



179 Cross Street, Suite A
San Luis Obispo, CA 93401
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www.slorta.org

REQUEST FOR PROPOSALS #19-01

FOR

SHORT-TERM LICENSE FOR PARKING YARD

AT

253 ELKS LANE IN SAN LUIS OBISPO, CA

March 8, 2019

The premises may be inspected on March 13, 2019 at 2:00 PM

Proposals **MUST** be filed at the RTA Offices, 179 Cross Street, San Luis Obispo, CA 93401 by 4:00PM on March 27, 2019. Proposals must be sealed and clearly marked on the outside with the subject matter, RFP number, and the due date. The RTA reserves all rights to reject any and all proposals, or any part thereof, when is deemed to be in the best interest of the agency.

The Regional Transit Authority is a Joint Powers Agency serving residents and visitors of:

Arroyo Grande Atascadero Grover Beach Morro Bay Paso Robles Pismo Beach San Luis Obispo and The County of San Luis Obispo

REQUEST FOR PROPOSALS
FOR SHORT-TERM LICENSE FOR 253 ELKS LANE

1. Introduction:

The San Luis Obispo Regional Transit Authority (RTA) is requesting proposals from qualified proposers to enter into a short-term license for the vehicle parking yard located at 253 Elks Lane in San Luis Obispo, California. The portion of the property to be rented is fully fenced and is located along Elks Lane and Prado Road behind the existing U-Haul facility, with access provided onto and off of the property on Elks Lane. The property is partially graded and portions of it are paved.

The RTA is seeking proposals for the short-term use of property for vehicle parking and/or equipment storage purposes. No utilities (water, sewer, electricity, etc.) are currently provided at the site, and the RTA is unwilling to install utilities prior to use, nor is the RTA willing to remove any utility improvements upon termination of the license; all costs related to installing utilities or other improvements will be solely borne by the licensee. Moreover, the licensee will be responsible for restoring the property to pre-use conditions at the end of the license. Respondents need to perform their own due diligence with respect to zoning and any other issues related to use of the property.

The property is located in the 100-year floodplain. Respondents will need to comply with relevant flood zone regulations.

2. History and Description of the Premises:

Historically, the property was used for agricultural purposes, and was most recently rented as a vehicle park-n-ride for employees working at a nearby solar project. The RTA is currently in the design and engineering phase to construct a new Bus Maintenance Facility at this site, with construction planned to begin in May 2020. As such, the property must be vacated and restored to its pre-use conditions by April 30, 2020. If the RTA's project is delayed for any reason, the RTA will retain the sole discretion to continue the license on a month-to-month basis.

3. Approval by RTA Board of Directors:

The RTA Board of Directors must approve the short-term use of the property in accordance with agency policies and applicable State Law including but not limited to a public hearing at which the sealed bids will be opened. The RTA Board will conduct the public hearing and consider a draft License at either a special April 3, 2019 meeting. If approved by the Board, the License could begin shortly thereafter following agreement by both parties.

4. Terms, Conditions, and Proposed Uses:

The proposer shall undertake its own review and analysis (due diligence) concerning the physical and environmental condition of the premises, applicable zoning and other land use laws, required permits and approvals and other development, ownership and legal considerations pertaining to the premises, the license and the use of the premises, and shall apply for and obtain all approvals and permits required for the project with the consent of the RTA.

No RTA funds will be available to the licensee of the property. The RTA will not make any repairs or improvements to the property prior to use. A minimum bid of \$1,000 per month in rent is required.

Proposers are urged to physically inspect the property prior to submitting a proposal. Under no circumstances will failure to inspect be considered grounds for a claim or grounds for a violation of the license for use.

A tour of the site will be conducted at 2:00PM on Wednesday, March 13, 2019. Interested proposers should meet at the site. A representative of the RTA will be available to answer questions. Proposers are advised to do their own due diligence and neither the RTA nor any of its agents or representatives is responsible for representations made regarding the physical condition of the site. Additional inspections will be permitted for bona fide prospective proposers at dates and times to be determined and as agreed upon with the RTA Executive Director.

The RTA reserves the right to reject any and all proposals and to negotiate the terms and conditions of any proposal with any particular licensee. The RTA also reserves the right to interview any or all potential licensees with respect to the proposals and to waive any error, or informality or technical defect in the proposal. This request for proposals does not in of itself constitute an offer, but is rather an invitation to interested parties to submit offers.

The RTA, in evaluating each proposal, may consider (but not be limited to) the following factors:

- a. Price offered – No RTA financing will be provided and all proposals must be monthly cash offers;
- b. Intended property use;
- c. Financial strength of licensee;
- d. Compatibility of the proposed use with the surrounding area;

- e. Public benefit of proposed use, if any;
- f. Relative experience of the respondent in similar projects.

The RTA will consider offers to use the property through April 30, 2020.

