2022/2023 and FY 2023/2024 Budget adopted by the MST Board in June 2022:

"5. Continue final design and submit application for FTA Capital Investment Grant (CIG) project evaluation, rating, and approval for SURF! Busway and Bus Rapid Transit Project (BRT)."

This Project aligns and supports MST's brand vision: Connecting communities. Creating opportunity. Being kind to our planet. The Project supports partner agency goals including the state's AB 32's GHG emissions reduction goals, Air Resources Board Innovative Clean Transit Rule, California Transportation Plan 2050, TAMC's Measure X funding program and Regional Transportation Plan, Association of Monterey Bay Area Governments (AMBAG's) Metropolitan Transportation Plan/Sustainable Communities Strategies and local General Plans.

DISCUSSION:

MST previously approved the Project in 2021. (Resolution No. 2022-02 and No. 2022-03). The Project generally consists of six (6) linear miles of roadway surface and related improvements between the Marina Transit Exchange at Reservation Road and De Forest Road, and Contra Costa Street and Orange Avenue in Sand City/Seaside.

MST is the Lead Agency for this Project under the California Environmental Quality Act (CEQA). In July 2021, MST found the SURF! Project exempt from CEQA under the statutory exemption contained in SB 288 (2021). Nothing in the recommended action nullifies the previous Board action and that exemption still applies.

SB288 and Pub. Res. Code 21080.25 were to automatically sunset and become ineffective on January 1, 2023. However, before that date, the Legislature clarified and extended the applicability of that exemption in Senate Bill 922 (Weiner), which became effective on January 1, 2023. Recognizing the new legislation, MST may further claim the SURF! Busway and BRT project statutorily exempt from CEQA, however that section also automatically allows retroactive application (Pub. Res. Code § 21080.25(i)(1)).

MST held three public community planning meetings to hear and respond to public comments solely related to the SB 922 Exemptions for the Project (Pub. Res. Code §21080.25). On January 17, 2023, these public meetings were noticed, including publication on MST's website, on MST's social media accounts, and emailed to interested parties. (Exhibits 2, 3, and 4.) A detailed Revised Project Description with information about the project was also concurrently made available on MST's website: <https://mst.org/wp-content/media/Appendix-03-MST-Busway-Proj-Desc-Final-1-12-2023.pdf>. This Project Description was revised to include minor clarifications related to public rights-of-way, the Project's inclusion of infrastructure and facilities to charge, refuel, and/or maintain zero-emission public transit buses, inclusion of customer information and wayfinding, clarification about bus service frequency and span of service, and estimated project costs. Additional Project information is also available at: <https://mst.org/about-mst/planning-development/surf/>.

Community meetings were held at 5:00 PM at the following locations and on the following dates:

- Monday, February 13, 2023, Marina Library, 190 Seaside Circle, Marina, CA
- Tuesday, February 14, 2023, Boys and Girls Club Seaside Clubhouse, 1332 La Salle Avenue, Seaside, CA
- Wednesday, February 15, 2023, Boys and Girls Club Seaside Clubhouse, 1332 La Salle Avenue Seaside, CA

No members of the public attended the third community meeting. A single email comment was submitted on Friday, February 17, 2023. Copies of the comments and the MST's responses are included in Exhibit 6.

STAFF RECOMMENDATION:

- 1) Review and consider comments and MST's responses on the applicability of the California Environmental Quality Act (CEQA) Exemptions under Pub. Res. Code §21080.25 to the SURF! Project (Exhibit 6).
- 2) Approve Resolution 2023-30 included as Exhibit 7 Adopting California Environmental Quality Act (CEQA) Exemptions pursuant to Pub. Res. Code §21080.25(b) [as amended by Senate Bill (SB) 922 (2022)] for MST's SURF! Busway and Bus Rapid Transit Project ("Project") and adopting project conditions.

ALTERNATIVES:

While staff recommends the above action in support of the Board's Strategic and Action Plans, the Board may consider taking no action. This would have the effect of continuing the course of action as affirmed in July 2021 finding the Project exempt under SB 288 and Class 3 and Class 4 Categorical Exemptions, as well as approving the Project with a Mitigated Negative Declaration.

ATTACHMENT(S):

Exhibit 1 – Revised Project Description (January 2023) available via weblink at: <https://mst.org/wp-content/media/Appendix-03-MST-Busway-Proj-Desc-Final-1-12-2023.pdf>

Exhibit 2a&b – Notice of Public Community Planning Meetings and Intent to Adopt CEQA Exemptions (English/Spanish)



Exhibit 3 – MST website (Notice)

Exhibit 4 – MST social media accounts (Notice)

Exhibit 5 – MST December 13, 2021 (Item 7-4): Skilled and Trained Workforce Certification

Exhibit 6 – Comments Received and MST's Responses

Exhibit 7 – Resolution 2023-30

PREPARED BY:  REVIEWED BY: 
Lisa Rheinheimer Carl G. Sedoryk



Monterey-Salinas Transit

19 Upper Ragsdale, Suite 200, Monterey, CA 93940

**NOTICE OF PUBLIC COMMUNITY PLANNING
MEETINGS AND INTENT TO ADOPT CEQA
EXEMPTIONS**

Project Exemptions under SB 922 for SURF! Busway and Bus Rapid Transit Project

Publication Date: January 17, 2023
To: Interested Parties
Subject: Notice of Public Community Planning Meetings and Regularly Scheduled Board Meeting on MST's Adoption of California Environmental Quality Act (CEQA) Exemptions pursuant to Pub. Res. Code §21080.25(b) [Senate Bill (SB) 922 (2022)] for MST's SURF! Busway and Bus Rapid Transit Project

This notice is to advise that **Monterey-Salinas Transit District (MST)**, as the Lead Agency, will consider adoption on March 13, 2023, of **California Environmental Quality Act ("CEQA") Exemptions for the SURF! Busway and Bus Rapid Transit Project ("Project")**, including the exemptions identified under SB 922 [2022] (Pub. Res. Code §21080.25(b), "Exemption").¹ This includes a combination of the individual exemptions, as allowed by subsection (b)(8), including, but not limited to subsections (b)(1) [Pedestrian/Bike Facilities], (b)(2) [wayfinding], (b)(3) [transit prioritization], (b)(5) [Bus rapid transit, bus, or light rail service, including stations, terminals, or existing operation facilities], (b)(6) [Charging stations], and (b)(7) [Infrastructure]. MST previously provided CEQA clearance for the SURF! Project in 2021, which included the adoption of a Mitigated Negative Declaration (MND), as well as other CEQA statutory and categorical exemptions. However, after these actions, the California State Legislature adopted amendments to Pub. Res. Code §21080.25 in Senate Bill 922 [2022].

Prior to any action by the Board of Directors on this matter, MST will hold three public community planning meetings to hear and respond to public comments solely related to the SB 922 Exemptions for the Project (Pub. Res. Code §21080.25). A detailed Project Description with information about the project is available on MST's website: <https://mst.org/wp-content/media/Appendix-03-MST-Busway-Proj-Desc-Final-1-12-2023.pdf>. This Project Description has been revised to include minor clarifications related to public rights-of-way, the Project's inclusion of infrastructure and facilities to charge, refuel, and/or maintain zero-emission public transit buses, inclusion of customer information and wayfinding, clarification about bus service frequency and span of service, and estimated project costs. Additional Project information is also available at: <https://mst.org/about-mst/planning-development/surf/>.

¹ SB922 and Pub. Res. Code § 21080.25 are available at:
https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB922

Public Community Planning Meetings (“Meetings”) will be held on the following days, times, and locations:

Monday, February 13, 2023, 5:00 p.m., Marina Library, 190 Seaside Circle, Marina, CA 93933

Tuesday, February 14, 2023, 5:00 p.m., Boys and Girls Club Seaside Clubhouse, 1332 La Salle Avenue, Seaside, CA 93955

Wednesday, February 15, 2023, 5:00 p.m., Boys and Girls Club Seaside Clubhouse, 1332 La Salle Avenue Seaside, CA 93955

Public Review and Comment: During these Public Community Planning Meetings, MST will accept public comments on the SB 922 Exemptions for the MST SURF! Project. To receive a response, written comments must be received by 5:00 p.m. on February 17, 2023 and must be submitted in writing to MST at the physical or email addresses listed below. MST will also provide responses to oral comments made during a commenter’s allocated time at the Public Community Planning Meetings, or written comments submitted to MST staff at those Meetings. Before determining whether the Project is exempt pursuant to SB922, MST will consider and respond to these comments.

Board Consideration: The MST Board of Directors will consider approving CEQA exemptions pursuant to SB922 and Project conditions at a regularly scheduled Board meeting which will be held on March 13, 2023 at 10:00 a.m. located at 19 Upper Ragsdale Drive, Suite 100, Monterey, CA 93940.

To receive a response, written comments must be received by 5:00 p.m. on February 17, 2023 at the addresses identified below:

Michelle Overmeyer, Director of Planning and Innovation

Monterey-Salinas Transit, 19 Upper Ragsdale, Suite 200, Monterey, CA 93940

Phone: (831) 264-5877

Email: movermeyer@mst.org

An agenda for the regularly scheduled MST Board of Directors meeting on March 13, 2023 will be posted at least 72 hours in advance of the meeting.

Upon request, Monterey-Salinas Transit will provide written materials in appropriate alternative formats, including disability-related modifications or accommodations, auxiliary aids, or services to enable individuals with disabilities to participate in public meetings. Please send a written request, including your name, mailing address, phone number, description of the requested materials, and preferred alternative format or auxiliary aid or service at least three working days prior to the meeting at the address below.

After February 17, 2023, public comments on the Board’s March 13, 2023 meeting may be submitted for any item under consideration by contacting MST (however to receive a response, please comply with the “Public Review and Comment” procedures identified above):

Mail: MST, Attn: Clerk to the Board, 19 Upper Ragsdale Dr., Suite 200, Monterey, CA 93940

Website: <https://mst.org/contact-us/> • **Email:** clerk@mst.org • **Phone:** (888) 678-2871

TTY/TDD: 831-393-8111 • 711 Relay



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Monterey-Salinas Transit
19 Upper Ragsdale, Suite 200, Monterey, CA 93940

AVISO DE REUNIONES PÚBLICAS DE PLANIFICACIÓN COMUNITARIA E INTENCIÓN DE ADOPTAR EXENCIONES DE CEQA

Exenciones de proyectos bajo SB 922 para SURF! El Proyecto de vías y autobuses de tránsito rápido

Fecha de publicación: 17 de enero de 2023

Para: Partes Interesadas

Asunto: Aviso de Reuniones Públicas de Planificación Comunitaria y Reunión de la Junta Programada Regularmente sobre la Adopción por parte de MST de las Exenciones de la **California Environmental Quality Act “Ley de Calidad Ambiental de California” (“CEQA”)** de conformidad con el Código de Resolución Pub. §21080.25 (b) [Proyecto de ley del Senado (SB) 922 (2022)] para SURF! El Proyecto de Vías y Autobuses de Tránsito Rápido

Este aviso es para informar que el **Distrito de Monterey-Salinas Transit “Tránsito de Monterey-Salinas” (MST)**, como la Agencia Principal, considerará la adopción el 13 de marzo de 2023 de una **Ley de Calidad Ambiental de California (“CEQA”) exención para el SURF! El Proyecto de Vía de Autobuses de Tránsito Rápido (“Proyecto”)**, incluidas las exenciones identificadas en SB 922 [2022] (Código de resolución pública §21080.25 (b), "Exención")¹. Esto incluye² una combinación de las exenciones individuales, según lo permitido por la subsección (b)(8), incluidas, entre otras, las subsecciones (b)(1) [Instalaciones para Peatones/Bicicletas], (b)(2) [Orientación], (b)(3) [priorización del tránsito], (b)(5) [Servicio de autobuses de tránsito rápido, autobús o tren ligero, incluidas estaciones, terminales o instalaciones de operación existentes], (b)(6) [Estaciones de carga] y (b)(7) [Infraestructura]. MST proporcionó previamente la autorización CEQA para el SURF! Proyecto en 2021, que incluyó la adopción de una Mitigated Negative Declaration “Declaración Negativa Mitigada” (MND), así como otras exenciones legales y categóricas de CEQA. Sin embargo, después de estas acciones, la Legislatura del Estado de California adoptó enmiendas al Código de Resolución Pub. §21080.25 en el Proyecto de Ley del Senado 922 [2022].

¹ SB922 and Pub. Res. Code § 21080.25 are available at:
https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB922

Antes de cualquier acción de la Junta Directiva sobre este asunto, MST llevará a cabo tres reuniones públicas de planificación comunitaria para escuchar y responder a los comentarios públicos relacionados únicamente con las Exenciones SB 922 para el Proyecto (Código de Resolución Pub. §21080.25). Una Descripción del Proyecto detallada con información sobre el proyecto está disponible en el sitio web de MST: <https://mst.org/wp-content/media/Appendix-03-MST-Busway-Proj-Desc-Final-1-12-2023.pdf>. Esta Descripción del Proyecto ha sido revisada para incluir aclaraciones menores relacionadas con los derechos de paso públicos, la inclusión del Proyecto de infraestructura e instalaciones para cargar, repostar y / o mantener autobuses de transporte público de cero emisiones, inclusión de información del cliente y orientación, aclaración sobre la frecuencia del servicio de autobuses y el alcance del servicio, y costos estimados del proyecto. Información adicional sobre el Proyecto también está disponible en: <https://mst.org/about-mst/planning-development/surf/>.

