County of Los Angeles
CHIEF EXECUTIVE OFFICE
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
http://ceo.lacounty.gov

WILLIAM T FUJIOKA
Chief Executive Officer

September 22, 2014

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

MOTION ON TAX AND FEE RELIEF FOR BUSINESSES IMPACTED BY TRANSIT CONSTRUCTION (ITEM NO. 10, AGENDA OF SEPTEMBER 23, 2014)

Item No. 10 on the September 23, 2014 Agenda is a motion by Supervisor Ridley-Thomas to direct:

1. The Chief Executive Officer, Treasurer and Tax Collector, and Interim Assessor, to work with Los Angeles County's State legislative advocates, the Los Angeles County Metropolitan Transportation Authority and local cities to seek all appropriate legislation that would temporarily reduce or waive taxes and fees imposed on impacted businesses during transit-related construction activities; and

2. The Interim Assessor to work in coordination with the Los Angeles County Metropolitan Transportation Authority to immediately initiate outreach activities to businesses impacted by transit-related construction activities in order to inform them of the Proposition 8/Decline-in-Value Review process.

This memorandum contains the background and analysis of directive number one of this motion. The Office of the Assessor will address directive number two of this motion separately.

Background

As noted in the motion, significant rail line expansion by the Los Angeles County Metropolitan Transportation Authority (MTA) is currently underway throughout the greater Los Angeles region. In addition to the Crenshaw/LAX Line, Regional Connector, Purple Line Westside and Gold Line Foothill Extension projects currently in the midst of their respective construction phases, several other projects are in their pre-construction phase, including the Airport Metro Connector, Alameda Corridor East Grade Separation, and Eastside Transit Corridor Phase 2 projects. Each of these rail line projects, coupled with a number of other ongoing bus and/or highway projects, represent the MTA's self-described effort to plan, design, improve, and maintain the most modern and cost-efficient rapid transit system in the country.

Transit-related construction projects, once completed, can result in a variety of benefits to a region's residents and business owners, including ease in travel and reduced traffic congestion/pollution. However, transit-related construction activities can create fiscal hardships and operational challenges on adjacent businesses. To address these issues, local governments and developers, including the MTA, have examined various solutions for mitigating the unintended consequences of construction activities. Below is a case-study of one such mitigation program by the MTA as it relates to the Crenshaw/LAX Line project.

MTA Crenshaw/LAX Line Project Business Loss Mitigation Program

In July 2013, the MTA directed its staff to research business loss mitigation programs implemented in other metropolitan areas in connection with the construction of transit projects and to explore or identify a possible funding stream to establish a similar program to assist small businesses along the Crenshaw corridor during construction of the Crenshaw/LAX light rail transit project.

In January 2014, MTA staff was directed to: 1) develop a pilot business solution center to house technical experts on financial planning and advising, small business operations, grant application and management, and municipal regulation; 2) coordinate with existing city, county and Federal business assistance programs and worksource centers; 3) define guidelines and thresholds for small businesses that will qualify for the assistance program; and 4) identify applicable economic development, small business assistance, real estate funding sources from City, County, State and Federal programs, as well as private resources, among other directives.

The Metropolitan Transportation Authority staff reported that if the MTA Board chose to implement a business loss mitigation program for the Crenshaw/LAX project, it should pursue other public and private funding sources to establish and fund such a program.

This action would be consistent with approaches taken by local agencies in relation to construction of transit projects in other metropolitan areas (See Attachment I). It would also conform with MTA's statutory authority, which requires that its public funds be used solely for public transportation purposes, and with restrictions imposed on the project's Federal funding sources (including the Transportation Infrastructure Finance and Innovation Act).

In April 2014, the MTA Board received and filed a staff report on the proposed pilot business solutions center. The report detailed efforts to research existing public and private small business assistance resources, as well as activities undertaken to assist small businesses along the Crenshaw corridor. MTA staff also reported meeting with potential partners -- including the City of Los Angeles, the County of Los Angeles (Community Development Commission, Office of Small Business, and Workforce Investment Board), Federal and State agencies, and local non-profit economic development organizations -- to discuss potential funding leads and to provide technical assistance to small businesses. As a result of these meetings, services offered by these providers were identified, including:

- The County Community Development Commission operates several business loan programs, including a small business revolving loan program that is available countywide;

- The City of Los Angeles Economic & Workforce Development Department Business Source Centers provides business services, access to capital, workforce development, business plan development, information about tax incentives and credits, and business courses; and

- The Los Angeles Urban League and Vermont Slauson Development Corporation utilize a case management approach with individual businesses, including intake, needs assessment, advice, and matching with service providers.