The Licensee agrees to accept said property in its present condition. Furthermore, the property is being offered absolutely “as is”, “where is”, and “with all faults” as of license execution without any representation or warranty whatsoever as to its condition, fitness for a particular purpose, except as specifically set forth in this proposal. The RTA specifically disclaims any warranty, guaranty or representation, oral or written, past or present, express or implied, concerning the property, except as specifically set forth in this proposal. Licensee acknowledges that Licensee is offering for such property based solely upon Licensee’s own independent investigations and findings and not in reliance upon any information provided by the RTA or its agents or contractors except as specifically set forth in this proposal. Without limiting the foregoing, Licensee acknowledges that the RTA has made no agreement to alter, repair, or improve any of the property. None of the information set forth in the property information materials or any other materials supplied by the RTA, its agents, employees or commissioners, encompasses conclusions of law; rather, that information is subject to the operation and effect of all applicable laws and legal consequences and to the legal rights of all persons and entities involved.

5. Indemnity of the RTA:

Proposer shall as part of their proposal affirm that they have read and understand the insurance requirements as outlined in the Insurance section of the Sample Agreement (see Attachment 1). Licensee agrees to furnish the RTA with original insurance certificates and endorsements immediately following award of contract. Certificates and endorsements shall make reference to policy numbers. All certificates and endorsements are to be received and approved by the RTA before modification to and/or use of property, and must be in effect for the duration of the license. The RTA reserves the right to require complete copies of all required policies and endorsements.

6. Submission of Proposals:

The RTA expects each proposer to be succinct and economical in developing its proposal package. As such, the proposal package is ***limited to no more than five (5) pages***. Each letter-sized page should be printed doubled-sided, and font size shall be no smaller than Calibri 12-point and margins no smaller than 0.75”. Each 11” by 17” double-side page counts as four letter-sized pages.

Persons or organizations who desire to enter into a short-term license for the subject property must submit five (5) paper copies of their proposal and letter of intent to Geoff Straw, RTA Executive Director, 179 Cross Street, San Luis Obispo, CA 93401 on Wednesday, March 27, 2019 before 4:00PM. In addition, one electronic copy of the proposal and letter of intent must be provided in PDF format on CD-ROM or thumb-drive. Proposals and electronic media must be submitted in a sealed opaque envelope clearly marked "**RFP# 19-01 FOR SHORT-TERM LICENSE FOR 253 ELKS LANE – Due March 27, 2019**". Proposals will not be accepted after the stated date and time. The following information must be included with the proposal:

- a. Formal letter stating the offer for the short-term use of the subject property. The letter should clearly describe the terms of the offer, including but not limited to, monthly price (minimum \$1,000/month), proposed security deposit, and description of all conditions to which the offer may be subject.
- b. Narrative explaining the proposed or intended use of the property, including any ancillary/accessory uses.
- c. Estimated schedule for any contemplated renovations with estimated completion date.
- d. A statement affirming that Licensee has the legal authority and financial ability to execute the license . Also, provide an affirmative statement consenting to provide representatives of the RTA satisfactory evidence of Licensee's legal authority and financial ability, upon request.
- e. Proposals submitted by corporations must be submitted with proper corporate resolution authorizing the proposal.
- f. A deposit of \$5,000 is required with each proposal in the form of a bank check or certified check made payable to the RTA.
- g. Non-profit organizations may submit a proposal using the same format provided herein, but need not include a deposit. No RTA funds are available for such organizations.
- h. Proposal Form attached to this proposal.

6. Questions

All inquiries, questions, and requests for information related to the property or related to the preparation of the response to the Request for Proposals should be directed in writing to RTA Executive Director Geoff Straw at gstraw@slorta.org

Responses, clarifications, or interpretations and any supplemental instructions or forms, if issued, will be issued in the form of written addenda.

The RTA will not be responsible for, and proposers may not rely upon, any information, explanation or interpretation of the RFP rendered in any fashion except as provided in accordance with this RFP.



San Luis Obispo Regional Transit Authority

PROPOSAL FORM

SHORT-TERM LICENSE FOR PROPERTY AT 253 ELKS LANE, SAN LUIS OBISPO, CA

Short-Term Monthly Use Price _____

Use Term _____

Signature of Proposer: _____

Printed Name: _____

Date: _____

Proposers Name and Address: _____

Attached proposal must also include all requested information listed in the Request for Proposals. Proposals must be sealed and clearly marked with the subject matter, RFP number, and the bidding date. Proposals need to be submitted to the RTA Front Desk, 179 Cross Street, San Luis Obispo, CA by 4:00PM on March 27, 2019.

<<Insert Sample License Agreement>>

Attachment 1: Sample License Agreement

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is entered into between the San Luis Obispo Regional Transit Authority, a joint powers agency in the State of California ("RTA"), and _____ ("Licensee") with respect to the real property hereinafter described. RTA and Licensee may be collectively referred to as the "Parties."