Las Reuniones Públicas de Planificación Comunitaria ("Reuniones") se llevarán a cabo en los siguientes días, horarios y lugares:

Lunes 13 de febrero de 2023, 5:00 p.m. Marina Library, 190 Seaside Circle, Marina, CA 93933

Martes 14 de febrero de 2023, 5:00 p.m., Boys and Girls Club Seaside Clubhouse, 1332 La Salle Avenue, Seaside, CA 93955

Miércoles 15 de febrero de 2023, 5:00 p.m. Boys and Girls Club Seaside Clubhouse, 1332 La Salle Avenue, Seaside, CA 93955

Revisión y Comentarios Públicos: Durante estas Reuniones Públicas de Planificación Comunitaria, MST aceptará comentarios públicos sobre la exención SB 922 para el Proyecto SURF! de MST. Para recibir una respuesta, los comentarios deben recibirse antes de las 5:00 p.m. del 17 de febrero de 2023 y deben enviarse por escrito a MST a las direcciones físicas o de correo electrónico que se enumeran a continuación. MST también proporcionará respuestas a comentarios orales hechos durante el tiempo asignado de un comentarista en las Reuniones Públicas de Planificación Comunitaria, o comentarios escritos presentados al personal de MST en esas Reuniones. Antes de determinar si el Proyecto está exento de conformidad con SB922, MST considerará y responderá a estos comentarios.

Consideración de la Junta: La Junta Directiva de MST considerará aprobar las exenciones de CEQA de conformidad con SB922 y las condiciones del Proyecto en una reunión de la Junta programada regularmente que se llevará a cabo el 13 de marzo de 2023 a las 10:00 a.m. ubicada en 19 Upper Ragsdale Drive, Suite 100, Monterey, CA 93940.

Para recibir una respuesta, los comentarios por escrito deben recibirse antes de las 5:00 p.m. del 17 de febrero de 2023 en las direcciones identificadas a continuación:

Michelle Overmeyer, Director of Planning and Innovation

Monterey-Salinas Transit, 19 Upper Ragsdale, Suite 200, Monterey, CA 93940

Teléfono: (831) 264-5877

Correo electrónico: movermeyer@mst.org

Una agenda para la reunión regular de la Junta Directiva de MST para el 13 de marzo de 2023 se publicará al menos 72 horas antes de la reunión.

A Pedido, Monterey-Salinas Transit proporcionará materiales escritos en formatos alternativos apropiados, incluyendo modificaciones o adaptaciones relacionadas con la discapacidad, ayudas auxiliares o servicios para permitir que las personas con discapacidades participen en reuniones públicas. Envíe una solicitud por escrito, incluyendo su nombre, dirección postal, número de teléfono, descripción de los materiales solicitados y formato alternativo preferido o ayuda o servicio auxiliar al menos tres días hábiles antes de la reunión a la dirección a continuación.

Después del 17 de febrero de 2023, se pueden enviar comentarios públicos sobre la reunión de la Junta del 13 de marzo de 2023 para cualquier tema bajo consideración comunicándose con MST (sin embargo, para recibir una respuesta, cumpla con los procedimientos de "Revisión y Comentarios Públicos" identificados anteriormente):

Correo: MST, Attn: Clerk to the Board, 19 Upper Ragsdale Dr., Suite 200, Monterey, CA 93940

Sitio web: <https://mst.org/contact-us/> • **Correo electrónico:** clerk@mst.org • **Teléfono:** (888) 678-2871

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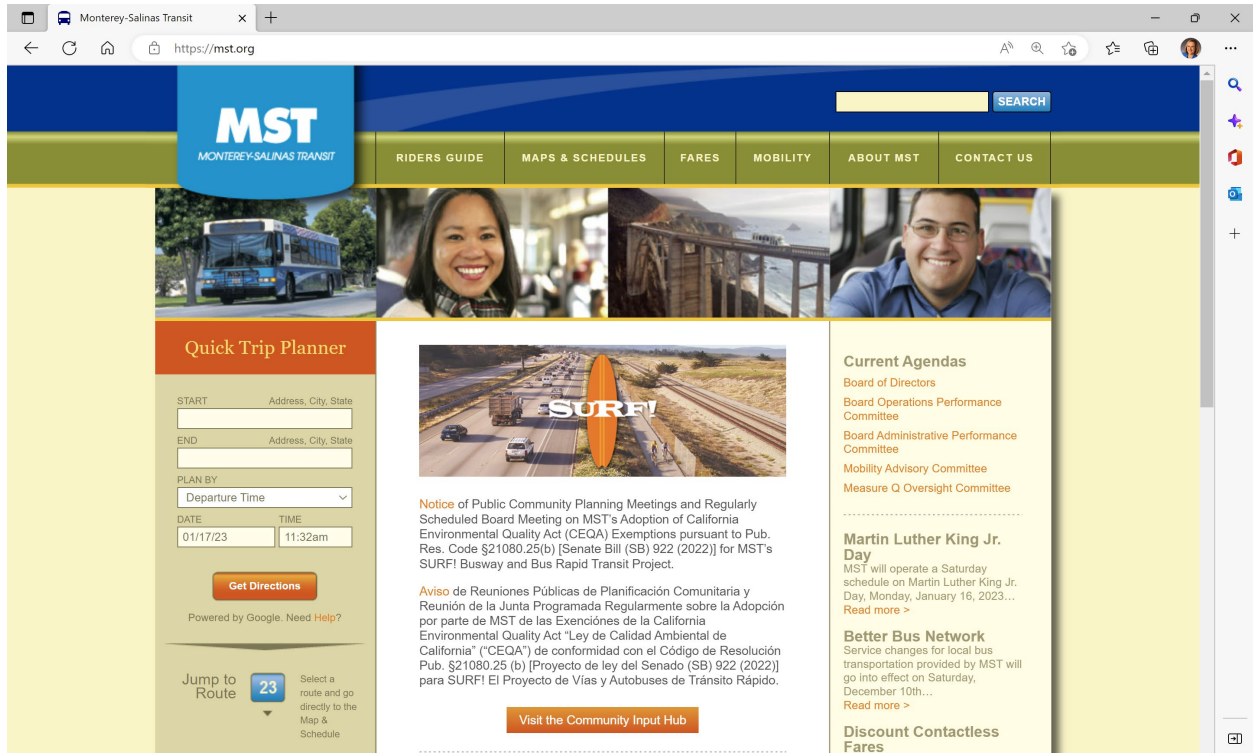


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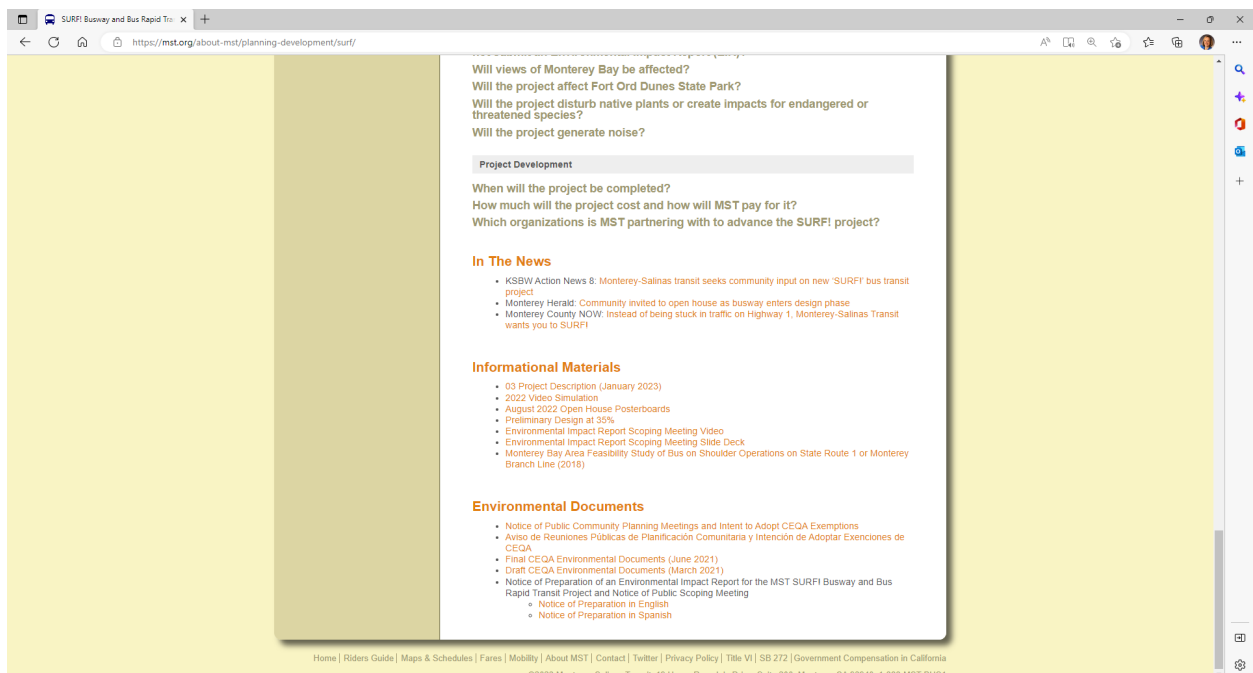
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EXHIBIT 3

MST Website Homepage Screenshot: Tuesday, January 17, 2023 at 11:37 a.m.



MST SURF! page Screenshot: Tuesday, January 17, 2023 at 1:44 p.m.



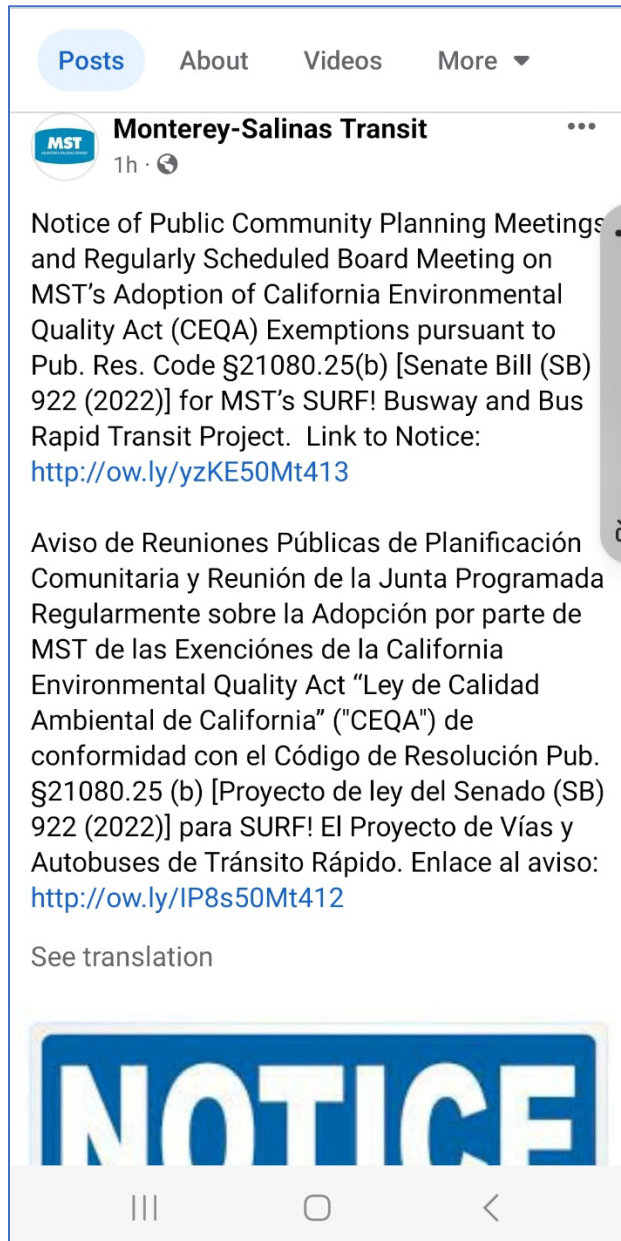
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EXHIBIT 4

MST Social Media Screenshots

Captured Tuesday, January 17, 2023

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Aviso de Reuniones Públicas de Planificación Comunitaria y Reunión de la Junta Programada Regularmente sobre la Adopción por parte de MST de las Exenciones de la California Environmental Quality Act "Ley de Calidad Ambiental de California" ("CEQA") de conformidad con el Código de Resolución Pub. §21080.25 (b) [Proyecto de ley del Senado (SB) 922 (2022)] para SURFI El Proyecto de Vías y Autobuses de Tránsito Rápido. Enlace al aviso: <http://ow.ly/h0IL50M41p>

