

# AGENDA & MEETING NOTICE

**Group:** Monterey-Salinas Transit Corporation

**Date:** September 10, 2018

**Time:** Immediately Following the Adjournment of the Regular MST Board Meeting

**Place:** 19 Upper Ragsdale Dr., Suite 100, Monterey 93940

## 1. CALL TO ORDER

1-1. Roll call.

## 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 MSTC 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.*

## 3. REPORTS AND INFORMATION ITEMS

None

## 4. ACTION ITEM

4-1. Adopt Resolution 2019- 01 USDA Financing (Hunter Harvath) (Enclosure) (Page 3)

## 5. ADJOURN

*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 Administration Building at 19 Upper Ragsdale Dr., Suite 200, Monterey, CA 93940 during normal business hours.*

*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. Requests should be sent to MST – c/o Clerk to the Board, 19 Upper Ragsdale Dr., Suite 200, Monterey, CA 93940 or [clerk@mst.org](mailto:clerk@mst.org).*



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To: Board of Directors  
From: Hunter Harvath – Assistant General Manager  
Subject: South County Maintenance & Operations facility in King City

**RECOMMENDATIONS:**

Approve Resolution 2019-01 authorizing execution of documentation that would facilitate issuance of Certificates of Participation in the amount of \$5 million and certain other related actions, including:

- a. Agreement to Lease MST Property at 179 San Antonio Drive, King City to Monterey-Salinas Transit Corporation
- b. Property Lease: 179 San Antonio Drive, King City
- c. Trust Agreement by and among Monterey-Salinas Transit, Monterey-Salinas Transit Corporation and MST Assistant General Manager as Trustee with regards to payment of Certificates of Participation
- d. Assignment Agreement by and between the Corporation and the Trustee

**FISCAL IMPACT:**

The current project budget is \$12,510,265 to be funded by a combination of federal, state and local sources.

**POLICY IMPLICATIONS:**

At the October 16, 2017, meeting, the MST Board gave staff authorization to file appropriate loan documents to advance this project to the design-build phase of work. The first of those documents was filed with the USDA as of March 27, 2018. In that regard, the next step in securing the financing is adoption of Resolution 2019-01 (Attachment 1), which enables the issuance of \$5 million in financing (through Certificates of Participation) to help fund the construction of the South County Maintenance & Operations facility in King City.

**DISCUSSION:**

Since the October 16, 2017, meeting of the MST Board, staff has been working diligently with the United States Department of Agriculture (USDA) and the Federal Transit Administration (FTA) as well as the City of King to move this project forward. MST has accomplished major milestones and progress to date with regards to planning, permitting, financing, and procurement of a design/build contractor. Both federal and state environmental documentation is complete, and MST received its conditional use

permit in July 2018 from the King City planning commission. Staff is working with an architect on bid documents for an RFP that will be issued to a short-list of up to 3 qualified teams that submitted responses to a Request for Qualifications on August 30<sup>th</sup>.

With regard to financing, staff has been working closely with Stephanie Downs, an attorney with the firm Meyers-Nave, who has extensive experience in financing projects with the USDA's Community Facility program targeting rural areas. In consultation with the USDA, she has drafted a resolution to be approved by your Board, which will authorize a series of steps for staff to take that will prepare the District to execute the financing of \$5 million through the issuance of Certificates of Participation. MST General Counsel has reviewed these documents and is satisfied with their content.

The entity through which this financing is possible is the Monterey-Salinas Transit Corporation (MSTC). Originally established in association with a 2002 financing of nearly \$20 million to fund 40 replacement buses and 6 trolleys, the MSTC will once again be utilized for this \$5 million in financing, pending the authorization of the MST Board of Directors to adopt a similar resolution to facilitate the mechanism through which the USDA loan and its repayment will transpire. This somewhat complex arrangement is outlined in detail in a memo (Attachment 2).