WHEREAS, the RTA owns real property located at 253 Elks Lane in the City of San Luis Obispo, described as APN 053-041-071 ("Premises"); and

WHEREAS, it is in the best interest of the public for the RTA and Licensee to enter into a License Agreement to provide for use of a portion of the Premises as an equipment storage yard.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the RTA and Licensee agree as follows:

- 1. Incorporation of Recitals:** The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this License Agreement as if set forth in full.
- 2. Grant and Description of Use Area:** RTA, for and in consideration of the promises contained herein, grants to Licensee the nonexclusive right and privilege to use the fenced portion of the Premises as delineated on Exhibit A for the purpose of vehicle and equipment storage ("Use Area").
- 3. Condition of Use Area:** Use of the Use Area by Licensee shall, in itself, constitute acknowledgment that the Use Area is in good and tenantable condition. Licensee agrees to accept the Use Area in its existing condition, "as is," with no repairs, warranties or reports provided by the RTA. The RTA shall not be obligated to make any alterations, additions or betterment thereto.
- 4. Term:** The Term of this License Agreement commences upon full execution of the License Agreement, with the RTA being the last party to sign (the Commencement Date) and shall expire on April 1, 2020 "Term"), with an option to extend as described in Paragraph 5 below.
- 5. Option to Extend:** Within three (3) months prior to the expiration date of the Term of the License Agreement, Licensee may notify the RTA, in writing, of its desire to extend the term of the License Agreement on a month-to-month basis. RTA may, in its sole and absolute discretion, agree to extend the License Agreement on such terms agreeable to the Parties. RTA delegates to the RTA Executive Director the authority to negotiate and execute an extension of the License Agreement.

6. License Fee: In consideration of a license to use the Use Area, Licensee shall pay in advance a monthly license fee in the amount of \$_____ based on the Licensee's proposal (see Exhibit "A"). The license fee is due prior to the first of each month. The RTA has the right to enter and inspect the "Use Area" and direct Licensee to do specific operations and maintenance of the Use Area.

7. Surrender: Except for modifications to be retained for the benefit of the RTA, at the RTA's discretion, as determined at the time of termination of this License Agreement, Licensee shall surrender the Use Area to RTA on the last day of the Term, or any extended Term, or sooner termination of this License Agreement in the same condition as when received at the sole cost and expense of Licensee, reasonable use and wear excepted.

8. Use of Use Area and Obligation to Maintain :

a. Licensee's use of the Use Area shall at all times be in compliance with all laws including, but not limited to, federal and state Constitutions, federal and state statutes, implementing regulations, local ordinances and agency rulings whether or not these laws are enacted or promulgated as urgency measures under police powers or for health and safety reasons whether currently existing, amended or new enactments. Licensee expressly agrees at all times during the term of this License Agreement including any extensions, at its own cost and expense, to maintain and operate the entire fenced area and areas adjacent, in a clean, safe, wholesome and sanitary condition, free of weeds, trash, garbage or obstruction of any kind, and in compliance with any and all present and future laws, rules or regulations of any governmental authority, now or at any time during the term of this License Agreement in force, relating to sanitation or public health, safety or welfare.

b. Licensee shall be solely responsible for providing all services, equipment, supplies, and personnel for the construction, administration, staffing, operation, maintenance and repair of the Use Area. Licensee shall comply with all labor laws and tax laws.

Any and all improvements, alterations, or additions, whether major or minor to be undertaken, shall be administered as directed in Paragraph 11 below.

9. Utility Improvements: Utility services may be installed by Licensee and all utility services will be separately metered. Said separate meters and utility services will be installed by Licensee at Licensee's sole cost and expense.

Licensee will contact Underground Service Alert (USA), a State agency, to facilitate the marking of the Use Area where underground utility lines reside (electrical, gas,

water, fiber-optic cables, etc.). Licensee will avoid underground utilities, as indicated by USA markings, when performing any improvements at the Use Area.

Licensee agrees to work with the RTA to coordinate the installation of such utilities on the Use Area as to minimize any destruction and/or disruption to the adjacent lessee.

10. Ownership of Improvements: Title to improvements on the Use Area at the License Agreement Commencement Date is retained by the RTA. This License Agreement is subject to any rights of ownership in the improvements. The ownership of any and all additional alterations, additions and approved improvements constructed by Licensee, if any, shall remain in Licensee until expiration, or sooner termination, of the Term, including any extended Term, of this License Agreement.