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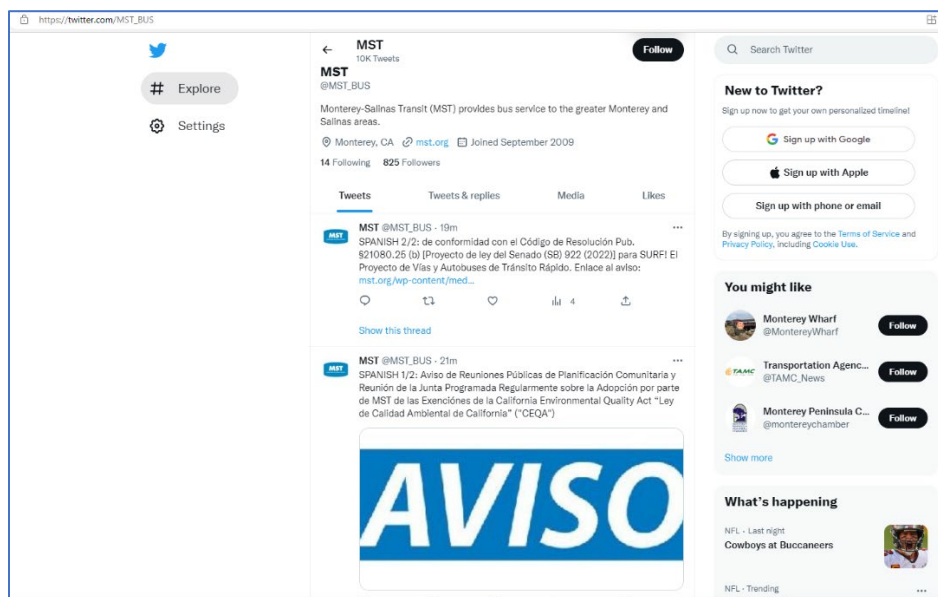
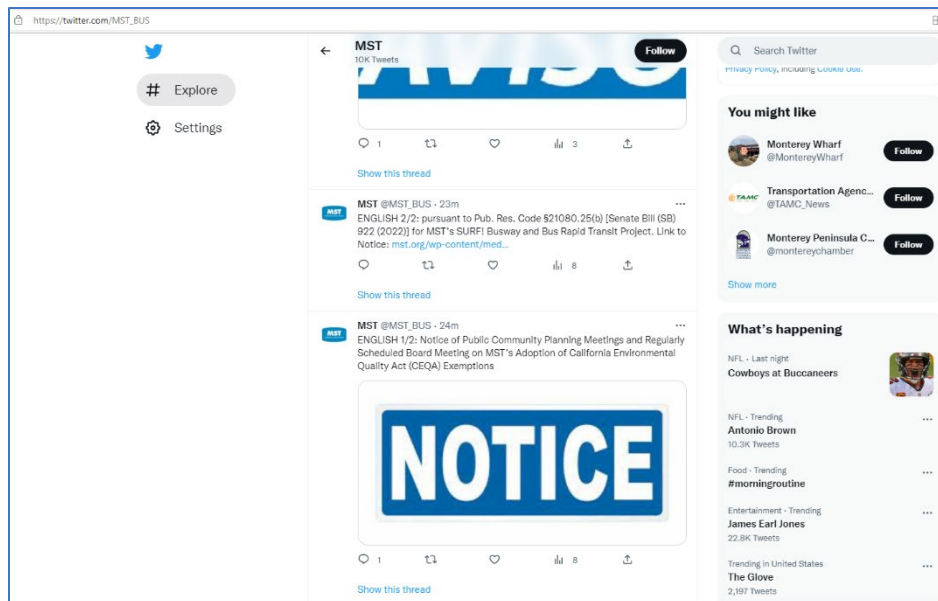
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AVISO

1

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NOTICE

Notice of Public Community Planning Meetings and Intent To Adopt CEQA Exemptions. Notice of Public Community Planning Meetings and Regularly Scheduled Board Meeting on MST's Adoption of California Environmental Quality Act (CEQA) Exemptions pursuant to Pub. Res. Code §21080.25(b) [Senate Bill (SB) 922 (2022)] for MST's SURFI Busway and Bus Rapid Transit Project. Link to Notice: <https://mst.org/wp-content/media/MST-SURF-NOI-SB922-English.pdf>

Aviso de Reuniones Públicas de Planificación Comunitaria y Reunión de la Junta Programada Regularmente sobre la Adopción por parte de MST de las Exenciones de la California Environmental Quality Act "Ley de Calidad Ambiental de California" ("CEQA") de conformidad con el Código de Resolución Pub. §21080.25 (b) [Proyecto de ley del Senado (SB) 922 (2022)] para SURFI El Proyecto de Vías y Autobuses de Tránsito Rápido. Enlace al aviso: <https://mst.org/wp-content/media/MST-SURF-NOI-SB922-Spanish.pdf>

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EXHIBIT 5

Agenda for December 13, 2021 Meeting of Monterey-Salinas Transit District Board of
Directors, Item 7-4 re: Skilled and Trained Workforce Certification for Project, and
Minutes of December 13, 2021 Meeting



MONTEREY-SALINAS TRANSIT DISTRICT BOARD OF DIRECTORS MEETING AGENDA

December 13, 2021

Time: 10:00 AM Pacific Time (US and Canada)

The declared State of Emergency and MST Resolution 2022-14 allows MST to hold meetings via teleconference and to make meetings accessible electronically to protect public health. The December 13, 2021 will be held via Zoom conference. There will be NO physical location of the meeting. The public is asked to use the Zoom app for best reception. There may only be limited opportunity to provide oral comments during the meeting. Persons who wish to make public comment on an agenda item are encouraged to submit comments in writing by email to MST at clerk@mst.org by 3:00 pm on Friday, December 10, 2021; those comments will be distributed to the legislative body before the meeting. Members of the public participating by Zoom are instructed to be on mute during the proceedings and to speak only when public comment is allowed, after requesting and receiving recognition from the Chair. Prior to the meeting, participants should download the Zoom app at: <https://zoom.us/download> A link to tutorials for use of the Zoom app is: <https://support.zoom.us/hc/en-us/articles/206618765-Zoom-Video-Tutorials> and <https://support.zoom.us/hc/en-us/articles/209743263-Meeting-and-Webinar-Best-Practices-and-Resources>

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Join Zoom Meeting

<https://us06web.zoom.us/j/84500836234?pwd=aFQ0YUdjZDZlM0eW94WmtRZ1Myc0Vldz09>

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Passcode: 652252

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Meeting ID: 845 0083 6234

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MST District Board and Committee Agendas

Accessibility, Language Assistance, and Public Comments

Materials related to an item on this agenda submitted to the Board after distribution of the agenda packet are available for public inspection at the Monterey-Salinas Transit District Administration Building at 19 Upper Ragsdale Dr., Suite 200, Monterey, CA 93940 during normal business hours.

Upon request, Monterey-Salinas Transit District will provide written materials in appropriate alternative formats, including disability-related modifications or accommodations, auxiliary aids, or services to enable individuals with disabilities to participate in public meetings. Please send a written request, including your name, mailing address, phone number, description of the requested materials, and preferred alternative format or auxiliary aid or service at least three working days prior to the meeting at the address below.

Public comments may be submitted for any item on the agenda by contacting MST:

Mail: MST, Attn: Clerk to the Board, 19 Upper Ragsdale Dr., Suite 200, Monterey, CA 93940

Website: <https://mst.org/contact-us/> • **Email:** clerk@mst.org • **Phone:** (888) 678-2871

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Libreng tulong para sa wika / Hỗ trợ ngôn ngữ miễn phí / 무료 언어 지원

1. CALL TO ORDER

- 1-1. Roll Call.
- 1-2. Pledge of Allegiance.
- 1-3. Review Highlights of the Agenda. (Carl Sedoryk)

2. PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA

Members of the public may address the Board on any matter related to the jurisdiction of MST District but not on the agenda. There is a time limit of not more than three minutes for each speaker. The Board will not take action or respond immediately to any public comments presented, but may choose to follow-up at a later time either individually, through staff, or on a subsequent agenda. (Please refer to page 1 of the agenda for instructions)

3. CLOSED SESSION

Members of the public may address the Board on any matter related to Closed Session. There is a time limit of not more than three minutes for each speaker. The Board will not take action or respond immediately to any public comments presented, but may choose to follow-up at a later time individually, through staff, or on a subsequent agenda. (Please refer to page 1 of the agenda for instructions)

As permitted by Government Code §64956 et seq. of the State of California, the Board of Directors may adjourn to Closed Session to consider specific matters dealing with personnel and/or pending possible litigation and/or conferring with the Board's Meyers-Milius-Brown Act representative.

- 3-1. Review General Manager/CEO Performance Incentive Gov. Code § 54957. (Dan Albert)

4. CONSENT AGENDA

These items will be approved by a single motion. Anyone may request that an item be discussed and considered separately.

- 4-1. Approve Resolution 2022-16 Authorizing Remote Teleconference Meetings. (Carl Sedoryk) (Page 7)
- 4-2. Adopt Resolution 2022-17 Recognizing Oscar Lemus, Inventory Clerk, as Employee of the Month for December 2021. (Frank Marcos) (Page 9)
- 4-3. Approve Minutes of the MST Board Meeting on November 15, 2021. (Jeanette Alegar-Rocha) (Page 11)
- 4-4. Receive Draft Minutes of the MST Board Administrative Performance Committee Meeting on November 15, 2021. (Jeanette Alegar-Rocha) (Page 17)

- 4-5. Financial Reports – October 2021. (Lori Lee) (Page 21)
 - a) Accept Reports of October 2021 Cash Flow
 - b) Approve October 2021 Disbursements
 - c) Accept Report of October Treasury Transactions
- 4-6. Receive Report on Lost and Found Items Left on MST Property for the Month of August. (Sonia Wills) (Page 29)
- 4-7. Receive 2022 MST Board Meeting Calendar and Committee Meeting Schedules. (Jeanette Alegar-Rocha) (Page 31)
- 4-8. Receive Results of the Federal Transit Administration's (FTA) FY2021 COVID-19 Relief Electronic Clearing House Operation System (ECHO) Drawdown Review. (Deanna Smith) (Page 37)

End of Consent Agenda

5. RECOGNITIONS AND SPECIAL PRESENTATIONS

- 5-1. December 2021 Employee of the Month – Oscar Lemus, Inventory Clerk. (Frank Marcos)
- 5-2. Recognition of 25 Years of Service – Fernando Andrade, Coach Operator. (Norman Tuitavuki)
- 5-3. Recognition of 25 Years of Service – Daniel Vohl, Coach Operator. (Norman Tuitavuki)
- 5-4. Recognition of 25 Years of Service – Sherman Upshaw, Facilities, Technician. (Paul Lopez)
- 5-5. Recognition of 20 Years of Service – Rommel Nieves, Utility Service Technician. (Frank Marcos)
- 5-6. Receive Staff Report on Activities Related to the COVID-19 Pandemic Incident Response and Recovery Planning to Date and Provide Direction, If Needed. (Carl Sedoryk)

6. PUBLIC HEARINGS

None

7. ACTION ITEMS

- 7-1. Approve 2022 State Legislative Program. (Michelle Overmeyer) (Page 49)
- 7-2. Approve 2022 Federal Legislative Program. (Carl Sedoryk) (Page 55)

- 7-3. Adopt Resolution No. 2022-18 Approving Monterey-Salinas Transit District's (MST) Zero-Emissions Bus (ZEB) Rollout Plan for Submission to the California Air Resources Board (CARB) in Compliance with the Innovative Clean Transit (ICT) Regulation. (Norman Tuitavuki) (Page 61)
- 7-4. Authorize General Manager/CEO to Execute a Contract with Kimley-Horn for SURF! Busway and Bus Rapid Transit (BRT) Project Final Design Services in an Amount Not to Exceed \$5,000,000 Pending Execution of a Measure X Funding Agreement with the Transportation Agency for Monterey County, Certifying that a Skilled and Trained Workforce Will be Used for the SURF! Busway and BRT Project, and Directing Kimley-Horn to Incorporate Such Requirements into the Bidding Process, as Provided in Attachment 1. (Lisa Rheinheimer) (Page 101)
- 7-5. Authorize General Manager/CEO to Execute a Contract with California State University, Monterey Bay (CSUMB) for a Free Fare Program in an Amount not to Exceed \$120,000 for the Spring 2022 Semester. (Michelle Overmeyer) (Page 105)
- 7-6. Approve the Recommendation of the General Manager Performance Evaluation Ad Hoc Committee of 4.7% Incentive Pay for the General Manager/CEO. (Dan Albert) (Page 107)

8. REPORTS & INFORMATION ITEMS

The Board will receive and file these reports, which do not require action by the Board.

- 8-1. General Manager/CEO Report – November 2021 (Page 109)
- 8-2. Federal Legislative Advocacy Report – December 2021 (Page 145)
- 8-3. State Legislative Advocacy Update - None
- 8-4. Staff Trip Reports (Pages 147-151)
- 8-5. Correspondence – None

9. BOARD REPORTS, COMMENTS, AND REFERRALS

- 9-1. Reports on Meetings Attended by Board Members at MST Expense. (AB 1234)
- 9-2. Board Member Comments and Announcements
 - a) Recognition of Ikuyo Yoneda-Lopez, Marketing and Customer Service Manager, Graduation from Leadership Monterey County.
- 9-3. Board Member Referrals for Future Agendas.

10. RETURN TO CLOSED SESSION

Members of the public may address the Board on any matter related to Closed Session. There is a time limit of not more than three minutes for each speaker. The Board will not take action or respond immediately to any public comments presented, but may choose to follow-up at a later time individually, through staff, or on a subsequent agenda. (Please refer to page 1 of the agenda for instructions)

As permitted by Government Code §64956 et seq. of the State of California, the Board of Directors may adjourn to Closed Session to consider specific matters dealing with personnel and/or pending possible litigation and/or conferring with the Board's Meyers-Milias-Brown Act representative.

- 10-1. Conference with Labor Contract Negotiator - General Manager/CEO
Contract Gov. Code § 54957. (Dan Albert)

11. ATTACHMENTS

- 11-1. The Detailed Monthly Performance Statistics and Disbursement Journal for October 2021 can be viewed online within the GM Report at
<http://mst.org/about-mst/board-of-directors/board-meetings/>

12. ADJOURN

NEXT SCHEDULED MEETING DATE: January 10, 2022
10:00 a.m.

NEXT SCHEDULED AGENDA DEADLINE: December 28, 2021

Dates, times and **teleconference information are subject to change.*

*Please contact MST for accurate meeting date, times and **teleconference** information or check online at <http://mst.org/about-mst/board-of-directors/board-meetings/>*

To: Board of Directors

From: Lisa Rheinheimer, Assistant General Manager
Sandra Amorim, Procurement & Contracts Manager

Subject: SURF! Busway and Bus Rapid Transit (BRT) Final Design

RECOMMENDATION:

Authorize General Manager/CEO to execute a contract with Kimley-Horn for SURF! Busway and Bus Rapid Transit (BRT) Project final design services in an amount not to exceed \$5,000,000 pending execution of a Measure X funding agreement with the Transportation Agency for Monterey County, certifying that a skilled and trained workforce will be used for the SURF! Busway and BRT Project, and directing Kimley-Horn to incorporate such requirements into the bidding process, as provided in Attachment 1.