Analysis - County Impact

This office examined the historical mitigation of transit-related construction activities on local businesses and the authority to temporarily reduce or waive taxes and fees. Generally, developers themselves, such as the MTA, have largely assumed responsibility over these types of business loss mitigation efforts. Consistent with these findings and the MTA's existing business loss mitigation efforts, legislative efforts (i.e. business loss mitigation) would fall under the MTA's jurisdiction.

Comments Provided by the Treasurer and Tax Collector

The Treasurer and Tax Collector (TTC) notes that currently there are no provisions in the State's Revenue and Taxation Code and/or the County Code that would allow for the temporary reduction or suspension of the State's sales tax for businesses affected by transit-related construction. As it relates to business license fees that might be temporarily reduced or waived for impacted businesses, TTC reports that the County's current business license ordinance only has authority over those businesses located within the unincorporated areas of the County. Further, it does not provide for the reduction or waiver of business license fees due to hardships experienced as a result of transit-related construction activities. TTC also notes that any business license fee relief for businesses located within incorporated cities would require those specific cities to grant this relief.

Comments Provided by the Office of the Assessor

With regard to reductions in the amount of property taxes that an affected business/property owner is responsible for, the Office of the Assessor (Assessor) indicates that California law provides a method for county assessors to recognize the effects that situations, like major construction adjacent to a property, could have on the value of the property. Property owners may file a Decline-in-Value application with the Assessor that may result in a temporary reduction in the assessed value of their property. The Decline-in-Value application is available on the Assessor's website at assessor.lacounty.gov. The Assessor notes that the filing period for the 2014-2015 tax period is currently open and will remain open until December 1, 2014.

The Assessor reports that it will participate in outreach efforts to inform the public of this program and notes that the Department often sends staff to community events and real estate fairs. The Assessor also recently initiated a new Community Forum Program, in which a team of Assessor executives and line-staff present information about the Department and the current real estate market. The Assessor has indicated that they could use their Community Forum Program to include presentations and information on how the Decline-in-Value program works and coordinate these events with the MTA.

Comments Provided by the MTA

The Metropolitan Transportation Authority's Construction Relations Division has indicated that they support and welcome any assistance that other local governments or private institutions can provide to businesses impacted by the construction of the Crenshaw/LAX transit project. MTA notes that businesses along the construction corridor may experience different levels of impact due to the fact that some business owners may actually own the property while others may simply be tenants. Thus, exploring creative ideas that have not been considered in the past, such as those in the motion before the Board, could potentially help both types of business owners and provide relief to business owners along the construction corridor. Finally, MTA indicates that should a temporary waiver or reduction of sales tax, business license fees, or other fees, or a temporary reduction in assessed property value be approved and implemented, it will partner with the County to inform business owners along the Crenshaw/LAX transit construction corridor and to assist them in applying for these programs.

Conclusion

Based on the above findings and as previously noted, legislative efforts to temporarily reduce or waive taxes and fees imposed on businesses impacted by transit-related construction activities (i.e. business loss mitigation) fall under the MTA's jurisdiction and subject-matter expertise and aligns with the organization's existing business loss mitigation efforts for the Crenshaw/LAX Line project. Additionally, as noted above by TTC, the authority to reduce or waive fees for business owners impacted by transit-related construction lies with the local government area in which the business is located. Further, to the extent that business/property owners apply for and receive approval for the Decline-in-Value property assessments, this would reduce the amount of property tax revenues received by the County. The overall fiscal impact to the County is unknown and difficult to estimate at this time.

Currently, there is no Board-approved policy to work with the Metropolitan Transportation Authority and local cities to seek all appropriation legislation that would temporarily reduce or waive taxes and fees imposed on impacted businesses during transit-related construction activities. Therefore, this issue is a matter of Board policy determination.

We will continue to keep you advised.

WTF:RA
MR:VE:RM:ma

Attachment

c: Executive Office, Board of Supervisors
Office of the Assessor
Treasurer and Tax Collector

Summary of Construction Mitigation and Small Business Assistance Programs Associated with Selected Transit Projects in the United States