Upon termination of this License Agreement, all alterations, additions and improvements made in, to or on the Use Area shall, without compensation to Licensee, become RTA property free and clear of all claims to or against them by Licensee or any third person, and Licensee shall defend and indemnify the RTA against all liability and loss arising from such claims or from the RTA's exercise of the rights conferred by this paragraph. Any and all additional improvements shall remain upon and be surrendered as a part of the Use Area; provided however, upon the RTA's request, Licensee shall remove those additions, alterations, signs or improvements as may be specified by the RTA, and repair and restore the Use Area to a condition satisfactory to the RTA at Licensee's sole cost and expense prior to expiration of the License Agreement term. Should Licensee fail to remove or dispose of the property as herein provided, the RTA may, at its election, consider such property abandoned or may dispose of same at Licensee's expense, and Licensee shall reimburse the RTA for said expense on demand. Also, at the expiration or earlier termination of this License Agreement, Licensee shall quit and surrender the Use Area including real property improvements in a good state of repair, damage by matters over which Licensee has no control excepted, provided that such exculpatory provisions shall not extend to any risk that Licensee is required to insure against as provided herein.

11. Capital Improvements: Any and all improvements, alterations, or additions, including the improvements specified in Paragraph 8 and 9 above, whether major or minor, to be undertaken hereunder shall be administered as follows:

a. Licensee agrees to submit to the Director for review and approval, all plans including specifications, working drawings, and other information required by the Director, covering the improvement or proposed project. Said plans shall be submitted to the Director for the Director's approval at least fourteen (14) days in advance of submittal

to the City of San Luis Obispo and/or any other regulatory agency having jurisdiction over the Project. Additionally, if any of the improvements require a licensed contractor, Licensee shall submit verification of the appropriate California licensure, registration with the Department of Industrial Relations, and verification of sufficient insurance and bonding of the licensed contractor. If the Director, objects to all or any portion of the proposed plans, the Director shall state the objections specifically, and Licensee shall make the changes specified and resubmit the plans as revised for the Director's approval as herein provided.

Approval and authorization by the Director shall not be unreasonably withheld. Nothing contained herein shall be construed by Licensee to be a waiver by the Director of Licensee's need to acquire building and construction permits including, but not limited to, required permits from the City of San Luis Obispo, the County Environmental Health Department, and other applicable licenses or approvals through governmental processes. The approval of any plans by the Director shall constitute an action of the RTA in its proprietary capacity only and shall in no way excuse Licensee from complying with any laws, rules, regulations, and ordinances regarding the development and use of the Use Area. Further, no approval by the Director shall limit the exercise of discretion in the review process by any City or County officer, board, or commission, or the RTA Board of Directors.

b. Upon issuance of a building permit from the City of San Luis Obispo, Licensee shall deliver to the RTA the Final Construction Drawings approved by the City.

c. Upon completion of construction of the any improvements and issuance of a Notice of Completion by the City of San Luis Obispo, Licensee shall deliver to the RTA the Final Plans approved by the City.

d. Director shall have the right to perform a final inspection of the Use Area and if it is determined that the Use Area is in compliance with the aforementioned terms and conditions, the Director shall issue a written statement of compliance acknowledging completion of the Project consistent with the terms of this License Agreement. Nothing herein shall be construed to be a waiver by the Director of Licensee's need to obtain final inspections and approvals from other required entities. Licensee shall protect the Use Area from any lien or charges whatsoever, by reason of said capital improvements. Any improvements shall comply with current prevailing wage laws, as applicable. Licensee shall be solely liable for said compliance and shall defend and indemnify the RTA against any claim to the contrary.

e. Licensee shall be required to follow all applicable federal guidelines on performance security to ensure the improvements are constructed pursuant to any

approved design. In the event legal action is required to enforce performance, Licensee will pay to the RTA its reasonable attorney's fees and costs as determined by a court of law.

12. Signs: Licensee, at its sole cost and expense, subject to prior written approval by Director may place signs on the Use Area. Signs shall conform to any and all sign ordinances of the City of San Luis Obispo.

13. Licensee's Personal Property: Title to all personal property, moveable furniture, and movable equipment provided by Licensee will remain in Licensee's ownership. Furniture and equipment affixed to the real property in any way will be considered a capital improvement and will be subject to the terms of Paragraph 9 above. Upon the removal of personal property by Licensee, whether such removal is upon termination of this License Agreement or at any time prior thereto, Licensee will repair all damage to the Use Area caused by the addition or removal of such property. The RTA will not be obligated to repair, restore, refurbish, or otherwise incur any expense regarding personal property of Licensee. If Licensee elects to attach personal property to the Use Area that Licensee does not wish to be considered a capital improvement, a written request to exclude this personal property from capital improvements will be submitted to Director for written approval prior to installation of the personal property.

14. Equipment and Fixtures: The RTA shall not be obligated to repair, restore, refurbish, or otherwise incur any expense in improving and/or changing the condition of the equipment, fixtures, furnishings, inventory, or other personal property of Licensee.