FISCAL IMPACT:

The FY 2022 adopted Budget contemplates this expenditure, however, at a lower amount. Funds to pay for this expense are from the TAMC Measure X program and a funding agreement is scheduled to go before the TAMC Board of Directors in late January.

Additionally, MST staff evaluated the proposal cost against a previously developed independent cost estimate and reviewed hourly rates for fairness and reasonableness. Staff found the proposal cost to be fair and reasonable based on current market conditions. Staff from the Transportation Agency for Monterey County reviewed the cost proposal and concurred with this assessment.

POLICY IMPLICATIONS:

Your Board approves contracts and expenditures over \$100,000. Additionally, this project is included in the Board adopted two-year Action Plan, FY 2022-2023.

DISCUSSION:

The SURF! Busway and Bus Rapid Transit project is a major MST effort currently transitioning from the preliminary design to final design phase of work. The project constructs a new bus-only roadway within the publicly-owned TAMC rail/transportation corridor parallel to Highway 1 between Marina and Seaside/Sand City with a transit station/stop at the publicly-owned MST property at 1st and Quartermaster. Once

operational, bus riders will bypass the heavily congested stretch of Highway 1 on their way to and from local jobs on the Monterey Peninsula including Marina and beyond.

MST staff have been monitoring highway congestion along the corridor and over the last several months, traffic has slowed to a crawl during the morning commute on most days. The span of traffic congestion has also extended earlier and later. With a single traffic accident, travel speeds lower to less than 9 miles per hour impacting schools, essential workers, and businesses.

MST has made significant progress in moving the project forward including completing the CEQA environmental determination in July 2021. Preliminary design plans are also complete to the 35% level.

MST staff are continuing to meet with stakeholders and hear feedback from our jurisdictional partners and permitting agencies. The next phase of work over the next two-years includes final design also described as plans, specifications, and estimates. The scope of work is outlined below.

A Request for Proposals (RFP) seeking qualified firms to provide professional and technical services for final design was issued on October 5th with proposals due November 12th. The scope of work generally includes the following:

1. Civil Infrastructure Design
2. Stormwater and Hydrology Design and Permitting
3. ITS/Signal Infrastructure Design
4. Platform and Facilities Design
5. Landscape Design
6. General Stakeholder Permitting and Coordination
7. Caltrans DEER Permitting and Coordination
8. Phasing and Implementation Design
9. Mitigation, Monitoring and Reporting Program
10. Geotechnical Investigation
11. Utility Coordination
12. Independent Cost Estimate
13. CM/GC Support
14. Bid Phase Support
15. Design Services During Construction
16. Communications and Marketing
17. Public Outreach, Reaction, Education and Marketing for Designs

Public outreach, reaction, education, and marketing in this design phase includes a robust effort to bring in community partners, business leaders, residents, and stakeholders as the team reviews options for urban design, landscaping, station area features, etc. The scope includes up to 40 meetings with these interest groups and additional meetings with city staff and stakeholders.

During the final design phase, the project team will conduct a value engineering process where an independent team will review the project design for potential cost savings on the \$55.8 million project (current estimate).

The completed project is expected to open in 2027 and benefit existing riders while also, attracting new transit passengers. This first step will help build sustained ridership demand that could support longer-term rail operations.

While MST previously certified that the project would use a skilled and trained workforce through its annual FTA Certifications and Assurances as well as the MST Procurement Policy, staff recommends that the Board further direct the consultant to ensure that during the bid phase support, bid documents will specify that a skilled and trained workforce will be used as further certified in Attachment 1.

In response to the RFP, MST received one proposal from Kimley-Horn, the consulting firm hired to complete the preliminary engineering and environmental documentation phase. Pricing and overall evaluation are listed below.

Staff independently reviewed and scored the proposal basing their scores on the firms':


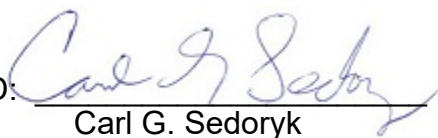
- Organizational Management and Business Plan
- Past Performance and Quality of Services
- Quality Assurance
- Comments Received from Past and Current Customers

Through this process, staff recommends that Kimley-Horn be selected to perform the work. Kimley-Horn performed well during preliminary design phase as well as work for our application to the FTA in the Capital Investments Grant funding program so the team and firm has existing in-depth knowledge about the project.

Your Board's action will authorize staff to award a contract to Kimley-Horn & Associates, Inc. in an amount not to exceed \$5,000,000 for consulting, support, and assistance going through the final design phase. Final design work will span multiple years.

ATTACHMENT(S):

MST Board Certification

PREPARED BY:  REVIEWED: 
Lisa Rheinheimer Carl G. Sedoryk

MST Board Certification

MST, as the public lead agency for the SURF! Busway and Bus Rapid Transit Project, certifies that the project will be completed by a skilled and trained workforce in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code, and further directs Kimley-Horn to incorporate such requirements in bid documents and any qualifying positions, including bids for construction contracts, including those for contractors and subcontractors at every tier, as well as contracts that fall within an apprenticeship occupation in the building and construction trades.

MEETING OF THE MST BOARD OF DIRECTORS

MEETING MINUTES

December 13, 2021
10:00 am (Pacific)

Present:	Jeff Baron	City of Carmel-by-the-Sea
	Lorraine Worthy	City of Gonzales
	Yanely Martinez	City of Greenfield
	Mike LeBarre	City of King
	David Burnett	City of Marina
	Dan Albert	City of Monterey
	Joe Amelio	City of Pacific Grove
	Tony Barrera	City of Salinas
	Mary Ann Carbone	City of Sand City
	Dave Pacheco	City of Seaside
	Anna Velazquez	City Soledad
	Luis Alejo	County of Monterey
Absent:	John Gaglioti	City of Del Rey Oaks
Staff:	Carl Sedoryk	General Manager/CEO
	Lisa Rheinheimer	Assistant General Manager
	Norman Tuitavuki	Chief Operating Officer
	Michael Kohlman	Chief Information Officer
	Kelly Halcon	Director of HR & Risk Management
	Michelle Overmeyer	Director of Planning & Innovation
	Andrea Williams	General Accounting & Budget Manager
	Jeanette Alegar-Rocha	Deputy Secretary
	Ikuyo Yoneda-Lopez	Marketing & Customer Service Manager
	Sonia Wills	Customer Service Supervisor
	Matthew Deal	Grants Analyst
	Scott Taylor	IT Manager
	Ezequiel Rebollar	IT Technician
	Oscar Lemus	Inventory Clerk
	Paul Lopez	Facilities Manager
	Sherman Upshaw	Facilities Technician
	Deanna Smith	Civil Rights Officer

Lisa Cox
Elena Grigorichina
Marzette Henderson
Claudia Valencia
Ruben Gomez
Lesley vanDalen
Sandra Amorim
Beronica Carriedo
Sloan Campi
Emma Patel

Risk and Safety Manager
Operations Analyst
Contract Services Manager
Mobility Specialist
Mobility Specialist
Mobility Specialist
Procurement & Contracts Manager
Community Relations Coordinator
Planning Manager
Associate Planner

Counsel: David Laredo
Michael D. Laredo

General Counsel, De Lay & Laredo
Associate Counsel, De Lay & Laredo

Public: Douglas Thomson
Don Gilchrest
Madilyn Jacobsen

MV Transportation
Thomas Walter and Associates
Caltrans District 5 Planning

Apology is made for any misspelling of a name.

1. CALL TO ORDER

- 1-1. Roll Call.
- 1-2. Pledge of Allegiance.
- 1-3. Review Highlights of the agenda. (Carl Sedoryk)

Chair Albert called the meeting to order at 10:03 a.m. and led the pledge of allegiance. Roll call was taken as the meeting was held via ZOOM teleconference. A quorum was established. General Manager/CEO Carl Sedoryk reviewed the highlights of the agenda.

2. PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA

There were no public comments.

3. CLOSED SESSION

- 3-1. Review General Manager/CEO Performance Incentive Gov. Code § 54957. (Dan Albert)

There were no public comments.

General Counsel, Dave Laredo reported that the Board reviewed Closed Session item 3-1 and would act on the matter during Agenda item #7-6.

4. CONSENT AGENDA

- 4-1. Approve Resolution 2022-16 Authorizing Remote Teleconference Meetings. (Carl Sedoryk)
- 4-2. Adopt Resolution 2022-17 Recognizing Oscar Lemus, Inventory Clerk, as Employee of the Month for December 2021. (Frank Marcos)
- 4-3. Approve Minutes of the MST Board Meeting on November 15, 2021. (Jeanette Alegar-Rocha)
- 4-4. Receive Draft Minutes of the MST Board Administrative Performance Committee Meeting on November 15, 2021. (Jeanette Alegar-Rocha)
- 4-5. Financial Reports – October 2021. (Lori Lee)
 - a) Accept Reports of October 2021 Cash Flow
 - b) Approve October 2021 Disbursements
 - c) Accept Report of October Treasury Transactions
- 4-6. Receive Report on Lost and Found Items Left on MST Property for the Month of August. (Sonia Wills)
- 4-7. Receive 2022 MST Board Meeting Calendar and Committee Meeting Schedules. (Jeanette Alegar-Rocha)
- 4-8. Receive Results of the Federal Transit Administration's (FTA) FY2021 COVID-19 Relief Electronic Clearing House Operation System (ECHO) Drawdown Review. (Deanna Smith)

End of Consent Agenda

There were no public comments on the Consent Agenda.

On a motion by Director Amelio, seconded by Director Carbone and carried by the following vote, which was conducted by roll call, the Board approved all items on the Consent Agenda:

AYES:	12	Albert, Alejo, Amelio, Baron, Barrera, Burnett, Carbone, LeBarre, Martinez, Pacheco, Velazquez, and Worthy
NOES:	0	
ABSENT:	1	Gaglioti
ABSTAIN:	0	

5. RECOGNITIONS AND SPECIAL PRESENTATIONS

- 5-1. December 2021 Employee of the Month – Oscar Lemus, Inventory Clerk. (Norman Tuitavuki)
- 5-2. Recognition of 25 Years of Service – Fernando Andrade, Coach Operator. (Norman Tuitavuki)
- 5-3. Recognition of 25 Years of Service – Daniel Vohl, Coach Operator. (Norman Tuitavuki)
- 5-4. Recognition of 25 Years of Service – Sherman Upshaw, Facilities, Technician. (Paul Lopez)
- 5-5. Recognition of 20 Years of Service – Rommel Nieves, Utility Service Technician. (Norman Tuitavuki)
- 5-6. Receive Staff Report on Activities Related to the COVID-19 Pandemic Incident Response and Recovery Planning to Date and Provide Direction, If Needed. (Carl Sedoryk)

The MST Board received a report from the General Manager/CEO on activities related to COVID-19 pandemic incident response and recovery planning.

Chair Albert provided direction to staff to make the matter of hybrid meetings as an action item on the January 2022 agenda.

6. PUBLIC HEARINGS

None

7. ACTION ITEMS

- 7-1. Approve 2022 State Legislative Program. (Michelle Overmeyer)

There were no public comments.

On a motion by Director Amelio, seconded by Director Worthy and carried by the following vote, which was conducted by roll call, the Board approved the 2022 State Legislative Program:

AYES:	12	Albert, Alejo, Amelio, Baron, Barrera, Burnett, Carbone, LeBarre, Martinez, Pacheco, Velazquez, and Worthy
NOES:	0	
ABSENT:	1	Gaglioti
ABSTAIN:	0	

7-2. Approve 2022 Federal Legislative Program. (Carl Sedoryk)

There were no public comments.

On a motion by Director Amelio, seconded by Director Alejo and carried by the following vote, which was conducted by roll call, the Board approved the 2022 Federal Legislative Program:

AYES:	12	Albert, Alejo, Amelio, Baron, Barrera, Burnett, Carbone, LeBarre, Martinez, Pacheco, Velazquez, and Worth
NOES:	0	
ABSENT:	1	Gaglioti
ABSTAIN:	0	

7-3. Adopt Resolution No. 2022-18 Approving Monterey-Salinas Transit District's (MST) Zero-Emissions Bus (ZEB) Rollout Plan for Submission to the California Air Resources Board (CARB) in Compliance with the Innovative Clean Transit (ICT) Regulation. (Norman Tuitavuki)

There were no public comments.

On a motion by Director LeBarre, seconded by Director Burnett and carried by the following vote, which was conducted by roll call, the Board adopted Resolution No. 2022-18 approving Monterey-Salinas Transit District's (MST) Zero Emissions Bus (ZEB) Rollout Plan for submission to the California Air Resources Board (CARB) in Compliance with the Innovative Clean Transit (ICT) Regulation:

AYES:	12	Albert, Alejo, Amelio, Baron, Barrera, Burnett, Carbone, LeBarre, Martinez, Pacheco, Velazquez, and Worth
NOES:	0	
ABSENT:	1	Gaglioti
ABSTAIN:	0	

7-4. Authorize General Manager/CEO to Execute a Contract with Kimley-Horn for SURF! Busway and Bus Rapid Transit (BRT) Project Final Design Services in an Amount Not to Exceed \$5,000,000 Pending Execution of a Measure X Funding Agreement with the Transportation Agency for Monterey County, Certifying that a Skilled and Trained Workforce Will be Used for the SURF! Busway and BRT Project and Directing Kimley-Horn to Incorporate Such Requirements into the Bidding Process, as Provided in Attachment 1. (Lisa Rheinheimer)

There were no public comments.

