

Revised Agenda Item No. 5

Commuter Rail and Transit Committee Meeting

March 13, 2014

10:00 a.m.

Location:

San Bernardino Associated Governments
SANBAG Lobby 1st Floor
1170 W. 3rd Street, San Bernardino, CA'

Discussion Calendar

Transit/Commuter Rail

5. **Amendment No. 1 to Bikeway License Agreement No. C09168 to cross San Bernardino County Transportation Authority and the San Bernardino County Transportation Commission railroad right-of-way with the City of Rialto**

That the Committee recommend the Board acting as the San Bernardino County Transportation Authority:

1. Approve Amendment No. 1 to Agreement No. C09168 with the City of Rialto granting an amendment to the Bikeway License Agreement on the Baldwin Park branchline railroad right-of-way, in the City of Rialto, between mile post 10.1 and 11.7.
2. Authorize the Executive Director or his designee to enter into a Right-of-Entry permit/agreement applicable to the City of Rialto Bikeway agreement. **Monica Morales**

This agenda item was revised to correct the financial impact section from the City of Redlands to the City of Rialto, as well as update the property cross streets to Linden Avenue and Maple Avenue.



- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

REVISED AGENDA ITEM: 5

Date: March 13, 2014

Subject: Amendment No. 1 to Bikeway License Agreement No. C09168 to cross San Bernardino County Transportation Authority and the San Bernardino County Transportation Commission railroad right-of-way with the City of Rialto

Recommendation:* That the Committee recommend the Board acting as the San Bernardino County Transportation Authority:

1. Approve Amendment No. 1 to Agreement No. C09168 with the City of Rialto granting an amendment to the Bikeway License Agreement on the Baldwin Park branchline railroad right-of-way, in the City of Rialto, between mile post 10.1 and 11.7.
2. Authorize the Executive Director or his designee to enter into a Right-of-Entry permit/agreement applicable to the City of Rialto Bikeway agreement.

Background: Between 1991 and 1993, San Bernardino Associated Governments (SANBAG) acquired the Baldwin Park branchline, the Pasadena Subdivision, and the Redlands branchline, and all railroad rights-of-way, for its commuter rail program. Following the acquisition of these rail assets, SANBAG in 1994 contracted with the Los Angeles County Metropolitan Transportation Authority (LACMTA) to provide property management services. During 2011, SANBAG conducted a procurement to select its own consultant to provide these services followed by the termination of said services with LACMTA. On May 4, 2011, the Board awarded Contract No. C11206 to Epic Land Solutions for management services of SANBAG's rights-of-way.

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Approved
 Commuter Rail and Transit Committee

Date: _____

Moved: _____ Second: _____

In Favor: _____ Opposed: _____ Abstained: _____

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	
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Check all that apply.

Historically, the management services provided to SANBAG by the LACMTA have included: environmental due diligence, management of leases, licenses and easements, weed abatement and trash removal, preparing agreements and licenses for utilities and street crossings of the right-of-way, and marketing surplus property. To expedite the provision of these services, SANBAG provided LACMTA power-of-attorney to handle these matters on SANBAG's behalf. SANBAG's rail assets portfolio includes approximately one-thousand fifty (1,050) licenses, leases, and agreements that generate roughly \$400,000 in annual revenue. The revenues generated by SANBAG's rail assets are used to fund improvements related to the rail system. Examples of past projects include the restoration of the San Bernardino Depot, San Bernardino Parking Structure, and the restoration of the Upland Lemon Grower's Warehouse.

When SANBAG procured the right-of-way consultant services, SANBAG did not grant Epic Land Solutions, Inc. (Epic) power-of-attorney. Consequently, this Board action is required to authorize SANBAG to enter into or amend any new or existing license, lease, or agreement for the use of SANBAG's property.

The amendment to City of Rialto Agreement No. C09168, Bikeway License Agreement will grant requested changes to exhibit D-2 for fencing requirements. Originally, landscaping and fencing was prohibited within one hundred and fifty (150) feet of the centerline of any at-grade road crossings. However after plan review, staff agreed with the City's request to change the requirement to prohibit landscaping and fencing within 20 or 25 feet of the centerline of any at-grade road crossing depending on their approved plans.

The Bikeway License Agreement will be for an at grade use of the property between **Linden Avenue and Maple Avenue** on SANBAG's rail right-of-way property in the City of Rialto, approximately 8,448 Lin. Ft (1.6 miles). The use of the property will be for construction, maintenance and use as a bikeway and pedestrian walkway along with associated landscaping and appurtenances and also provides for reservation of future rail implementation.

This agreement was originally executed by LACMTA in September 2009; with a term of 20 years. The license does allow SANBAG to terminate the license with thirty (30) days prior written notice.

Additionally, staff is requesting the Executive Director or his designee to enter into the necessary right-of-entry (ROE) permit or agreement with the contractor who has been awarded by the City of Rialto. The ROE will be reviewed by legal counsel prior to submitting to Executive Director.

It is necessary to refine the boiler-plate license agreements. Staff is currently working with general counsel to develop a policy governing future licenses, leases and agreements for SANBAG's rights-of-way and property. Options would likely include a range of options from continuing to present each new or amended agreement to the Board for action to the Board approving boilerplate documents and delegating authority to the Executive Director or his designee to execute them.

Financial Impact: Approval of this item will result in a one-time \$1,500 administration fee to Epic Land Solutions, Inc. by the City of **Rialto**.

All fees will be collected by Epic on behalf of SANBAG and retained in the SANBAG rail assets trust account until the funds are transmitted to SANBAG's finance department. The revenue may be budgeted in subsequent fiscal years for projects that benefit SANBAG's rail systems/assets.

Reviewed By: This item is not scheduled for review by any other policy committee or technical advisory committee. SANBAG General Counsel and Contract Administrator are in the process of reviewing this item and a draft of the Bikeway License Agreement.

Responsible Staff: Monica Morales, Transit Specialist