Looking forward, this \$5 million USDA loan would be paid off in annual principal and semi-annual interest payments over 28 years. TAMC Measure X sales tax funds would pay down the loan, which could be pre-paid over a shorter period of time without penalty. With the USDA loan letter of commitment signed and in place, staff has revised the project budget as follows:

FTA Grant	\$ 4,119,172
State Prop 1B funds	\$ 472,000
State-Local Partnership Program	\$ 242,000
TAMC Measure X	\$ 1,835,253
<u>USDA Loan</u>	<u>\$ 5,000,000</u>
Total Construction Funds	\$11,668,425
<u>Pre-construction costs</u>	<u>\$ 841,840</u>
<b>Grand Total Project Cost</b>	<b>\$12,510,265</b>

Attachment 1: Resolution 2019-01

Attachment 2: September 13, 2018, memo from Stephanie Downs, Meyers-Nave

MONTEREY-SALINAS TRANSIT CORPORATION

RESOLUTION NO. 2019-01

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
MONTEREY-SALINAS TRANSIT CORPORATION AUTHORIZING  
AND DIRECTING EXECUTION OF DOCUMENTATION, INCLUDING,  
BUT NOT LIMITED TO A PROPERTY LEASE, LEASE AGREEMENT,  
TRUST AGREEMENT AND ASSIGNMENT AGREEMENT, AND OTHER  
DOCUMENTATION RELATED TO THE EXECUTION, SALE AND  
DELIVERY OF CERTIFICATES OF PARTICIPATION TO  
USDA-RURAL DEVELOPMENT**

**(South District Maintenance and Operations Facility)**

The Board of Directors (this “**Board**”) of the Monterey-Salinas Transit Corporation (the “**Corporation**”), resolves:

1. This Board hereby approves the form of the following documents on file with the Secretary and related to accomplishment of execution, sale and delivery of Certificates of Participation by the Monterey-Salinas Transit District (the “**District**”) for its South District Maintenance and Operations Facility Project:

(a) Property Lease by and between the District and the Corporation, dated as of November 1, 2018 (the “**Property Lease**”); and

(b) Lease Agreement by and between the District and the Corporation, dated as of November 1, 2018 (the “**Lease Agreement**”); and

(c) Trust Agreement by and among the District, the Corporation and the Assistant General Manager of the District, as Trustee (the “**Trustee**”), dated as of November 1, 2018 (the “**Trust Agreement**”); and

(d) Assignment Agreement by and between the Corporation and the Trustee, dated as of November 1, 2018 (the “**Assignment Agreement**,” and together with the Property Lease, the Lease Agreement and the Trust Agreement the “**Financing Documents**”).

2. This Board hereby acknowledges that drafts of each of the Financing Documents are on file with the Secretary, and the Board hereby approves each of the Financing Documents in the form on file, and further authorizes and directs the CEO to execute and the Secretary to attest the Property Lease, Lease Agreement, the Trust Agreement and the Assignment Agreement.

3. The Financing Documents, prior to execution and attestation, are subject to revision not inconsistent with the essential terms thereof, which revisions are approved by the

CEO in consultation with bond counsel, such approval to be conclusively established by the execution thereof by the CEO, without any further action or approval of this Board.

\* \* \* \* \*

IT IS HEREBY CERTIFIED that the foregoing resolution was introduced and duly adopted by the Board of Directors of the Monterey Salinas Transit Corporation at a regular meeting of the Board, duly called and noticed and held on the 8th day of October, 2018, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT OR ABSTAINING: \_\_\_\_\_

By: \_\_\_\_\_  
Chief Executive Officer

ATTEST:

By: \_\_\_\_\_  
Secretary

3055376.1

## MEMORANDUM

**DATE:** September 13, 2018  
**TO:** Hunter Harvath,  
Assistant General Manager  
**FROM:** Stephanie Downs, Bond Counsel  
**RE:** **Summary of Proposed Certificates of Participation for USDA Loan for the South District Maintenance and Operations Facility**

### Introduction

This memo is provided to explain the responsibilities of the Monterey Salinas Transit District (the “**District**”) and the Monterey-Salinas Transit Corporation (the “**Corporation**”) with respect to the legal agreements for the above referenced USDA loan transaction, involving the execution and delivery of Certificates of Participation (the “**COPs**”) for the construction of the South District Maintenance and Operations Facility (the “**Project**”). This memorandum briefly outlines the four legal agreements which provide for repayment of the USDA loan from Tax Revenues and other lawful revenues of the District through execution and delivery of the COPs.