City/Region	Associated Project	TYPES OF CONSTRUCTION MITIGATION AND BUSINESS ASSISTANCE PROGRAMS						
		Community Relations	Traffic and Parking Mitigation	Marketing Assistance	Business Program Coordination / Technical Assistance	Direct Financial Assistance		Source of Funds for Direct Financial Assistance
						Grants*	Loans	
Dallas, TX	LRT System Expansion	X	X					
Denver, CO	4 LRT Corridors	X	X					
Houston, TX	LRT on 3 corridors	X	X	X			Interest-free	Set-aside from transit fares
Minneapolis, MN	Central Corridor LRT Project	X	X		X		No-interest forgivable	Various federal, state, county, and local city sources
Phoenix, AZ	LRT Line	X	X	X	X		X	Partnership between Corridor Cities and local banks
Portland, OR	Yellow Line LRT	X	X	X	X		Low interest	Portland Development Corporation
Salt Lake City, UT	North-South Line	X	X	X	X		Low Interest	Contractor
Seattle, WA	Central Link Light Rail Transit Corridor	X	X	X	X	X	X	County ($7 million); Federal Community Development Block Grants (CDBG) ($43 million)
San Jose, CA	Reconstruction of Downtown Transit Mall	X	X	X			X	San Jose Redevelopment Agency

Program Review

Based on a review of nine transit projects in cities across the county, staff has concluded that business loss mitigation efforts were funded in all but one case by City, County and non-transit agency community funding resources.

(1) Seattle - No business loss mitigation funding was directly provided by Sound Transit. Seattle's nearly $50 million program consisted of business assistance, business loss mitigation grants and advances ($28 million) and community development ($21 million). The program of business assistance and business loss mitigation was funded by City CDBG and General Funds, and King County general funds – administered by Sound Transit. This program funding account closed on completion of construction. (The community development fund was/is administered by a nonprofit community development organization.)

(2) Minneapolis - Minneapolis' program of business loss mitigation for construction impacts of the Central Corridor Light Rail Project was funded by community partners through the 7-County planning and programming agency known as the Metropolitan Council (similar to SCAG), and a collaborative of community development organizations. No business loss mitigation funding was provided by Metro Transit.

(3) Houston - Houston's transit agency Board approved a $5 million business loss mitigation program of interest-free loans funded by a one-cent deduction from transit fees collected over an 18-month period. City of Houston provided SBE assistance and partnered with a nonprofit for free business consulting.

(4) Phoenix - Phoenix and other cities along a new light rail line developed separate loan programs and partnerships with banks to assist businesses in the corridor with lines of credit and loans through city programs. No business loss mitigation funding was provided by Valley Metro.

(5) Portland – Portland Development Commission, an independent economic development agency provided funding for small business assistance through the Cascadia Revolving Fund. No business loss mitigation funding was provided by Tri-Met, but a Lunch Bus Program (see Salt Lake City, below), coupons for local employees, as well as construction mitigation measures were offered and found to be helpful. Out of 106 eligible businesses, 18 applied for loans, 16 were approved, and 12 loans were actually made; half of these 12 could have qualified for loans at a regular bank, and all but two were strong or moderately strong businesses.

(6) San Jose – San Jose Redevelopment Agency provided funding for a business loan program. No business loss mitigation funding was provided by Valley Transportation Authority

(7) Dallas – Dallas provided no direct financial assistance; its transit agency provided community outreach, traffic re-direction and parking accommodations. No business loss mitigation funding was provided by Dallas Area Rapid Transit.

(8) Denver - Denver's transit agency (Denver RTD) provided no business loss mitigation funding; RTD provided community outreach, traffic re-direction and parking accommodations as well as a marketing program called TransOptions that offered several transportation strategies: carpooling, vanpooling, public transit, alternative work schedules, walking and biking. Transit passes and vanpool subsidies were provided by Denver RTD and Colorado DOT.

(9) Salt Lake City – Salt Lake City's transit agency provided no direct financial assistance; the agency, City of Salt Lake and project contractor provided coupon, radio and print advertising as well as media assistance for small businesses. For example, the Utah Transit put together a lunch bus program to take people from different areas to the restaurants along the alignment for lunch. Buses were full, and this activity took place 5-6 times over the construction period. Another interesting feature of Salt Lake's program provided business owners with control over contractor bonuses. Up to $1 million dollars was available to the contractor and would be paid quarterly if community representatives approved the contractor's performance. A Community Hotline was set up for any complaints or concerns and the contractor was to respond immediately. The community acted responsibly, traffic was always moving and businesses had access.

Seattle and Minneapolis Program Details

(1) Seattle

The Seattle program of business loss mitigation was part of a complex funding and implementation mechanism that was folded into the federal Record of Decision for the Central Line light rail transit project. A section of the project alignment traverses a commercial area in Rainier Valley, an ethnically diverse and economically depressed collection of microbusinesses and surrounding residential neighborhoods, which gave rise to concerns that construction would adversely impact the businesses. To address these concerns Sound Transit, King County and the City of Seattle created the nonprofit Rainier Valley Community Development Fund (RVCDF) in 2002.