15. Title: Licensee hereby acknowledges that fee title to the Use Area is vested in the RTA and hereby covenants and agrees never to challenge, contest or resist said title. Licensee may not acquire any right to the Use Area by adverse possession or otherwise. The parties agree that the RTA is not transferring a leasehold interest in the Use Area to Licensee by virtue of this License Agreement.

16. RTA's Personal Property: RTA shall retain title to all RTA's personal property at the Use Area and Licensee will maintain said personal property during the term of this License Agreement. Any improvements hereafter added by the RTA, at the RTA's expense, will remain the personal property of the RTA.

17. Utility Expenses: Licensee shall pay, during the term of this License Agreement and any extensions or renewals thereof, all charges for utility services used on the Use Area, including but not be limited to, water, sewer, trash, electric, gas, internet and telephone.

18. Utility Conservation: Licensee will not waste electricity or water and agrees to cooperate fully with the RTA to assure the most effective and economical use of utility services provided to the Use Area.

19. Janitorial: Licensee shall be solely responsible for complete janitorial services and the furnishing of janitorial supplies to the Use Area including rubbish and trash removal, and weed abatement at the Use Area including along the frontages of Prado Road and Elks Lane.

20. Maintenance and Repairs: Licensee will be responsible for all costs of operations, maintenance and repairs to the Use Area and any and all improvements, alterations and additions, including, but not limited to, landscaping, fencing, lighting (exterior and interior), electrical, gas, plumbing, heating and air conditioning, roofing, paint, windows, doors, landscaping, and asphalt. If within fifteen (15) days of written notification by the RTA, Licensee fails or neglects to commence maintenance and/or repair obligations as requested by the RTA, the RTA may, at its option, perform such necessary maintenance and/or repairs and bill Licensee for actual cost of said maintenance. Licensee shall promptly reimburse the RTA upon the RTA's written request.

In the event of an emergency, the RTA may take action on the Use Area as may be required for the protection of persons or property, and Licensee will reimburse the RTA for the RTA's reasonable expenses related to the emergency action. Licensee shall, at all times and at Licensee's expense, do all things reasonably necessary to protect the Use Area used by Licensee. Licensee shall not grant, with respect to the Use Area easements, rights-of-way, licenses or permits.

21. Safety: Licensee will immediately correct any unsafe condition of the Use Area as well as any unsafe practices occurring thereon. Licensee will obtain emergency medical care for any member of the public who is in need thereof because of illness or injury. Licensee will operate the Use Area in a manner to protect the health, safety, and welfare of the general public. Licensee agrees to take all reasonable precautions to protect the Use Area from damage, theft, vandalism and other such hazards.

22. Employees of Licensee: All employees, agents, assignees and sub-lessees of Licensee will be appropriately licensed when required by law. All such employees, agents, assignees and sub-lessees will be employees, agents, or assignees of Licensee only and will not in any instance be, or be construed to be, employees, agents, or assignees of the RTA.

23. Smoke Free Workplace: Licensee shall comply with and observe any and all applicable statutes, ordinances, rules and regulations, including, those of the federal, state, municipal, County or other public authority regulating smoking on the Use Area, including

those statutes, ordinances, rules and regulations applying to buildings or structures owned, leased or otherwise operated by the RTA to conduct RTA business. Notwithstanding any smoking prohibition set forth by County ordinance, Licensee may request written approval of a designated smoking area by the County Public Health Officer, if permitted by law or statute.

24. Drug Free Workplace: Licensee and its employees will comply with all laws related to a drug free workplace. Neither Licensee nor its employees will unlawfully manufacture, distribute, dispense, possess, or use controlled substances, including but not limited to marijuana, heroin, cocaine, methamphetamine, or amphetamines at any of Licensee's facilities or RTA's facilities or work sites.

25. Illegal Harassment Warranty: Licensee has a duty and obligation to fully train its employees regarding behavior prohibited by law that constitutes any illegal harassment, including but not limited to, discriminatory harassment, sexual harassment and gender harassment.

26. Licensee's Responsibility for Compliance: Licensee shall at all times observe and comply with, and shall cause all his agents, employees and sublessors to observe and comply with all present and future laws, statutes, ordinances, regulations, rules, resolutions, or other binding enactments of any governmental authority, now or at any time during the term of this License Agreement and any extensions thereof. If any future policies and procedures are passed by the RTA Board of Directors and said policy enactment has any impact fiscal or otherwise on Licensee, and if Licensee does not make a timely objection to the RTA during course of policy process, Licensee will be deemed to have waived any right to object at a later time and waives all damages flowing therefrom. Licensee shall and does hereby assume responsibility for payment of any and all licenses applicable to Licensee's operation on the Use Area.

27. Non-Discrimination: Licensee shall not discriminate against any person or class of persons in violation of the Civil Rights Act of 1964 as amended or any other applicable laws prohibiting discrimination in the use of the Use Area.