On a motion by Director Amelio, seconded by Director Velazquez and carried by the following vote, which was conducted by roll call, the Board authorized the General Manager/CEO to execute a contract with Kimley-Horn for SURF! Busway and Bus Rapid Transit (BRT) Project final design services in an amount not to exceed \$5,000,000 pending execution of a Measure X funding agreement with the Transportation Agency for Monterey County, certifying that a skilled and trained workforce will be used for the SURF! Busway and BRT Project, and directing Kimley-Horn to incorporate such requirements into the bidding process:

AYES: 12 Albert, Alejo, Amelio, Baron, Barrera, Burnett, Carbone,
LeBarre, Martinez, Pacheco, Velazquez, and Worthy
NOES: 0
ABSENT: 1 Gaglioti
ABSTAIN: 0

- 7-5. Authorize General Manager/CEO to Execute a Contract with California State University, Monterey Bay (CSUMB) for a Free Fare Program in an Amount not to Exceed \$120,000 for the Spring 2022 Semester.
(Michelle Overmeyer)

There were no public comments.

On a motion by Director Worthy, seconded by Director Velazquez and carried by the following vote, which was conducted by roll call, the Board authorized the General Manager/CEO to execute a contract with California State University, Monterey Bay (CSUMB) for a Free Fare Program in an amount not to exceed \$120,000 for the Spring 2022 semester:

AYES: 12 Albert, Alejo, Amelio, Baron, Barrera, Burnett, Carbone,
LeBarre, Martinez, Pacheco, Velazquez, and Worthy
NOES: 0
ABSENT: 1 Gaglioti
ABSTAIN: 0

- 7-6. Approve the Recommendation of the General Manager Performance Evaluation Ad Hoc Committee of 4.7% Incentive Pay for the General Manager/CEO. (Dan Albert)

There were no public comments.

On a motion by Director Amelio, seconded by Director Velazquez and carried by the following vote, which was conducted by roll call, the Board approved the recommendation of the General Manager Performance Evaluation Ad Hoc Committee of 4.7% Incentive Pay for the General Manager/CEO:

AYES: 11 Albert, Amelio, Baron, Barrera, Burnett, Carbone, LeBarre,

NOES:	1	Martinez, Pacheco, Velazquez, and Worthy
ABSENT:	1	Alejo
ABSTAIN:	0	Gaglioti

8. REPORTS & INFORMATION ITEMS

The Board received and filed these reports, which do not require action by the Board.

- 8-1. General Manager/CEO Report – November 2021
- 8-2. Federal Legislative Advocacy Report – December 2021
- 8-3. State Legislative Advocacy Update - None
- 8-4. Staff Trip Reports
- 8-5. Correspondence – None

9. BOARD REPORTS, COMMENTS, AND REFERRALS

- 9-1. Reports on Meetings Attended by Board Members at MST Expense.
(AB 1234)
- 9-2. Board Member Comments and Announcements.
 - a) Recognition of Ikuyo Yoneda-Lopez, Marketing and Customer Service Manager, Graduation from Leadership Monterey County.

The MST Board congratulated Ikuyo Yoneda-Lopez on her recent graduation from the Leadership Monterey County program.

- 9-3. Board Member Referrals for Future Agendas.

10. RETURN TO CLOSED SESSION AND REPORT

- 10-1. Conference with Labor Contract Negotiator - General Manager/CEO Contract Gov. Code § 54957. (Dan Albert)

General Counsel, Dave Laredo reported that the MST Board provided direction to the Chair to meet with the General Manager/CEO for further contract negotiation with the intent to discuss with the full Board in closed session of the January 2022 Board meeting.

11. ATTACHMENTS

11-1. The Detailed Monthly Performance Statistics and Disbursement Journal for October 2021 can be viewed online within the GM Report at <http://mst.org/about-mst/board-of-directors/board-meetings/>

12. ADJOURN

With no further business to discuss, the meeting was adjourned at 12:29 p.m. (Pacific) in memory, and in honor of Lupe Galaviz, a long-time transit services advocate from the City of Soledad who recently passed away.

PREPARED BY:



Jeanette Alegar-Rocha

REVIEWED BY:



Carl G. Sedoryk

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Responses to Public Comments regarding MST's Notice of Public Community Planning Meetings and Intent to Adopt CEQA Exemptions under SB922

On January 17, 2023 MST published a Notice of Public Community Planning Meeting and Intent to Adopt CEQA Exemptions pursuant to SB922 (Pub. Res. Code § 21080.25.) That Notice stated:

Prior to any action by the Board of Directors on this matter, MST will hold three public community planning meetings to hear and respond to public comments solely related to the SB 922 Exemptions for the Project (Pub. Res. Code §21080.25)...

During these Public Community Planning Meetings, MST will accept public comments on the SB 922 Exemptions for the MST SURF! Project. To receive a response, written comments must be received by 5:00 p.m. on February 17, 2023 and must be submitted in writing to MST at the physical or email addresses listed below. MST will also provide responses to oral comments made during a commenter's allocated time at the Public Community Planning Meetings, or written comments submitted to MST staff at those Meetings. Before determining whether the Project is exempt pursuant to SB922, MST will consider and respond to these comments.

This document contains MST's responses, consistent with Pub. Res. Code § 21080.25(d)(1)(D)(i).

1. Date comment received: 1/18/2023

Platform/format: Twitter @MST_TransitNews

Commenter name: Hunter Owens

Comment 1:¹ be like Monterey! skip the CEQA for transit + bike / ped projects

MST Response 1: Prior to any action by the MST Board of Directors, MST provided notice on January 17 via its official websites and social media of its intent to hold three community planning meetings regarding the applicability of the statutory exemption at Pub. Res. Code § 21080.25(b) (as amended by SB 922). MST held these public community planning on

- February 13, 2023, 5:00 p.m., at Marina Library, 190 Seaside Circle, Marina, CA 93933

¹ Formal responses are not required to Comment 1, as it does not conform with MST's Notice, which stated "To receive a response, written comments must be received by 5:00 p.m. on February 17, 2023 *and must be submitted in writing to MST at the physical or email addresses listed below.*"

- February 14, 2023, 5:00 p.m., at the Boys and Girls Club Seaside Clubhouse, 1332 La Salle Avenue, Seaside CA 93955
- February 15, 2023, 5:00 p.m., at the Boys and Girls Club Seaside Clubhouse, 1332 La Salle Avenue, Seaside CA 93955

At these community planning meetings, MST allowed members of the public to provide verbal comments regarding the applicability of SB 922 and the statutory exemption to the Project. MST also allowed members of the public to submit written comments until 5:00pm on February 17, 2023. Pub. Res. Code § 21080.25(d)(1)(D)(i) requires MST to respond only to those comments regarding the applicability of the statutory exemption to the Project. Because this comment does not reference or discuss the applicability of the CEQA Exemption at Public Resources Code § 21080.25(b), no further response is required.

2. Date comment received: 2/13/2023

Platform/format: Email

Commenter name: Brian McCarthy

Comment 2: I hope to be able to attend the community meeting tonight at the Marina library. In reviewing SB922 I see reference to a racial equity analysis required under SB922. I was having trouble finding that analysis on your website, do you have a link or any additional information on this?

MST Response 2:

The SB 922 CEQA Exemption found in Public Resources Code § 21080.25 requires public agencies to engage in a racial equity analysis only if the project for which an exemption is sought exceeds \$100,000,000. (Pub. Res. Code § 21080.25(d), (e)). Estimates of the cost of the SURF Project have consistently been far under this threshold, and the most recent cost estimate show that the project will be significantly under \$100,000,000. (See Revised Project Description p. 3-27.) Therefore, MST does not need to engage in the racial equity analysis.

3. Date comment received: 2/13/2023

Platform/format: Verbal

Commenter name: Brian McCarthy

Comment 3: I'll start. I'm Brian McCarthy. I was hoping for a little bit more of a conversation but I guess I'm confused as to what is meant by the merits of the applicability of SB 922. My limited understanding is that SB922 provides exemptions for transit

projects so are we being asked is this a transit project? I think there's a lot of confusion certainly with me and I kind of delve in planning so I would probably be more apt to understand some of these things more than the average resident. I would like to see a little bit more outreach to the community and just what the community is really being asked to provide. I appreciate the effort to reach out. There's a lot of confusion so if you want to hold the community meeting and kind of ask for this input, this is just a little bit confusing from my perspective and again I'm just speaking for myself but love to see it maybe in the subsequent meetings tomorrow and Wednesday. A little bit more from the outset about what the exemptions really entail, how the community can participate if they have concerns, I understand that this is not the place to voice concerns on the already approved elements of the project but I think we do have a community in this room that is probably interested in and providing additional feedback. There's just really some confusion about what's being asked at this meeting here today. Thank you.

So I glanced at 922 before I came here and you know it says exemptions for public transit and all these things and so if you're looking for, you know, I'm just confused. Like what's a scenario where someone might contest an exemption? Would they say "Oh no this isn't a transit project"? Or I'm just continually super confused like it's a new, it's a new state law.

It's like I said, you know, I'll give just, for the three that are hearing it, so my limited understanding of SB 922 is an exemption to not have to do CEQA if you meet these certain criteria. And it does say in there that three community meetings are required but it's just very odd. I mean, I would say 90% of the projects that are claiming exemption is pretty clear, right? If it's a transit project like you wouldn't say that's not a transit.

We know aside from that since my rep from the MST Board is associated here. I'd love to share with you that I do have some concerns about the visual impacts of especially the Del Monte extension. In the CEQA environmental documents themselves don't depict any kind of scene or anything. We know that something is going to exist and so I would love to see like some representation of what is planned or what is possible. The project could make or break for certain residents, right? Like, as they come into the entryway to Marina and they see it's a 6 foot like you know whatever chain link fence versus a something nicer.

MST Response 3: Thank you for your comments.

MST has determined that the SURF! Bus Rapid Transit Project ("Project") qualifies for the exemption found at Public Resources Code § 21080.25(b). The Project includes pedestrian and bike facilities ((b)(1)); features that improve wayfinding for transit riders, bicyclists, or pedestrians within the public right-of-way ((b)(2)); transit prioritization technology ((b)(3)); increased bus rapid transit and bus service, including stations, terminals, and existing operational facilities ((b)(5)); charging stations ((b)(6)); and maintenance, repair, relocation, and/or removal of associated infrastructure ((b)(7)).

Section 21080.25(e), as amended by SB 922, requires a lead agency to first hold three community public meetings and respond to public comments regarding the applicability of the SB 922 CEQA Exemption. (Pub. Res. Code § 21080.25(d)(1)(D)(i)). MST held these meetings on February 13, 14, and 15 in accordance with this requirement.

Finally, the Revised Project Description contains images and simulations in Figure 3-11, and Appendix 5 to the Mitigated Negative Declaration also contains information regarding the location's baseline and aesthetics.

4. Date comment received: 2/13/2023

Platform/format: Verbal

Commenter name: Michael Kennedy

Comment 4: I'm sorry is that all this was?

MST Response 4: MST understands this comment to relate to the purpose of the community planning meeting held on February 13, 2023. Under Pub. Res. Code § 21080.25(d) and (e), MST must hold three community planning meetings to hear and respond to public comments regarding the applicability of the CEQA Exemption at Pub. Res. Code § 21080.25(b). No further response is required.

5. Date comment received: 2/13/2023

Platform/format: Written

Commenter name: Sloan Campi

Comment 5: CSUMB Transportation is generally supportive of MST adopting CEQA exemptions for the SURF! Busway and Bus Rapid Transit project pursuant to SB922.

MST Response 5: MST appreciates the support of CSUMB Transportation. No further response is required.

6. Date comment received: 2/13/2023

Platform/format: Written

Commenter name: Michael Kennedy

Comment 6: Request to be on email distribution of SURF project.

MST Response 6: Thank you for your comment. You will continue to be on MST's email distribution list for the SURF! project.

7. Date comment received: 2/13/2023

Platform/format: Verbal

Commenter name: Various.

Comment 7: ²

Participants asked about opportunities to provide additional input on the SURF! project similar to the August 2022 informational public meeting.

MST Response 7: These three community planning meetings were held on the following dates which provided an opportunity to submit oral or written comments:

- February 13, 2023, 5:00 p.m., at Marina Library, 190 Seaside Circle, Marina, CA 93933
- February 14, 2023, 5:00 p.m., at the Boys and Girls Club Seaside Clubhouse, 1332 La Salle Avenue, Seaside CA 93955
- February 15, 2023, 5:00 p.m., at the Boys and Girls Club Seaside Clubhouse, 1332 La Salle Avenue, Seaside CA 93955

MST has also done extensive community outreach and has provided interested persons multiple opportunities to provide input on the Project. As of September 2022, MST and TAMC have participated in over 90 meetings with stakeholders and community members, including an open house in Marina with more than 65 attendees. Since 2019, MST and TAMC have reached over 2,200 members of the community. Furthermore, in 2022 MST introduced a Community Input Hub featuring a survey and interactive map. Additional outreach events and tools will be announced throughout 2023 and beyond as the Project proceeds into the final design phase.

² After the formal SB 922 public meeting closed on February 13, 2023, attendees had comments and questions related to the SURF! project in general. A summary of verbal comments and questions after the SB 922 comment period is provided above. However, responses to Comment 7 are not required, as they do not conform with MST's Notice, which stated "To receive a response, written comments must be received by 5:00 p.m. on February 17, 2023 and must be submitted in writing to MST at the physical or email addresses listed below. MST will also provide responses to oral comments made *during a commenter's allocated time at the Public Community Planning Meetings*, or written comments submitted to MST staff at those Meetings."

