

COUNTY OF SANTA CRUZ
INTER-OFFICE CORRESPONDENCE

DATE: March 28, 2005

TO: Pat Dellin, Acting Executive Director Santa Cruz County Regional Transportation Commission

FROM: Rahn Garcia, Chief Assistant County Counsel

SUBJECT: Termination of MOU with County – Preliminary Checklist

You asked that I provide you with a preliminary outline of what matters the Commission must address if and when its Memorandum of Understanding with the County of Santa Cruz for the provision of fiscal, administrative support and legal services expires. I will begin with an overview of the Commission and its legal status as a public entity as set forth in State law, and then proceed with an outline of topics that must be addressed as part of any transition. As this process unfolds, there will undoubtedly be more issues identified.

General Background

The Santa Cruz County Regional Transportation Commission (RTC) is established pursuant to § 67940 et seq. of the California Government Code. The RTC is a local area transportation planning agency authorized to provide regional transportation planning and development for Santa Cruz County (GC § 67940 (a).)

The RTC is the legal successor to the local transportation commission established pursuant to Government Code § 29535.

The RTC is statutorily authorized to contract for any services that accomplish its purposes (GC § 67941 (b),) and may acquire, construct and oversee multimodal transportation projects and rail services (GC § 67941 (a).) The RTC is also authorized to exercise the power of eminent domain (GC § 67941 (a).)

Under the Mills-Alquist-Deddeh Act (Public Utilities Code § 99200 et seq.), the County Board of Supervisors is required to establish a local transportation fund (the Fund) in the county treasury for the deposit of the sales and use tax (on motor vehicle fuel) revenues transmitted to the County by the State Board of Equalization for transportation related purposes. The RTC administers claims on the Fund from other public agencies for transit operations and other transportation development projects. The County Auditor-Controller

is responsible for maintaining the Fund, and making payments to public transportation entities the amounts allocated by the RTC (GC §§ 29532, 29534.)

The duties of the Auditor-Controller regarding the management of the Fund (e.g., providing estimates, processing disbursements and accounting) are set forth in Title 21 CCR § 6620 et seq. As agent for the RTC, the Auditor-Controller follows the Commission's allocation instructions. The Auditor-Controller also arranges with the County Treasurer for investment of moneys in the Fund (Title 21 CCR § 6623.)

Consequently, the RTC is statutorily required to retain the services of the County Auditor-Controller and Treasurer-Tax Collector for fiscal services related to the Fund.

Checklist

Government Status Matters

- (1) California Tort Claims Act. (Government Code § 811.2 and § 53050) State law broadly defines "public entity" to include a "public agency, and any other political subdivision or public corporation in the State." Government Code § 53051 provides that the governing body of each local public agency must file with the Secretary of State and the local County Clerk, a statement concerning the agency's full legal name, the official mailing address and other information.
- (2) Stationary and identity card requirement under Government Code § 7530. The RTC must identify itself as a public entity on letterhead stationary and identification cards.
- (3) Political Reform Act. The RTC must have a Conflict of Interests Code and should have an Incompatible Activity Policy.

Personnel/Labor Matters. If RTC wants to be in a position to hire and control its own employees (rather than contract for services) the following issues must be addressed:

- (1) Benefits Packages – The RTC would need to obtain health insurance, retirement (PERS), life insurance, dental, workers comp, etc.
- (2) Social Security -- As a governmental agency that has not formerly participated in social security, if RTC provides certain types of retirement benefits (such as PERS), participation in social security is optional.
- (3) Payroll Capabilities -- The RTC needs to obtain an accountant and employer ID number (federal and state).
- (4) Employee Rules, Policies and Procedures – The RTC would need to establish its

own set of personnel rules and procedures.

(5) **Classification.** The RTC would need to establish a system of job classifications and salary schedules.

(6) **Union Issues.** Because the current employees are already represented by SEIU, SEIU can be expected to request recognition as the bargaining agent for RTC employees. As with ASA, the RTC would likely be considered a successor organization to the County and would likely be required to bargain with SEIU. The RTC would be free to negotiate its own contract, but should prepare itself for collective bargaining.

Fiscal/Administrative Matters

(1) The RTC could consider acquiring fiscal services to supplement those already provided by the County (the County Auditor-Controller and Treasurer are mandated to perform certain services for Mills-Alquist-Deddeh Act funds).

(2) The RTC would have to establish policies on purchasing and contracting.

(3) **Insurance.** The RTC would have to establish its own risk management function and obtain liability, workers compensation, and unemployment insurance.

(4) **Compliance certification.** As a result of State and Federal funding programs, the RTC will be required to certify compliance with various laws and regulations such as the Hatch Act and EEO.