28. Americans With Disabilities Act: Licensee shall be responsible for new construction and any alterations to the Use Area which are necessary to comply with the Americans With Disabilities Act of 1990, 42 U.S.C. sect. 12101 et seq., as currently enacted and in accordance with applicable laws.

29. Public Records: Any and all written information submitted to and/or obtained by the RTA from Licensee or any other person or entity having to do with or related to this License Agreement and/or the Use Area, either pursuant to this License

Agreement or otherwise, at the option of the RTA, may be treated as a public record open to inspection by the public pursuant to the California Records Act (Government Code Section 6250 et seq.), as now in force or hereafter amended, or any Act in substitution thereof, or otherwise made available to the public and Licensee hereby waives, for itself, its agents, employees, subtenants, and any person claiming by, through or under Licensee, any right or claim that any such information is not public record or that the same is trade secret or confidential information and hereby agrees to indemnify and hold harmless from any and all claims, demands, liabilities, and/or obligations arising out of or resulting from a claim by Licensee or any third party that such information is a trade secret, or confidential, or not subject to inspection by the public, including without limitation reasonable attorneys' fees and costs.

30. Business Hours: It is understood and agreed that the hours of Licensee's business operations shall be defined in Licensee's permit with the City. If required by the City or another governmental/regulatory agency, Licensee shall propose idle reduction strategies, air pollution control strategies, and noise-reduction techniques in its permit that will go into effect at the time the permit is executed in order to reduce noise and/or pollution impacts.

31. Indemnification: To the fullest extent permitted by law, Licensee shall indemnify, defend, and hold harmless the RTA and its officers, agents, employees, and volunteers from and against all claims, demands, damages, liabilities, loss, costs, and expense (including attorney's fees and costs of litigation) of every nature arising out of or in connection with Licensee's performance or attempted performance of any obligation or duty provided for or relating to this License Agreement and/or the Use Area, except such loss or damage which was caused by sole negligence or willful misconduct of the RTA. It is the intent of the parties to provide the RTA the fullest indemnification, defense, and hold harmless rights allowed under the law. If any word(s) continued herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this License Agreement and the remaining language shall be given full force and effect.

32. Insurance: Licensee shall obtain and maintain for the entire term of the License Agreement and Licensee shall not perform any work under this License Agreement until after Licensee has obtained insurance complying with the provisions of this paragraph. Said policies shall be issued by companies authorized to do business in the State of California. Licensee shall maintain said insurance in force at all times. The following coverage with the following features shall be provided:

a. Commercial Liability Insurance: Licensee shall maintain in full force and effect for the period covered by this License Agreement, commercial liability insurance. This insurance shall include, but shall not be limited to, comprehensive general and automobile liability insurance providing protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from any act or occurrence arising out of Licensee's operations in the performance of this License Agreement, including, without limitation, acts involving vehicles. The policy shall be in the form of Insurance Services Office (ISO) Form CG 00 01 covering commercial general liability on an "occurrence" basis for bodily injury and property damage, personal injury and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this location or the general aggregate limit shall be twice the required occurrence limit. The following endorsements must be attached to the policy:

- i. If the insurance policy covers on an "accident" basis, it must be changed to "occurrence".
- ii. The policy must cover personal injury as well as bodily injury.
- iii. Blanket Contractual liability must be afforded and the policy must contain a cross liability or severability of interest endorsement.

b. Workers' Compensation Insurance: In accordance with the provisions of sections 3700 et seq. of the California Labor Code, if Licensee has any employees, Licensee is required to be insured against liability for workers' compensation or to undertake self-insurance. Licensee agrees to comply with such provisions before commencing the performance of this License Agreement.

c. Primary Coverage. For any claims related to this License Agreement, Licensee's insurance coverage shall be primary insurance as respect to the RTA, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the RTA, its officers, officials, employees, or volunteers shall be excess of the Licensee's insurance and shall not contribute with it.

d. Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the RTA.

e. Waiver of Subrogation. Licensee hereby grants to the RTA a waiver of any right to subrogation which any insurer of said Licensee may acquire against the RTA by virtue of the payment of any loss under such insurance. Licensee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision

applies regardless of whether or not the RTA has received a waiver of subrogation endorsement from the insurer.

f. Additional Insureds to Be Covered: The commercial general liability policies shall name "San Luis Obispo Regional Transit Authority, its officers and employees" as additional insureds. The policy shall provide that the Licensee's insurance will operate as primary insurance and that no other insurance maintained by the RTA, or additional insureds will be called upon to contribute to a loss hereunder.

g. Certification of Coverage: Within fifteen (15) calendar days of the first day of the commencement date of this License Agreement, Licensee shall furnish the RTA with the following for each insurance policy required to be maintained by this License Agreement, and annually thereafter:

i. A copy of the Certificate of Insurance shall be provided. The certificate of insurance must include a certification that the policy will not be canceled or reduced in coverage or changed in any other material aspect without thirty (30) days prior written notice to the RTA.

ii. A Workers' Compensation certificate of insurance must be provided.

iii. Upon written request by the RTA, the Licensee shall provide a copy of the complete insurance policy.

iv. Approval of Insurance by the RTA shall not relieve or decrease the extent to which the Licensee may be held responsible for payment of damages resulting from Licensee's services or operations pursuant to this License Agreement. Further, the RTA's act of acceptance of an insurance policy does not waive or relieve Licensee's obligations to provide the insurance coverage required by the specific written provisions of this License Agreement.