8. Date comment received: 2/17/2023

Platform/format: Written

Commenter name: Michael Salerno

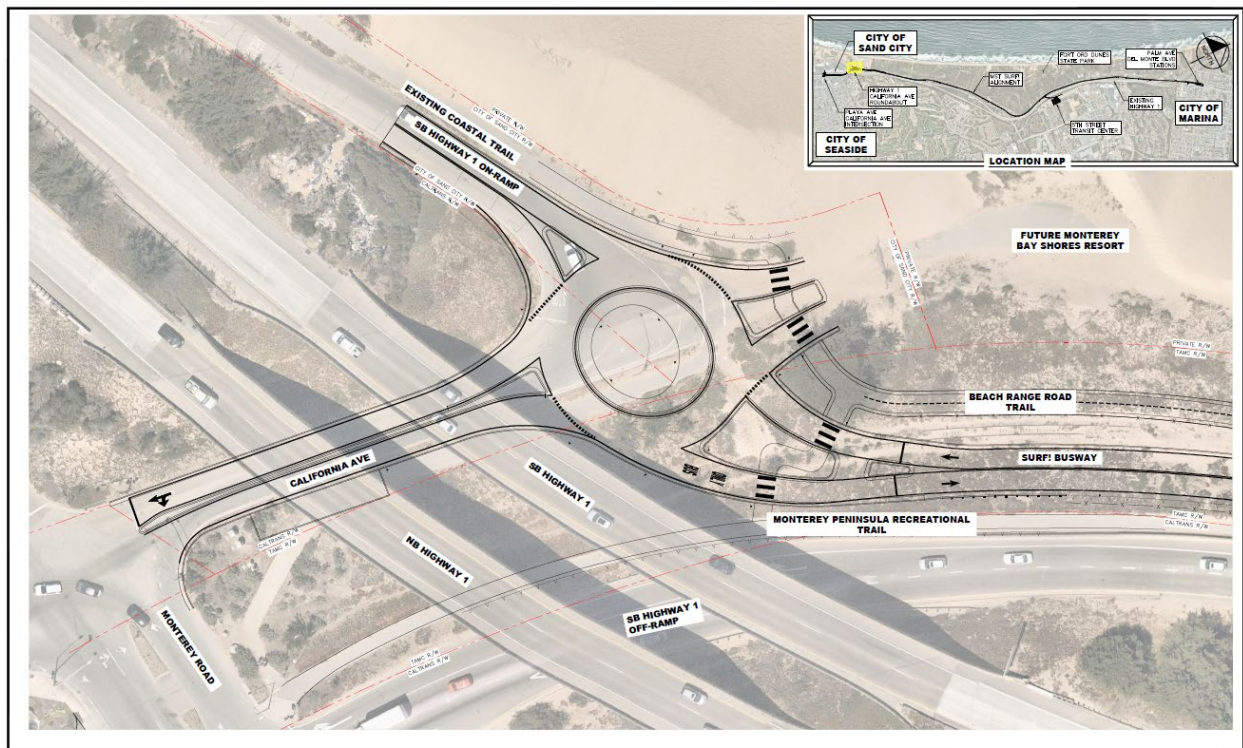
Comment 8:

Dear Ms. Overmeyer,

Keep Fort Ord Wild (KFOW) submits the following comments regarding Project Exemptions under SB 922 for SURF! Busway and Bus Rapid Transit Project:

Salerno/KFOW Comment 8.A: The proposed roundabout at Sand City would be a significant addition of infrastructure on public roads. It would add lanes for general passenger vehicle traffic and would not be solely for use by MST buses. The very large roundabout exceeds the minor modifications and limited work allowed by SB 922 on existing roads and highways. Please explain.

MST Response to Salerno/KFOW Comment 8.A: The commenter appears to be referencing the California Avenue roundabout in Segment 3, which is generally shown in Project Description Figure 3-8, and described on page 3-16. The Figure below shows the



location of this proposed roundabout overlayed on existing conditions. This roundabout has been proposed to provide a safe transition from the busway alignment to the existing roadway network. More specifically, page 3-16 of the Project Description explains: “Buses will re-enter the public right-of-way via a new roundabout at the junction of California Avenue, the SR 1 southbound on-ramp, and the Monterey Bay Shores access road. The roundabout would be sufficiently sized and designed to allow for safe movement of buses, trucks and private vehicles. The entrance/exit point for the busway would include controls to prevent access by private vehicles.”

The commenter appears to be asserting that the roundabout does not constitute a “minor modifications needed for the efficient and safe movement of transit, vehicles, bicycles, or high-occupancy vehicles, such as extended merging lanes, shoulder improvements, or improvements to the roadway within the existing right of way.” (Pub. Res. Code § 21080.25(c)(2).) This conclusion is erroneous for several reasons. The commenter appears to be creating their own unsupported legal standard for “minor modification,” and then utilizing incorrect facts to support their argument (i.e. asserting the Project “would add lanes for general passenger vehicle traffic and would not be solely for use by MST buses.”)

Contrary to the commenter’s assertions, the Project would not add any general passenger vehicle lanes. Buses would enter at separate access-controlled entrance points at Segment 1 and carry on to dedicated roadway surfaces in Segments 2 and 3. At Segment 3 there will be a roundabout to transition and connect California Avenue and the existing Highway 1 on-ramp. This roundabout is necessary to ensure the safety of vehicles, bicycles, and pedestrians. The area surrounding the proposed roundabout is surrounded by existing roadways and highways, but the dedicated SURF! Busway would include controls to prevent access by private vehicles. At Segment 4, MST buses would travel along California Avenue, requiring no additional lanes. Existing roadways would be used for Segment 5, and upon reaching the terminus, SURF! buses would continue on public roadways along their route and to other routes within the MST system.

While the project does add a roundabout, this was specifically implemented to allow buses to “re-enter the public right-of-way” as expressly allowed by SB922, which includes such transitions, “such as extended merging lanes, shoulder improvements, or improvements to the roadway within existing right of way.” This location currently has an existing intersection, and is largely paved under existing conditions, and surrounded on all three sides by existing roadway infrastructure, including two existing roadways, and the highway overpass. A roundabout has been proposed, as it avoids the creation of a multi-directional intersection. Indeed, the roundabout represents only 0.01%³ of the Project’s linear length. Roundabouts provide for safer traffic conditions in comparison to stop or signalized intersections. The Federal Highway Administration has concluded that roundabouts improve safety at intersections by reducing fatalities, injuries, and crashes.

³ $\frac{2 \times \pi \times \sim 60 \text{ ft radius}}{6 \text{ miles} \times 5,280 \text{ feet per mile}}$

Roundabouts are efficient at moving traffic more efficiently throughout the day, reduce pollution, save on maintenance and equipment costs, and are a quieter operation.

The comment also asserts that “would not be solely for use by MST buses.” To the extent the commenter challenges the Project’s definition as a Bus Rapid Transit project under 21060.2, the Project is also considered a bus service project under Pub. Res. Code § 21080.25(b)(5), which is not subject to the requirements of § 21060.2. Furthermore, Pub. Res. Code § 21080.25(b)(5) expressly allows for bus service “on existing public rights-of-way or existing highway rights-of-way, *whether or not the right-of-way is in use for public mass transit.*”

Salerno/KFOW Comment 8.B: The revised project description indicates a significantly expanded bus schedule compared to the previous iteration. MST buses would run on the Surf Road, with stops at 5th Street, during the majority of each day and late into the night when there is no congestion on Highway One. During those times the MST buses would take longer to get from Sand City to Marina (and vice versa) than if the buses simply drove on Highway One, correct? How much longer? Where are those calculations presented?

MST Response to Salerno/KFOW Comment 8.B: This comment does not relate to the applicability of the statutory exemption under Public Resources Code § 21080.25(b) (as amended by SB 922), and instead appears to be a series of interrogatories focused on the merits of the Project.⁴ Nevertheless, MST notes that the version of the Project Description included with the MND states:

Buses would operate to maximize ridership in the southbound direction during the morning peak commute period (6:00 AM to 10:00 AM) and the northbound direction during the evening peak commute period (4:00 PM to 8:00 PM). Bus headways are currently (and conservatively) estimated at 10-minute intervals for purposes of analysis. Actual headways could be longer depending on demand and ridership, and non-peak operations may continue throughout the day.

The current revised project description states:

Buses would operate to maximize ridership. Bus headways are planned for 15-minute frequencies weekdays between 6:00 AM and 10:00 PM and 30-minute frequencies weekends between 7:30 AM and 8:30 PM. These frequencies overlap with peak congestion/commute periods analyzed in the 2018 Final Project Report Monterey Bay Area Feasibility Study of Bus on Shoulder Operations on State Route 1 and the Monterey Branch Line.

⁴ KFOW took a similar approach on the City of Seaside Campus Town EIR review period. (See Campus Town Final EIR p. 3-115:

https://www.ci.seaside.ca.us/DocumentCenter/View/10668/1_Seaside-CT-FEIR-

Salerno/KFOW Comment 8.C: The new and expanded bus schedule would have buses running every 15 minutes 6am to 10pm on weekdays and every 30 minutes 7:30am to 8:30pm on weekends. On a weekday, that means then SURF buses would be running 16 hours/day including late at night when there is sparse traffic on HWY 1. Since the buses leave every 15 minutes, does that mean they would make 64 trips/day in a single direction? And 128 trips/day in both directions? MST has expanded the schedule but still concludes the same number of riders will take the bus as in the previous project description with the lighter schedule. Please explain.

MST Response to Salerno/KFOW Comment 8.C: Please see Response to Comment 8.B. This comment does not relate to the applicability of the statutory exemption at Public Resources Code § 21080.25(b) (as amended by SB 922), and instead focuses on the merits of the Project. No comment is required. Nevertheless, MST notes that outside the peak congestion periods it has discretion to operate the project to “to maximize ridership.”

Salerno/KFOW Comment 8.D: The revised project description claims the amount of cut and amount of fill would be balanced on the project site. This is a new claim, and it would be unlikely if not impossible to carry out. The amount of fill required for the project would far exceed the amount of cut needed as shown by the project plans and simple on-the-ground observations. Additionally, any fill required would have to be carefully engineered because it would have to support the two-lane bus road and/or the train tracks. The cut is likely to be sand and using sand as the primary fill is unlikely to be successful or permissible from a construction standpoint. Furthermore, the majority of SURF road is proposed in an ESHA which would make moving material around from one place to another impossible anyway. Please explain.

MST Response to Salerno/KFOW Comment 8.D: This comment does not relate to the applicability of the statutory exemption at Public Resources Code § 21080.25(b) (as amended by SB 922). Please also see Response to Comment 8.B. No further response is required. However, the project team modified the design to balance material onsite to lower the cost of materials movement and to lower emissions associated with moving material offsite.

Salerno/KFOW Comment 8.E: Is it MST’s official position that no imported fill of any kind would be required for the entire project? and none would be allowed? Is it MST’s official position that no exportation of any cut materials would be required for the entire project? and none would be allowed?

MST Response to Salerno/KFOW Comment 8.E: This comment does not relate to the applicability of the statutory exemption at Public Resources Code § 21080.25(b) (as amended by SB 922). Please also see Response to Comment 8.B. No further response is required.

Salerno/KFOW Comment 8.F: The revised project description claims the proposed 5th Street station would be on a site that is “public property/right of way.” This is an inaccurate claim by MST to make SURF fit into SB 922. KFOW is familiar with FORA/Fort Ord property transfers and the history of Fort Ord parcels. The 5th Street Station is proposed on Army Parcel L2.1 that is now owned by MST. Until Fort Ord closed in 1994 that area was federal property, not open to the public. Since base closure, there is no history of Parcel L2.1 being designated as or used as a public right-of-way or highway right-of-way. MST owns other parcels on Fort Ord but does not claim those are rights-of-way. Please explain.

Response to Salerno/KFOW Comment 8.F: The commenter appears to be referencing the portion of Pub. Res. Code § 21080.25(b)(5) which states “on existing public rights-of-way or existing highway rights-of-way.” However, (1) under the rules of statutory interpretation, the 5th street station does not need to be in “rights-of-way” to qualify for a SB922 exemption, (2) the commenter is implicitly utilizing too narrow a definition of “rights-of-way,” and (3) the commenter admits that the property is owned by MST, which was specifically granted as a public conveyance as a “transportation center” and a “hub for bus transit service.”

Section 21080.25(b)(5) states:

A public project for the institution or increase of bus rapid transit, bus, or light rail service, including the construction or rehabilitation of stations, terminals, or existing operations facilities, which will be exclusively used by zero-emission, near-zero-emission, low oxide of nitrogen engine, compressed natural gas fuel, fuel cell, or hybrid powertrain *buses or light rail vehicles, on existing public rights-of-way or existing highway rights-of-way*, whether or not the right-of-way is in use for public mass transit.

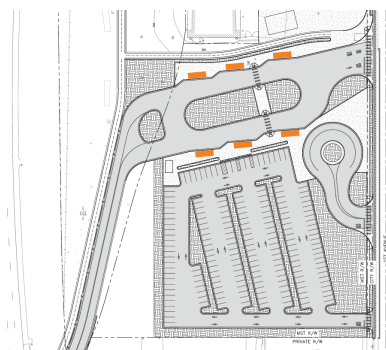
The comment is arguing that the 5th street *station* in Segment 2 (Army Parcel L2.1]; Figures 3-3B, 3-4A, and 3-7) must be within “right of way” to qualify for an exemption under SB922. However, the commenter is incorrect. Under the rules of statutory interpretation, more specifically the Rule of the Last Antecedent, the Phrase “on existing public rights-of-way” only applies to “buses or light rail vehicles”; it does not apply to “stations, terminals, or existing operations facilities,” as assumed in the comment. As discussed in *Lockhart v. United States* (2016) 136 S.Ct. 958: “When this Court has interpreted statutes that include a list of terms or phrases followed by a limiting clause, we have typically applied an interpretive strategy called the ‘rule of the last antecedent.’ The rule provides that ‘a limiting clause or phrase ... should ordinarily be read as modifying only the noun or phrase that it immediately follows.’ Ibid.; see also Black’s Law Dictionary 1532-1533 (10th ed. 2014).” (See also *White v. County of Sacramento* (1982) 31 Cal.3d 676, 680; *Stanton v. City of Battle Creek* (2002) 647 N.W.2d 508.) In this statute the preceding noun is “*buses or light rail vehicles*” not “stations.”