According to the RVCDF Operating Plan (Attachment D), "the purpose of the RVCDF was to address the construction impact of light rail, support projects developed in the light rail corridor that enhance transit ridership, and support broader community development in the Rainier Valley." (Id.at pg.10) There were two legal constraints governing the use of funds:

(a) The Washington State Constitution prohibits the gifting and lending of public funds (state or local taxpayer dollars) to private entities (individuals, for profit and nonprofit organizations) except for necessary support of the poor or infirm. Transfer of state or local funds had to be consistent with this constitutional provision.
(b) The use of funds originating from a Washington State or local government entity must conform to that entity's specific statutory authority.

The RVCDF Operating Plan notes on pg. 10 that Sound Transit is authorized to develop and operate a public transportation system. Permissible uses of funds originating from Sound Transit included supplementing the mitigation of impacts from light rail construction and enhancing ridership through TOD (publicly owned projects only). Funds originating from Sound Transit could not be used to assist the poor and infirm in any way inconsistent with Sound Transit's statutory authority.

In contrast, the City's and County's authority could include assistance to the poor and infirm - so public funds from these jurisdictions could be used to fund privately owned residential real estate development if it benefitted low-moderate income people.

<u>Funding Sources for Rainier Valley Community Development Fund (RVCDF)</u>

To address the funding constraints described above and meet community objectives, funding for the RVCDF came from King County and City of Seattle, and was divided into two accounts with specified purposes: a Supplemental Mitigation Account (SMA) and a Community Development Account (CDA).

<u>Supplemental Mitigation Account (SMA)</u>

The SMA was partially funded by King County with $7 million under a Tunnel Agreement between Sound Transit and King County. An additional $21 million for the SMA came from City of Seattle General Fund and CDBG grants under the Seattle Agreement with Sound Transit, for a total of $28 million in the SMA. This sum satisfied Sound Transit's commitment to the SMA over an 8-year term. The SMA was administered by Sound Transit, and provided business reestablishment and business interruption grants, as well as working capital, tenant improvement and equipment advances (to be repaid). Transit oriented development (public infrastructure improvements associated with private developments) was also supported by the SMA. In order for small businesses to be eligible for advances/loans from the SMA, they were required to provide tax returns and financial statements or proxy documentation for each year of operation up to three years. The SMA was closed at the end of construction in 2009.

<u>Community Development Account (CDA)</u>

The CDA was funded with $21 million from City of Seattle's CDBG grant. Its activities focused on relocation and receiving site development (property advances), pre-apprenticeship training for transit, TOD for privately owned developments, and community development. The RVCDF continues to work on community development in the Rainier Valley using funding from this account.

(2) Minneapolis

The Metropolitan Council is the regional policy-making body, planning agency and provider of essential services for the Twin Cities metropolitan region. The Council makes policy in the areas of parks, transportation, wastewater and water, housing and planning. In the area of transportation, a Council unit known as Metro Transit provides system planning and programming, regional transportation services (bus, rail) and transit services for people with disabilities.

Mitigation activities to assist businesses during construction of the 11-mile Central Corridor light rail line were initiated under the terms of an amended ROD following a Supplemental Draft EIS released this year. This line began construction in 2011 and is set to begin operations in 2014.

Funding Sources for Business Assistance and Business Loss Mitigation

Minneapolis' program of business loss mitigation for construction impacts of the Central Corridor light rail project has been funded by community partners through the 7-county Metropolitan Council.

$15 million in funding was committed by the Metropolitan Council, the City of St. Paul, the Neighborhood Development Center and City of Minneapolis for construction impacts mitigation (construction access planning, community outreach coordination, communications planning and signage, parking assistance); business assistance resources and services provided by seven agencies in a collaborative (business improvement, business resources, business preparation, business marketing); and business support ($4 million for a small business loan program and a parking loan program); alley improvements, lighting, street amenities, façade improvements.

Metro Transit itself has provided cooperative advertising and transit fare passes. (pgs. 2-4, Quarterly Status Report on Implementation of Mitigation Measures - CCLRT Construction-Related Business Impacts, July-September 2013) Metro Transit provided no direct funding toward small business loss mitigation.

A survey of businesses affected by the light rail construction was conducted in the first year of construction at the request of the Central Corridor Funders Collaborative, on behalf of the Business Resources Collaborative; this survey focused on determining how well services and strategies to mitigate business losses during construction met the needs of the businesses in the construction corridor.