The District intends to repay the USDA loan from sales tax revenues that have been levied by Monterey County on behalf of the Transportation Agency for Monterey County and allocated to the District pursuant to the TAMC transit plan (the “**Tax Revenues**”). The voters approved the levy of the Tax Revenues in 2016.

In furtherance of providing for execution and delivery of the COPs, we will be drafting and submitting the four agreements listed below for approval by the District and by the Corporation:

1. Property Lease
2. Lease Agreement
3. Trust Agreement
4. Assignment Agreement

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From: Stephanie Downs  
Re: Summary of Proposed Certificates of Participation for USDA Loan for the South District  
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As a practical matter, once the four agreements have been signed, the Corporation will have no further role in this loan transaction with the USDA, but it is none-the-less essential, in order to make the COPs valid security instruments, to have the Corporation serve as a party to the agreements.

### **The Four Agreements and the COP's**

The District, the District's Assistant General Manager (the "**AGM**"), as Trustee, and the Corporation will be parties to some or all of these four agreements in order to provide for the execution, delivery and sale of the COPs to USDA-RD. The four agreements follow a standard format for COP transactions, where the money to repay the principal of and the interest on the COPs is to come from the District's share of the Tax Revenues and other lawfully available funds. The four agreements are summarized as follows:

1. Under the Property Lease, the Corporation agrees to lease the site upon which the Project will be constructed (the "**Property**"), and the District agrees to lease the Property to the Corporation.
2. Under the Lease Agreement, the Corporation agrees to implement construction of the Project as an improvement to the Property. The District agrees (a) to accept appointment as the agent of the Corporation to actually implement and construct the Project, and (b) to appropriate Lease Payments (which is matched up to the USDA loan payments) from Tax Revenues and any other lawfully available funds of the District.
3. Under the Trust Agreement, the AGM is appointed as the initial Trustee. Hence, all references in this memorandum to the "**Trustee**" are in fact references to the AGM.

The Trustee agrees to (a) provide for execution and delivery of the COPs to USDA as the purchaser of the COPs in exchange for the loan proceeds, (b) to receive and administer the loan proceeds to pay for the Project and related incidental expenses (engineering, bond counsel fees, etc) and (c) to receive the Lease Payments and apply the moneys to repayment of the principal of and interest on the USDA loan (semi-annual payments to be made by pre-authorized debit procedure described in the next paragraph – the Trustee does not have to send payments).

As one of their standard conditions, USDA requires the District to provide a pre-authorized debit payment process, by which USDA will automatically debit the designated District bank account for the semi-annual payments on the COPs, with the result that the Trustee will not actually have to take any action to make the payments to USDA.

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In the unlikely event of a default by the District in making the Lease Payments, the Trustee is obligated to pursue one or more of the prescribed “remedies,” set forth in the Trust Agreement, and in that case the AGM would probably opt, as provided in the Trust Agreement, to hire an outside Trustee as Co-Trustee (most likely, a bank which provides such services).

4. Under the Assignment Agreement, the Corporation assigns to the Trustee the right to receive the Lease Payments.

### **Appropriation Lease**

The Lease Agreement is set up as an appropriation lease, since the District does not have the right to levy the Tax Revenues and is dependent on the receipt of the Tax Revenues from the Transportation Agency of Monterey County. The Lease Agreement will require the District to appropriate the Lease Payments from any lawfully available funds on an annual basis.

### **Reimbursement**

The resolution authorizing the execution of the documents and the issuance of the COP’s provides that the District may reimburse itself from proceeds of the COP’s for any funds advanced prior to issuance of the COP’s. This is required for tax reasons, since the proceeds from the COP’s are tax exempt.

### **Conclusion**

The net result of four agreements outlined above is that the Corporation has no continuing function. The Corporation will appoint the responsibility to construct the project to the District, and will assign all rights to collect the payments under the Lease Agreement to the Trustee. The combined effect of the agreements is that, under normal circumstances, only the District and the AGM have any actual role to play to (a) implement the Project, (b) repay the loan and (c) provide annual financial information to USDA.

As mentioned above, in the unlikely event of a District default in making an Installment Payment on time, the AGM, as Trustee, would very likely turn to the services of an outside Co-Trustee to assist in pursuing remedies to cure the default.

In the event that you have any further questions, please don’t hesitate to contact me.

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