Furthermore, the commenter cites the portion of the Revised Project Description which states “The parcel for the proposed station is outside of the TAMC right-of-way, on public property/public right-of-way owned by MST.” (Revised Project Description p. 3-10.) While the commenter asserts this is “inaccurate,” the commenter admits “The 5th Street Station is proposed on Army Parcel L2.1 *that is now owned by MST.*”

Parcel L2.1 was transferred to MST pursuant to a June 9, 1998 Public Conveyance Request submitted by MST and a deed dated April 10, 2003 from the US Department of Transportation to Monterey-Salinas Transit (Document No. 2003041526). The deed identifies Parcel L2.1 under Exhibit D “Property Description” as a “Transit Center Building” and the Public Conveyance request expressly identifies Parcel L2.1 as “Intermodal Transportation Center” and includes as section titled “Uses of Land and Facilities to be Conveyed to Monterey-Salinas Transit” which states:

The Intermodal Transportation Center [hereinafter referred to as "Center"] will be located adjacent to California's scenic State Highway One *and will provide transportation access and information to various roadway and transportation modes*, including the proposed Intermodal Corridor and State Highways 68, 156, and 218. The Intermodal Center is planned to be a multi-use facility for automobiles, local and regional transit service, train, and other transportation modes...The Center will assist in relieving several existing and potential problems, including current and increasing congestion on Highway One, Reservation Road in Marina, Highway 68, Highway 218, and other regional and local streets...The Center will promote the use of various types of alternative transportation and will serve as both a destination point and a transfer location. *The facility will serve as the hub for bus transit service* within Ford Ord and to the surrounding communities of Seaside and Marina.

The commenter is also implicitly defining the phrase “right-of-way” too narrowly. That phrase “public right of way” is broader than assumed by the commenter and includes “every reasonable and proper use of the way in the transportation of persons or property not prohibited by law.” (Ballentine’s Law Dictionary.) This definition is broad enough to encompass a transit station. Additionally, the station also provides for the movement of transit vehicles within the parcel itself, consistent with the commenter’s implied definition (see Figure 3-7 below).



Finally, Public Resources Code § 21080.25(b)(5) allows the CEQA Exemption to apply to those projects located on existing public rights-of-way, “whether or not the right-of-way is in use for public mass transit.”

Salerno/KFOW Comment 8.G: Most of the SURF project is not within a public right-of-way, according to public records. From what KFOW can determine the entire Monterey Branch Line is not a public right-of-way nor is the portion that the project would use. Please explain and provide thorough documentation on which MST is relying as to why MST thinks the entirety of the SURF project would take place in existing public rights-of-way or highway rights-of-way.

MST Response to Salerno/KFOW Comment 8.G: The commenter asserts that “the entire Monterey Branch Line is not a public right of way” and references unspecified “public records.” As discussed in Response to Comment 8.F, the commenter is utilizing an incorrect definition of rights-of-way and incorrect facts.

As discussed on the first page of the Revised Project Description “The majority of the alignment of the busway would be within the Transportation Agency for Monterey County (TAMC) Monterey Branch Line rail corridor right-of-way, an approximately 100-foot wide corridor generally located between Beach Range Road and the Monterey Peninsula Recreation Trail on the ocean side of Highway 1. Other portions of the project would be within MST’s right-of-way.” As also discussed under “Project Background and Prior Studies”:

Constructed by Southern Pacific Railroad Company (SPRR) in 1879, the Monterey Branch Line originally extended 19.6 miles from Castroville to Lake Majella in Pacific Grove. Rail service on this standard-gauge line began in 1880, following eighty years of narrow-gauge service operated by the Monterey and Salinas Valley Rail Road Company. Southern Pacific operated both freight and passenger rail service on the Del Monte Express between the Monterey Peninsula and San Francisco from 1881 to 1971. Over time, traffic on the line diminished and it fell into disrepair, and the remaining freight service on the branch line was discontinued south of Seaside in 1978.

In 1982, using State Senate Bill 620 funds the cities of Seaside and Monterey purchased the SPRR right-of-way between Contra Costa Street in Seaside and downtown Monterey. A highly popular pedestrian/bicycle multi-purpose trail (Monterey Bay Coastal Recreation Trail) has been constructed within this section of the right-of-way extending south from Canyon del Rey Boulevard along the coast into Pacific Grove. North of Contra Costa Street, SPRR continued operation of freight rail service through the 1990s. TAMC purchased this portion of the line from the Union Pacific Railroad in September 2003 using State Proposition 116 funds.

It's unclear why the commenter does not believe this constitutes a public right-of-way. Indeed comment 8.I below expressly acknowledges that the site includes "existing train tracks at various places in the Monterey Branch Line corridor."

The Land was purchased from the Railroad by TAMC. TAMC purchased this land and "propose[d] daily service, northbound in the morning and southbound in the evening between San Francisco and Marina/Seaside in the former Fort Ord area...Bus connections would be provided between Seaside/Ford Ord and downtown Monterey, hotel and other tourist destinations. Future train service would be extended directly to downtown Monterey." (State of California Department of Transportation, Division of Mass Transportation, Program Supplement Amendment No. 05A0078-02.) Similarly, that document also notes that "a total of \$9,670,000 in Proposition 116 Bond Funds, be allocated to the Recipient(s) for the project(s) on the attached Vote List...For acquisitions *of rail right-of-way properties*, the Recipient(s) has performed, with diligence, the process of identification and remediation." The subsequent list expressly identifies "Transportation Agency for Monterey County" and funding for "San Francisco-Monterey Intercity Rail Service...Acquire the Monterey Branch Line from the Union Pacific Railroad." Additionally, the California Transportation Commission Resolution BFA-03-02 acknowledges that the "properties for the *intended public transit purposes*..."

The Purchase and Sale Agreement and Escrow Instructions between Union Pacific Railroad Company (Seller) and TAMC (Buyer) Article 2.4 Acquisition Under Threat of Condemnation states "Buyer deems that is necessary and proper...*to acquire the Property for public purposes*. Buyer represents that it has been authorized, empowered and directed to initiate proceedings under its power of eminent domain if necessary *to acquire the Property for public purposes*." (Emphasis added).

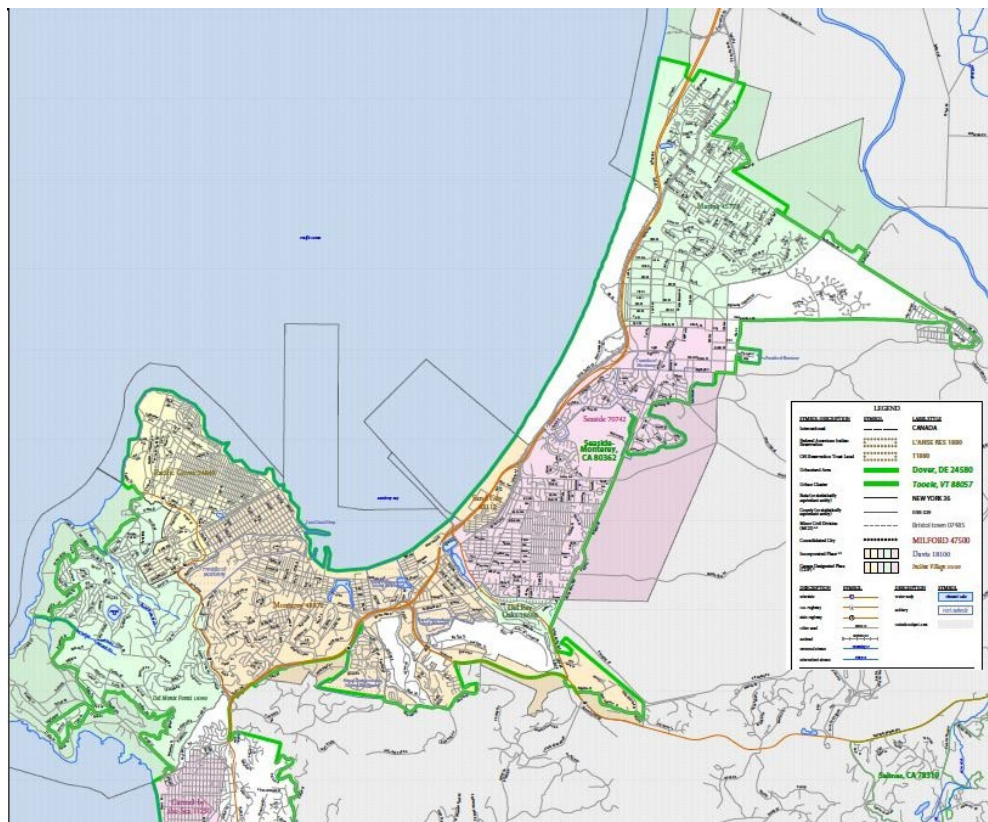
The Monterey Branch line is considered an "*existing public rights-of-way or existing highway rights-of-way*, whether or not the right-of-way is in use for public mass transit." (Pub. Res. Code § 21080.25(b)(5).)

Salerno/KFOW Comment 8.H: The project does not appear to be wholly within an "urbanized area" or "urban cluster" as required by SB 922. Additionally, "urbanized area" and "urban cluster" are terms that have been abandoned by the US Census Bureau. Please explain.

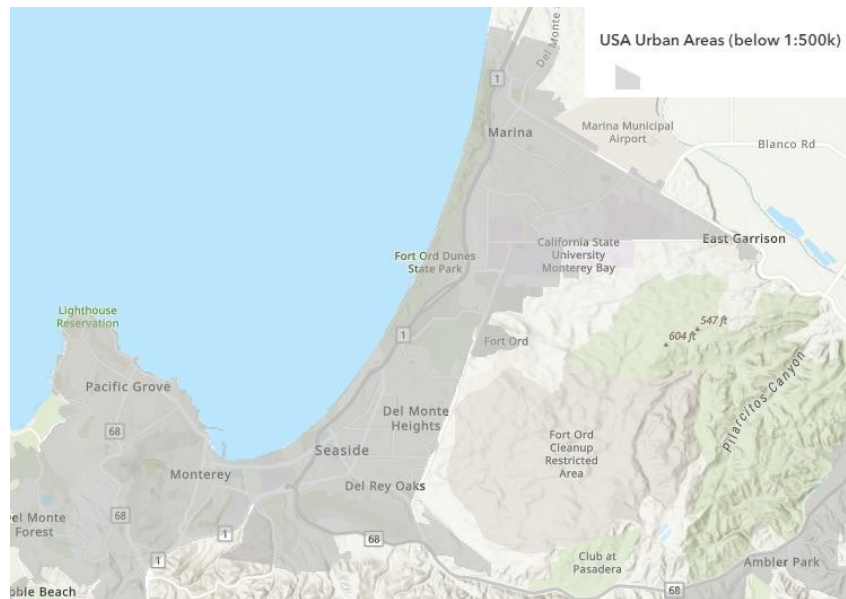
MST Response to Salerno/KFOW Comment 8.H: As discussed in greater detail below (1) the new December 29, 2022 US Census maps are not final until June 1, 2024, (2) SB922 allows for retroactive application, and (3) as the commenter notes SB922 uses the map terminology in effect when SB922 was drafted, and utilizing the new terminology would render portions of SB922 superfluous, contrary to the rules of statutory interpretation.

The commenter is referencing changes made by the US Census Bureau on December 29, 2022, however the maps adopted pursuant to those definitions are not final until June 1, 2024 because time is needed to make adjustments. (FHWA 2021; FHWA 2013.) “During the time between the release of the Census Bureau boundaries and the formal approval of the new adjusted boundaries, the previously-developed and approved adjusted urban area boundaries remain in effect.” (FHWA 2013.) Rights of way boundaries are to be designed to avoid “snaking in and out of the boundary” and to place “transit service routes (e.g., bus route, passenger rail line) in the placement of a boundary location.” (FHWA 2013.) Finally, “any adjustment must expand, not contract, the Census Bureau urbanized area boundary.” (FHWA, *Urbanized and Nonurbanized Target Setting Final Report*, June 2015 “FHWA 2015”).

When SB 922 was introduced, the only United States Census Bureau designations of urbanized areas or urban clusters was based off of the 2010 decennial Census. In addition, by its own terms, SB 922 has a retroactive effect, therefore indicating that MST may continue to utilize Census Bureau designations based on the 2010 Census. (Pub. Res. Code § 21080.25(i)(1).) As provided below, the SURF! Project falls within an urbanized area.⁵



⁵<https://www.arcgis.com/apps/mapviewer/index.html?layers=432bb9246fdd467c88136e6ffeac2762> and https://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/ua80362_seaside--monterey_ca/DC10UA80362_001.pdf



Salerno/KFOW Comment 8.I: The revised project description admits construction of the SURF project would remove or cover existing train tracks at various places in the Monterey Branch Line corridor. Careful inspection of the available design plans also confirms tracks will be covered or removed. This is critical information and means SURF and a future light rail project cannot co-exist. SURF makes a future light rail project impossible as it severs the rail line. MST vaguely claims a future light rail project is a long-term vision for the corridor. However, it is clear the two projects are incompatible. Please explain how a future light rail project could operate in the presence of the SURF project when portions of the tracks will be covered or removed. Would SURF be abandoned in the future if a light rail project was approved and built in the branch line corridor?

MST Response to Salerno/KFOW Comment 8.I: MST's SURF Project is not a light rail project. This comment does not relate to the applicability of the statutory exemption at Public Resources Code § 21080.25(b) (as amended by SB 922), and instead focuses on the merits of the Project. No further response is required. However, future light rail is compatible with the SURF! Busway project for two reasons 1) the current railroad tracks are in a state of severe disrepair and do not meet passenger rail safety standards under the Federal Railroad Administration and thus, major public investments are needed to construct and implement light rail, (a conservative estimate for rail is \$678.51 M in 2042), and 2) the 100-foot wide corridor is more than enough space for the busway and future light rail to co-exist and support each other.

