
AC TRANSIT DISTRICT**Board of Directors**

Executive Summary

GC Memo No. 09-097a

Meeting Date: May 27, 2009

Committees:Planning Committee External Affairs Committee Rider Complaint Committee **Board of Directors** Finance and Audit Committee Operations Committee Paratransit Committee **Financing Corporation**

SUBJECT: Hold the Public Hearing Regarding the District's Intention to Declare a Fiscal Emergency under Public Resources Code Section 21080.32 and California Environmental Quality Act Implementing Guidelines Section 15285**RECOMMENDED ACTION:** Information Only Briefing Item Recommended Motion**Hold the Public Hearing on the District's Intent to Declare a Fiscal Emergency for the 2009-2010 Fiscal Year****Fiscal Impact:**

The projections in Fiscal Year 2009-2010 indicate that the District is projected to have a shortfall in "net working capital" of an estimated \$9.74 million.

Background/Discussion:

On April 22, 2009, the Board of Directors set a public hearing for May 27, 2009 regarding the District's intent to declare a fiscal emergency for the 2009-2010 fiscal year.

Public Resources Code Section 21080.32 and California Environmental Quality Act (CEQA) Guidelines Section 15285 exempt a transit agency from complying with CEQA for taking actions resulting from "the failure of agency revenues to adequately fund agency programs and facilities."

In order to invoke this exemption, the District Board must make a specific finding that there is a "fiscal emergency." This means that the District will have "negative working capital" within one year of a declaration of a "fiscal emergency."

"Working capital" is defined as the sum of all unrestricted cash, unrestricted short-term investments, and unrestricted short-term accounts receivable, minus unrestricted

BOARD ACTION: **Approved as Recommended** [] **Other** []
 Approved with Modification(s) []

The above order was passed on:

Linda A. Nemeroff, District Secretary

By _____

accounts payable. Excluded from this definition are accounts maintained for employee retirement funds, including deferred compensation plans and section 401(k) plans, health insurance reserves, bond payment reserves, workers' compensation reserves, and insurance reserves.

The Finance Department, using the aforementioned definition of "working capital" has projected that the District will have a shortfall of \$9.74 million in the 2009-2010 fiscal year. See attachment 1.

In order for the District to declare a fiscal emergency, it must first hold a noticed public hearing. Within 30 days of the close of the public hearing, the District must respond to public comments received at the public hearing at a regular scheduled board meeting. The subject of the public hearing is whether the District is projected to have negative working capital within one year from the date that the District finds that a fiscal emergency exists.

The public hearing notice was published, as required by Board Policy No. 163, on May 13 and May 20 in the following newspapers: San Francisco Chronicle, Alameda Times-Star, Oakland Tribune, Hayward Daily Review, The Argus (Fremont), San Mateo County Times, Tri-Valley Herald, Sign Tao (in Chinese), El Mundo (in Spanish) and the Oakland Post. The notice included the staff analysis identifying the \$9.74 million shortfall for the public's information. See attachment 2. In addition, the public hearing notice was emailed to every Bay Area media outlet (television, newspaper and radio) and recently placed on the District's website.

Upon close of the public hearing, responses to comments received at the public hearing and via various electronic avenues identified in the public hearing notice will be prepared. These responses will be provided to the Board at the June 24th board meeting.

Prior Relevant Board Actions/Policies:

GC Memo 09-097

The District declared a fiscal emergency in FY 2004-05.

Attachments:

1. Alameda-Contra Costa Transit District Schedule of Working Capital
2. Public Hearing notice

Approved by: Kenneth C. Scheidig, General Counsel
Prepared by: Kenneth C. Scheidig, General Counsel
Date Prepared: May 19, 2009

AC Transit District
 Schedule of Working Capital
 (In Thousands)

Working Capital as of June 30, 2008	\$	87,519
Less:		
Inventories at June 30, 2008		(11,217)
Prepaid expenses at June 30, 2008		<u>(1,493)</u>
Working Capital as adjusted for PRC Section 21080.32	\$	74,809
Operating loss for the year ending June 30, 2009		(19,172)
Principal payments for the year ending June 30, 2009		<u>(19,584)</u>
Working Capital as of June 30, 2009	\$	36,053
Operating Loss for the year ending June 30, 2010		(35,363)
Principal payments for the year ending June 30, 2010		<u>(10,430)</u>
Working Capital as of June 30, 2010	\$	<u><u>(9,740)</u></u>

PUBLIC HEARING NOTICE

Alameda-Contra Costa Transit District

INTENT TO DECLARE A FISCAL EMERGENCY

Notice is hereby given that the Alameda-Contra Costa Transit District (the District) has scheduled a public hearing for May 27, 2009 at 5:00 p.m. in downtown Oakland at 1600 Franklin Street in the 2nd Floor Board Room, to consider public comment on the issue of whether the District is exempt from complying with the provisions of the California Environmental Quality Act (CEQA), California Public Resources Code Section 21000, et seq., and its Implementing Guidelines (the Guidelines), 14 California Code of Regulations Section 15000, et seq., to implement any budget reductions made by it as a publicly owned transit agency as a result of a fiscal emergency caused by the failure of agency revenues to adequately fund its programs and facilities under California Public Resources Code Section 21080.32 and Section 15285 of the Guidelines. A "fiscal emergency" means that the District is projected to have negative working capital within one year from the date that the District finds that a fiscal emergency exists. "Working capital" is defined as the sum of all unrestricted cash, unrestricted short-term investments, and unrestricted short-term accounts receivable, minus unrestricted accounts payable, but excludes employee retirement funds, health insurance reserves, bond payment reserves, workers' compensation reserves, and insurance reserves. The analysis of the District's fiscal financial condition, calculated in accordance with the above cited definitions, is attached. After this public hearing AC Transit will respond within 30 days at a regular public meeting to suggestions made at the initial public hearing. AC Transit may make findings of a fiscal emergency only after it has responded to public suggestions.

Suggestions may be submitted orally or in writing, in lieu of attending the public hearing if received no later than the close of the hearing on Wednesday, May 27, 2009. Written suggestions should be addressed to Linda Nemeroff, District Secretary, AC Transit, 1600 Franklin Street, Oakland, California 94612, faxed to Linda Nemeroff at 510/891-7157 or sent by email to lnemeroff@actransit.org. Voicemail messages may be left at 510.891-4868

Meeting site is wheelchair accessible. A sign language interpreter will be provided, if needed. To arrange for an ASL translator, please contact the District Secretary's Office by 5:00 p.m., Friday, May 22, 2009 at 510/891-4851.

Hearing impaired only, call TDD-ONLY, or 1-800-448-9790.

Please do not wear scented products to the meeting.