33. Effect of Failure or Refusal: If Licensee fails or refuses to procure or maintain the insurance required by this License Agreement, or fails or refuses to furnish the RTA with the certifications required by subparagraph G above, the RTA shall have the right, at its option, to forthwith terminate the License Agreement for cause.

34. Taxes: Any personal or real property taxes assessed due to Licensee's occupancy of the Use Area shall be the sole responsibility of Licensee and shall be promptly paid by Licensee to the taxing authority.

35. Notices: Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by certified or registered mail as follows:

To the Licensee at:

<<licensee name>>
<<Attn: name>>
<<mailing address>>
<city, state, zip>>

To the RTA at: San Luis Obispo Regional Transit Authority
Attn: Executive Director
179 Cross Street
San Luis Obispo, CA 93401

The address to which the notices may be mailed as aforesaid by either party may be changed by written notice given by such party to the other as herein before provided, but nothing herein contained shall preclude the giving of any such notice by personal service.

36. Termination and Breach: If any of the following occur, the Director shall have the right to terminate this License Agreement effective immediately for cause upon giving written notice to Licensee:

- a. Licensee fails to perform its duties to the satisfaction of the Director including the accumulation of multiple less-significant instances of failure to perform in accordance with this License Agreement; or
- b. Licensee fails to fulfill in a timely and professional manner its legal and contractual obligations under this License Agreement.

At the discretion of the Director, Licensee may be allowed ten (10) days after receiving written notice to correct any breach hereunder. Failure to correct the breach will result in immediate possession of the Use Area. The exercise of the remedies provided for in this section shall be cumulative and in no way affect or replace other remedies available to the RTA.

37. Waiver of Claim: Licensee hereby unconditionally waives any claim against the RTA, its officers, agents or employees for damage or loss caused by any suit during the term of this License Agreement or in the future. Any action, proceeding or claim, directly or indirectly, attacking the validity of this License Agreement, or any part thereof, shall be the sole responsibility and liability of Licensee.

38. Limitation of Actions: Licensee shall have no other legal or equitable rights, entitlements or interests other than those expressly stated in this License Agreement. This will apply regardless of any information exchanged or representations made by RTA staff or others during negotiations, prior to execution, or after execution. No representation by RTA

staff shall be binding unless said provision is in writing and signed by the RTA Board of Directors prior to the effective date.

39. Lost Revenue: If the Use Area is closed for any reason including, but not limited to, war, armed conflict, public emergency, public nuisance, calamity, fire, earthquake, flood, act of God, strike, or similar act which shall prevent performance of this License Agreement in accordance with the rights and privileges granted herein, RTA shall not be liable to Licensee for any lost revenues. If Licensee's business is interrupted, the RTA shall not be liable to Licensee for any lost revenues or claims against Licensee from third parties including, but not limited, to Licensee's employees.

40. Eminent Domain: If the whole of the Use Area shall be taken or condemned by any competent authority under power of eminent domain for a public or quasi-public use or purpose, then the license given shall cease and terminate as of the date actual physical possession of the Use Area is taken by the condemnor. All compensation and damages awarded for such total taking shall belong to and be the sole property of the RTA. In the event that there shall be partial taking of the Use Area during the term of this License Agreement under the power of eminent domain, this License Agreement shall terminate as to that the portion of the Use Area so taken on the date when actual physical possession of said portion is taken by the condemnor, but this License Agreement shall at the RTA's option, continue in force and effect. The compensation and damages for such partial taking shall belong to and be sole property of the RTA. .

41. Destruction of Use Area: Should any matter or condition beyond the control of the parties hereto, such as war, public emergency, or calamity, fire, earthquake, flood, act of God, strike, or any other labor disturbance prevent performance of this License Agreement in accordance with the rights and privileges granted herein, this License Agreement shall immediately be terminated and the RTA shall be under no obligation to Licensee by reason of said matter or condition.

Should any aforementioned matter or condition create eligibility for Federal, State or any other governmental jurisdictional relief assistance and/or aid, both parties agree to take all reasonable steps necessary to procure such assistance and/or aid, in their respective capacities at the time of such application.

