



March 7, 2019

Dennis Lowery
Lowery Capital Partners
155 North Santa Cruz Ave # 101
Los Gatos, CA 95030

Re: Proposed Memorandum of Understanding – Monterey County Rail Service

Dear Mr. Lowery:

Thank you for your interest in providing passenger rail service in Monterey County along the Monterey Branch Line, from the City of Monterey to its terminus in Castroville, with the potential for connecting services to Gilroy, Salinas and Santa Cruz.

When TAMC staff met with you and Taylor on December 19, 2018, we suggested you contract with an outside firm with expertise in rail projects in California to advise you as to the hurdles you could face in pursuing your proposed independent rail service. At our subsequent meeting with you and Michael Groves of EMC Planning on February 28, 2019, we suggested that you develop a written proposal (scope of work) for what you wish to accomplish in the near term, such as an analysis of the infrastructure needs, track access rights, environmental impacts, and equipment options.

TAMC has reviewed the unsolicited Memorandum of Understanding that you presented last month. Before engaging in negotiations over the Memorandum, however, there are some preliminary matters that you should be aware of and be comfortable with:

1. TAMC is a governmental entity, and as such is subject to the Public Records Act. This means that a certain level of confidentiality cannot be promised. For example, if a Memorandum of Understanding is presented to TAMC for approval, such action will take place in public, and the public will have the right to inquire about the agreement and the parties to the agreement. While certain records can be withheld from public disclosure while the parties negotiate, TAMC cannot promise that they will never become public.
2. Under state law, TAMC has the powers necessary to implement rail service projects, including the option to contract for the operation of rail service in Monterey County and for connections with rail service in adjacent and neighboring counties and cities. TAMC's mission is to develop and maintain a multimodal transportation system that enhances mobility, safety, access, environmental quality, and economic activities in Monterey County. Any contracted rail service would need to provide an affordable and accessible service to all Monterey County residents and visitors.

3. Additionally, as a governmental entity, TAMC has an obligation to be mindful of the public dollars invested in the rail network, including the public dollars contained in grant agreements which allowed TAMC to acquire the Monterey Branch Line in the first instance, as well as the grant funding secured for planning and implementing rail projects in the region. TAMC will have the obligation to receive fair market value or equivalent public benefit for any property interests it may be asked to convey, including lease rights to use the Monterey Branch Line, assuming TAMC can assist in privately-owned rail passenger service or a public-private partnership.
4. TAMC is already significantly engaged with other public agencies and Union Pacific Railroad to initiate passenger rail service along the Union Pacific Railroad line from Salinas north to Gilroy, the Bay Area, and Sacramento. As such, TAMC cannot promise any kind of exclusivity in negotiations that could hinder this ongoing effort.
5. Finally, as a policy matter, TAMC has limited resources and cannot afford to expend significant staff time in exploring opportunities for private parties. As such, TAMC will require that the private parties to any Memorandum of Understanding agree to compensate TAMC for consultant costs and staff time that may be needed to consider your proposal.

Before either party to your proposed Memorandum of Understanding expends further resources, however, and before the Transportation Agency for Monterey County (TAMC) can truly engage in negotiations, we require additional information about both Mansur & Company and Lowery Capital Partners. Please provide copies of the organizational existence and governing bodies of these entities, as well as background information explaining what, if any, experience either entity may have in operating passenger rail service. Additionally, if we decide to enter into a Memorandum of Understanding, TAMC will need information concerning the economic strength of any parties to such memorandum.

If you are still interested in pursuing discussions with TAMC over the possible use of the Monterey Branch Line after taking these factors into consideration, please provide a detailed written scope of work outlining how you will evaluate the potential of providing passenger rail service in Monterey County, the basic background information requested above of any private parties who will enter into the Memorandum of Understanding, as well as your response to the above comments.

Sincerely,



Debra L. Hale
Executive Director

Copy: Guy Preston, Executive Director, Santa Cruz County Regional Transportation Commission