Salerno/KFOW Comment 8.J: In the revised project description from January 2023, MST is still using an outdated project cost estimate from 2020 that ignores inflation. Since 2020 the cost of materials and construction has risen at least 30-40%, and possibly more

for specialized work like road construction. Does MST still think the 2020 cost estimate for SURF is valid? If so, please explain why.

MST response to Salerno/KFOW Comment 8.J: As discussed in the Revised Project Description “Total project costs include preconstruction as well as construction costs and funded with federal, state, and local dollars. Total project costs *in year of expenditure dollars* are \$66,039,000.” Contrary to the commenter’s assertions, this estimate was not prepared in 2020. The capital cost estimate of the Project was *developed in 2022* using base year 2022 dollars and projected to the Year of Expenditure (YOE) dollars based on MST’s proposed project implementation schedule and annual cost escalation factor. Thus, the Project cost estimate accounts for the inflation in recent years, and assumes an inflation rate of 5% for each of the years of 2023, 2024, and 2025. Consequently, MST has not “ignored inflation” as alleged in the comment. Furthermore, while cost of materials temporarily rose during the pandemic due to supply chain shortages and backups at the ports,⁶ those costs have since come down as the backup at the ports have dissipated⁷ and the cost of materials has not increased by “30-40%.” While inflation is temporarily higher than that previously assumed (currently at a rate of 6.4% from January 2022 to January 2023),⁸ the Fed is making aggressive rate hikes which are anticipated to curb inflation.⁹ Even assuming, arguendo, prices of materials *and labor* increased by 40%, the Project cost estimates would still be \$92,454,600, which would not change the applicability of the SB922 exemption. Additionally, MST included an 8% unallocated contingency for any potential cost overruns.

⁶ <https://calmatters.org/economy/2021/11/california-ports/>

⁷ <https://www.supplychaindive.com/news/the-ship-backup-has-ended-in-los-angeles-long-beach-ports/637250/>

⁸ https://www.bls.gov/data/inflation_calculator.htm

⁹ <https://www.reuters.com/markets/rates-bonds/feds-mester-says-more-rate-hikes-needed-combat-inflation-2023-02-16/>

RESOLUTION 2023-30

Of the Monterey-Salinas Transit District Board of Directors

**FINDING THE SURF! BUSWAY AND BUS RAPID TRANSIT PROJECT
STATUTORILY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY
ACT ("CEQA") PURSUANT TO PUBLIC RESOURCES CODE §21080.25(b) [SENATE
BILL (SB) 922 (2022)]**

FINDINGS OF FACT

1. Monterey-Salinas Transit District (MST or District) is a public agency formed on July 1, 2010 pursuant to state law (AB 644). The District succeeded the Monterey-Salinas Transit Joint Powers Agency formed in 1981 when the City of Salinas joined the Monterey Peninsula Transit Joint Powers Agency (JPA). The original JPA formed in 1972.
2. The Transportation Agency for Monterey County (TAMC) purchased the Monterey Branch Line in 2003 for intended public transit purposes using State Proposition 116 funds.
3. In 2016, Monterey County voters approved Measure X by 67.7% which included \$15 million for a Highway 1 rapid bus corridor project and since renamed the SURF! Busway and Bus Rapid Transit Project (Project).
4. MST, in partnership with TAMC and other agencies, completed the Monterey Bay Area Feasibility Study of Bus on Shoulder Operations on State Route 1 and the Monterey Branch Line (Study) in 2018.
5. The Study concluded that bus rapid transit along the branch line would be the most viable option to meet objectives for transportation, congestion relief, travel time reliability of transit riders, and increased ridership.
6. MST initiated planning, design, and environmental review for the Project using Measure X funds in 2019.
7. On July 11, 2021, pursuant to SB 288 effective January 1, 2021, the MST Board of Directors adopted Resolution No. 2022-02 finding the SURF! Busway and Bus Rapid Transit Project statutorily exempt under the previous version of Pub. Res. Code § 21080.25(b), and adopted Resolution No. 2022-03, approving a Mitigated Negative Declaration and the Project. In 2022, the Legislature adopted SB 922, which amended Pub. Res. Code § 21080.25, which was previously set to expire on January 1, 2023 (See SB288 [2020] and previous version of Pub. Res. Code 21080.25(g).) The adoption of the exemptions in this resolution does not rescind

the Project's previous CEQA actions contained in Resolution No. 2022-02 and 2022-03, and that these previous approvals remain in effect, consistent with Pub. Res. Code § 21080.25(i)(1).

8. On January 1, 2023, SB 922 took effect and amended portions of Pub. Res. Code § 21080.25, including provisions relating to Pedestrian/Bike Facilities [(b)(1)], wayfinding [(b)(2)], transit prioritization [(b)(3)], Bus rapid transit, bus, or light rail service, including stations, terminals, or existing operational facilities [(b)(5)], charging stations [(b)(6)], and associated infrastructure projects [(b)(7)].
9. On December 13, 2021 (Item 7-4), the MST Board expressly certified that MST will use a skilled and trained workforce for the Project (Exhibit 5 to the Board Report).
10. On January 13, 2023, MST released its Revised Project Description, Exhibit 1 to the Board Report, which includes minor clarifications related to public rights-of-way, the Project's inclusion of infrastructure and facilities to charge, refuel, and/or maintain zero-emission public transit buses, inclusion of customer information and wayfinding, clarification about bus service frequency and span of service, and estimated project costs.
11. MST finds that the Project is both a Bus Rapid Transit Project and a Bus Service Project under Pub. Res. Code 21080.25(b)(5). The Project also includes transit signal priority (Board Report Exhibit 1, pp. 3-9, 3-17), all-door boarding (Exhibit 1, pp. 3-22), a fare collection system that promotes efficiency (Exhibit 1, pp. 3-22), and defined stations (Exhibit 1), and service intervals with 15-minute frequencies weekdays between 6:00 AM and 10:00 PM and 30-minute frequencies weekends between 7:30 AM and 8:30 PM (Exhibit 1, p. 3-22).
12. The SURF! Project shall utilize 100% zero emission, near-zero emission, low oxide of nitrogen engines, compressed natural gas fuel, fuel cell, or hybrid powertrain buses (Exhibit 1, p. 3-22).
13. The Project will use rights-of-way, including the Monterey Branch Line, purchased by the Transportation Agency for Monterey County (TAMC) in 2003. More specifically, the purpose of the transfers was to provide "daily service, northbound in the morning and southbound in the evening between San Francisco and Marina/Seaside in the former Fort Ord area...Bus connections would be provided between Seaside/Ford Ord and downtown Monterey, hotel and other tourist destinations." (State of California Department of Transportation, Division of Mass Transportation, Program Supplement Amendment No. 05A0078-02.) Additionally, the California Transportation Commission Resolution BFA-03-02 acknowledges that the transfers were "*intended public transit purposes...*" MST and TAMC are working cooperatively on the Monterey Branch Line, as outlined in the December 19, 2019 Regional Funding Agreement, and the subsequent amendments.

14. The Project will also use existing rights of way, including public streets. In Segment 1, MST Buses traveling along the Project will travel on Reservation Road, left onto Del Monte Boulevard to Palm Avenue. [Project Description, p. 3-9.] At Palm Avenue, MST buses will turn onto Marina Drive, where the uses will enter an accessed-controlled entry point into the TAMC right-of-way. [Project Description, p. 3-9.] In Segment 3, the busway alignment will meet existing California Avenue at the SR 1 southbound on-ramp, where buses will enter the public right-of-way via a new roundabout at the junction of California Avenue, the southbound SR1 on-ramp, and Monterey Bay Shores access road. [Project Description, p. 3-16]. Buses would travel onto California Avenue, to either Playa Avenue (Option 1) or back onto the TAMC right-of-way just south of the California/Fremont/Del Monte/Monterey Intersection (Option 2) [Project Description, p. 3-16.] For Segment 5, buses would travel from California Avenue onto Playa Avenue, turn right onto existing Del Monte Boulevard, and continue on public roadway. [Project Description, p. 3-21.] Existing stops at Tioga Street and Contra Costa Street would be utilized. [Project Description, p. 3-21.] The streets of Reservation Road, Del Monte Boulevard, Palm Avenue, Marina Drive, California Avenue, Playa Avenue, and Del Monte Boulevard are existing public right-of-way.
15. The 5th Street Station Parcel L2.1 was transferred to MST pursuant to a June 9, 1998 Public Conveyance Request submitted by MST and a deed dated April 10, 2003 from the US Department of Transportation to MST. (Document No. 2003041526). The deed identifies Parcel L2.1 under Exhibit D "Property Description" as a "Transit Center Building" and the Public Conveyance request expressly identifies Parcel L2.1 as "Intermodal Transportation Center" and includes as section titled "Uses of Land and Facilities to be Conveyed to Monterey-Salinas Transit" which states: "The Intermodal Transportation Center [hereinafter referred to as "Center"] will be located adjacent to California's scenic State Highway One and will provide transportation access and information to various roadway and transportation modes... The facility will serve as the hub for bus transit service within Ford Ord and to the surrounding communities of Seaside and Marina."
16. Further, the entire Project is within the Seaside-Monterey-Pacific Grove Urbanized Area, as designated by the United States Census Bureau (Board Report Exhibit 6, Response 8.H).
17. The Project does not induce single-occupancy vehicle trips, add additional highway lanes, widen highways, or add physical infrastructure except for minor modifications needed for the efficient and safe movement of transit vehicles, bicycles, or high-occupancy vehicles. The Project does not include the addition of any auxiliary lanes. The Project does not require or involve the demolition of affordable housing units.

18. The California Avenue roundabout in Segment 3 has been proposed to provide a safe transition from the busway alignment to the existing roadway network and constitutes a minor modification, as allowed by Pub. Res. Code 21080.25(c)(2) (Exhibit 6, Response 8.A).
19. The most recent 2022 Project cost estimate is \$66,039,000 and includes all phases and components of work including planning, engineering, and construction and escalated to year of expenditure (YOE) dollars through 2025, including an inflation rate of five percent, and an 8% unallocated contingency for any potential cost overruns (Exhibit 1 p. 3-27, Exhibit 6, Response 8.J).
20. On January 17, 2023, MST published a "Notice of Public Community Planning Meetings and Intent to Adopt CEQA Exemptions...under SB922 for the SURF! Busway and Bus Rapid Transit Project." The Notice was published in English and Spanish (Exhibit 2 to the Board Report), and was made available on MST's website (Exhibit 3 to the Board Report), and on its social media accounts, (Exhibit 4 to the Board Report). Notice was also provided via email to those organizations and individuals that had previously requested notice.
21. Three (3) community planning meetings were held in the project area, one at the Marina Library at 190 Seaside Circle, Marina, CA on February 13, and two meetings were held at the Boys and Girls Club Seaside Clubhouse, 1332 La Salle Avenue Seaside, CA on February 14, and 15. These meetings were conducted to hear and respond to public comments as to the applicability of the SB922 exemptions. MST accepted written comments through February 17, 2023, 5:00 p.m. (Pacific Time). A summary of public comments with MST's responses are provided in Exhibit 6 to the Board Report. MST finds that factual conclusions from Keep Fort Ord Wild are not credible due their factual misrepresentations outlined in Exhibit 6, Response 8; these findings are further independently supported by similar credibility findings adopted by the City of Seaside (City of Seaside Resolution No. 20-09, Exhibit A CEQA Findings, §X.).
22. The Board has reviewed and considered the comments and responses included in Exhibit 6.
23. MST is the custodian of all documents and materials that constitute the record of proceedings upon which project decisions are based. These materials are located at 19 Upper Ragsdale, Suite 200, Monterey, CA 93940.

NOW, THEREFORE, BE IT RESOLVED by the Monterey-Salinas Transit District Board of Directors that:

1. Each FINDING OF FACT set forth above, is determined to be true and correct and included herein as if set forth in their entirety.
2. The SURF! Project shall substantially comply with the Revised Project Description (Board Report Exhibit 1) and shall utilize 100% zero emission, near-zero emission,

low oxide of nitrogen engines, compressed natural gas fuel, fuel cell, or hybrid powertrain buses. MST staff is directed to include full funding for zero-emissions buses for use on the SURF! Project in the FY2023/24-FY2024-25 Budget and 5-Year Capital Improvement Program.

3. For the reasons set forth in the Findings of fact above, the Board Report, the Response to Comments (Exhibit 6), and the administrative record, MST finds that the SURF! Busway and Bus Rapid Transit Project, as identified in the Revised SURF! Project Description (dated January 2023), including all options therein, meet the criteria and are statutorily exempt under SB 922 [2022] (Pub. Res. Code § 21080.25(b), "Exemption"). This includes a combination of the individual exemptions, as allowed by subsection (b)(8), including, but not limited to subsections (b)(1) [Pedestrian/Bike Facilities], (b)(2) [wayfinding], (b)(3) [transit prioritization], (b)(5) [Bus rapid transit, bus, or light rail service, including stations, terminals, or existing operation facilities], (b)(6) [Charging stations], and (b)(7) [Infrastructure].
4. MST staff is directed to file a Notice of Exemption under Pub. Res. Code § 21080.25(b) (as amended by SB922) in accordance with CEQA.
5. MST staff is directed to conduct at least two noticed public meetings annually during project construction for the public to provide comments, consistent with Pub. Res. Code Section 21080.25(e) and (d)(1)(D)(iii).
6. MST staff is directed to secure necessary permits and state, federal or local approvals that may relate to the Project.

Anna Velazquez
Chairperson

Carl G. Sedoryk
Secretary

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF MONTEREY-SALINAS TRANSIT DISTRICT this 13th day of March, 2023 by the following vote:

AYES: Directors:
NOES: Directors:
ABSENT: Directors:
ATTEST: Directors:

Jeanette Alegar-Rocha
Clerk to the Board

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