42. Hazardous Waste: Licensee shall at all times and in all respects comply with all federal, state and local laws, ordinances and regulations (Hazardous Materials Laws) relating to industrial hygiene, environmental protection, or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, fuels, gasoline, flammable explosives, asbestos, UREA formaldehyde, radioactive materials or waste, or other

hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any "hazardous substances," "Hazardous wastes," "hazardous materials" or "TOXIC SUBSTANCES" under such laws, ordinance or regulations (collectively Hazardous Materials). Licensee shall, except in the event of the RTA's sole negligence, indemnify, defend, protect and hold the RTA, each of the RTA's officers, directors, employees, agents, attorneys, successors and assigns, free and harmless from and against any and all claims, liabilities, penalties, forfeitures, losses or expenses or death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly by: (a) the presence in, on, under or about the Use Area or discharge in or from the Use Area of any Hazardous Materials or Licensee's use, analysis, storage, transportation, disposal, release, threatened release, discharge or generation of Hazardous Materials, to, in, on, under, or about or from the Use Area, or (b) Licensee's failure to comply with any Hazardous Materials law. Licensee's or the RTA's obligations hereunder shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary repair, clean-up, or detoxification or decontamination of the Use Area, and the preparation and implementation of any closure, remedial action or other required plans in connection therewith caused by Licensee and the RTA and shall survive the expiration or earlier termination of the term of this License Agreement. For purposes of the release and indemnity provisions hereof, any acts or omissions of the RTA, or by employees, agents, assignees, lessors, or sublessors of the RTA or others acting for or on behalf of the RTA (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to the RTA.

43. Storm Water Control Plan and Storm Water Management: Licensee shall adhere to the requirements of the State Water Resources Control Board (State Board) that governs stormwater and non-stormwater discharges pertaining to the Use Area. Activities performed on the Use Area shall conform to all current and future requirements established by the State Board. Further, Licensee shall be responsible for developing a new Stormwater Pollution Prevention Plan (SWPPP) including a Spill Response Plan that is acceptable to the RTA and the City of San Luis Obispo, for Licensee's use of the Use Area. In order to verify compliance with the measures in the SWPPP, the Licensee shall allow the RTA to inspect the Use Area up to twice annually and will cooperate with the RTA to correct any violations to the SWPPP and fulfilling the reporting requirements to the State Board. Failure to correct any violation and/or cooperate with the RTA in fulfilling these requirements will be deemed a failure of performance as defined in section 37 of this agreement.

44. Severability: The invalidity of any provision of this License Agreement shall not affect the validity, enforceability of any other provisions of this License Agreement.

45. Law: This License Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this License Agreement shall be determined and governed by the laws of the State of California.

46. Venue: San Luis Obispo County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this License Agreement.

47. Authority to Execute this License Agreement Any individual executing this License Agreement on behalf of Licensee represents and warrants that he/she is duly authorized to execute and deliver this License Agreement on behalf of the Licensee, and that this License Agreement is binding upon Licensee in accordance with its terms.

48. Waiver of License Agreement Terms: No waiver by either party at any time of any of the terms, conditions or covenants of this License Agreement shall be deemed as a waiver at any time thereafter of that same or of any other terms, condition or covenant herein contained, nor of the strict and prompt performance thereof. No delay, failure or omission of the RTA to re-enter the Use Area or to exercise any right, power or privilege or option arising from any default, nor any subsequent acceptance of rent than or thereafter accrued shall impair any such right, power or privilege or option or be construed as a waiver of such default or a relinquishment of any right or acquiescence therein. No notice to Licensee shall be required to restore or revive after the waiver by the RTA of any default. No option, right, power, remedy or privilege of the RTA shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options and remedies given to the RTA by this License Agreement shall be deemed cumulative.

49. Assignment of License Agreement: Licensee will not assign, transfer, or delegate this License Agreement or any interest therein. Any attempt by Licensee to transfer this License Agreement will terminate it.

50. Entire Agreement and Modifications: This License Agreement and the attached Exhibits herein made a part of this License Agreement by reference, embodies the whole License Agreement between the parties hereto as it pertains to the subject real property and there are no promised terms, conditions, or obligations referring to the subject matter hereof, other than as contained herein. Any alterations, changes or modifications to this License Agreement must be in writing and executed by both Licensee and the RTA.

//////////////////NOTHING FURTHER EXCEPT SIGNATURES PAST THIS POINT /////
//////////

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement
this _____ day of _____, 2019.

**SAN LUIS OBISPO REGIONAL TRANSIT
AUTHORITY**

LICENSEE

By:

Legal Name of Organization:

President of the RTA Board of Directors

APPROVED BY THE BOARD OF
SUPERVISORS

By:

This _____ day of _____, 2019

Authorized Representative

ATTEST:

Date:

Clerk of the RTA Board of Directors

APPROVED AS TO FORM AND LEGAL
EFFECT:

By: _____

NINA NEGRANTI
RTA Legal Counsel

Date: _____

Exhibit A – Proposal Submitted by Licensee in Response to the RTA’s RFP