



RTA BOARD AGENDA

Wednesday, July 10, 2019 at 8:30 AM
BOARD OF SUPERVISORS' CHAMBERS
COUNTY GOVERNMENT CENTER
1055 Monterey Street, San Luis Obispo, California 93401

The *AGENDA* is available/posted at: <http://www.slorta.org>

President: Fred Strong

Vice President: John Peschong

Board Members:

John Peschong (First District – SLO County)
Bruce Gibson (Second District – SLO County)
Adam Hill (Third District – SLO County)
Lynn Compton (Fourth District – SLO County)
Debbie Arnold (Fifth District – SLO County)
Jimmy Paulding (Arroyo Grande)

Heather Moreno (Atascadero)
Jeff Lee (Grover Beach)
Robert Davis (Morro Bay)
Fred Strong (Paso Robles)
Ed Waage (Pismo Beach)
Andy Pease (San Luis Obispo)

Individuals wishing accessibility accommodations at this meeting under the Americans with Disabilities Act (ADA) may request such accommodations to aid hearing, visual, or mobility impairment (including Limited English Proficiency [LEP]) by contacting the RTA offices at 781-4833. Please note that 48 hours advance notice will be necessary to honor a request.

FLAG SALUTE

CALL MEETING TO ORDER, ROLL CALL

PUBLIC COMMENT: The Board reserves this portion of the agenda for members of the public to address the San Luis Obispo Regional Transit Authority Board on any items not on the agenda and within the jurisdiction of the Board. Comments are limited to three minutes per speaker. The Board will listen to all communication, but in compliance with the Brown Act, will not take any action on items that are not on the agenda.

A. INFORMATION AGENDA

- A-1 Executive Director's Report (Receive)
- A-2 Analysis of Runabout Trip Patterns (Receive)
- A-3 RTA Bus Maintenance Facility Update on Design & Financing (Receive)

B. ACTION AGENDA

- B-1 **Public Hearing:** Equity Analysis for Bus Maintenance Facility Project (Action)
- B-2 Relinquish FTA Funds for Downtown Transit Center Property Purchase (Approve)

C. CONSENT AGENDA: (Roll Call Vote) the following items are considered routine and non-controversial by staff and will be approved by one motion if no member of the RTA or public wishes an item be removed. If discussion is desired by anyone, the item will be removed from the consent agenda and will be considered separately. Questions of clarification may be made by RTA Board members, without the removal of the item from the Consent Agenda. Staff recommendations for each item are noted following the item.

- C-1 RTA Board Meeting Minutes of April 3, 2019 (Approve)
- C-2 RTA Board Meeting Minutes of May 1, 2019 (Approve)
- C-3 RTA Board Meeting Minutes of June 5, 2019 (Approve)
- C-4 CalTIP JPA and Bylaws Revisions (Approve)
- C-5 Agreement with Bond Counsel (Approve)
- C-6 MOU with Caltrans Regarding DBE Reporting (Approve)
- C-7 Financing the Bus Maintenance Facility (Approve)
- C-8 Agreement for Bus Maintenance Facility Commissioning Services (Approve)
- C-9 Agreement for Use of Demonstration BYD Battery-Electric Bus (Approve)
- C-10 Amendment to Agreement with Stantec for Environmental Planning Services (Approve)
- C-11 Paso Robles Bus Parking Yard Mitigations Monitoring Report (Receive)
- C-12 Update to RTA Disadvantaged Business Enterprise Program (Approve)

D. CLOSED SESSION: – CONFERENCE WITH LEGAL COUNSEL: It is the intention of the Board to meet in closed session concerning the following items:

None

E. BOARD MEMBER COMMENTS

Special RTA Board meeting on August 7, 2019 (following SLOCOG meeting)

Next regularly-scheduled RTA Board meeting on September 4, 2019

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

July 10, 2019

STAFF REPORT

AGENDA ITEM: A-1

TOPIC: Executive Director's Report

ACTION: Receive

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Accept as Information

BACKGROUND/DISCUSSION:

Operations:

Director Strong joined us to celebrate the Employee of the Quarter BBQ on May 10 and to award the EOQ to RTA Bus Operator Rick Webb. We will acknowledge Mr. Webb's achievements at the July 10th Board meeting. Board members are encouraged to attend the next celebration scheduled for August 2nd. That will be an especially important event, since we will be celebrating 10 years of in-house operations and the many employees who have been with us the entire period.



Since the previous RTA Board meeting, three new Bus Operator candidates completed training and are operating in revenue service. Please join me welcoming Scott, Tina and Lori to the RTA team. We currently have two candidates in the six-week training program and three going through background check process; these candidates/prospects will help us fill the six open Bus Operator positions.

Unfortunately, two journey-level Technicians left the organization in June – one took a maintenance supervisor position in Bakersfield, while the other fulfilled his goal of entering the police academy. We are currently conducting the recruitment process to fill these two important positions.

Service Planning & Marketing:

After consulting with the Regional Transit Advisory Committee (RTAC) chair, we decided to cancel the quarterly RTAC meeting originally set for July 18th. There were no pressing issues to discuss.

Staff has arranged for another BYD Corporation battery-electric bus demonstration bus the week of July 15. We plan to operate it in revenue service on Route 9 to evaluate its range and other operating characteristics. Because it is a demonstration bus, we are unable to install a farebox – so we will advertise it as a fare-free service and ask that riders text or email their impressions. An agreement to use the bus is included as Agenda Item C-9.

The CA Public Utilities Commission is currently reviewing a transportation electrification rate proposal submitted by PG&E in November 2018. PG&E asserts that its new rate proposal for transit fleets will reduce the cost of operating battery-electric buses by 30% compared to current rate structures, reducing the cost of electricity as a transportation fuel to below the cost of diesel. The proposal includes two rates: monthly “subscription charge” and a time-of-use “volumetric” charge. This rate scenario is similar to how cell phone plans are offered, although the PG&E proposal encourages smart-charging during hours of low-demand and greater grid capacity. RTA staff is working closely with our legislative advocates at the California Transit Association to determine how this new rate plan could affect the RTA as we move toward full implementation of the Innovative Clean Transit fleet rule starting in 2026. The PUC is expected to rule on PG&E’s rate proposal in September 2019.

On June 24th, RTA Marketing and Community Relations Manager and SLOCOG’s Sarah Woolsey participated in the 2019 National Summer Transportation Institute’s Science, Technology, Engineering and Math (STEM) Summer Camp program. Caltrans awarded a grant to Cuesta College to run a two-week long summer day camp for SLO County disadvantaged girls. These were 6th grade girls (ages 9 & 10) from around the County who have shown strong math skills. Cuesta College’s goal is to motivate local



girls to go to college in the STEM fields. Mary and Sarah presented a short lesson on how to read a bus schedule and how to ride the bus, and then talked about some college level careers in transportation. For each job, they focused on *What She Does and Why She is Important*. It was great conversation about the future of transportation with the girls asking some thoughtful and really insightful questions. And then to keep it fun, they took an RTA bus to a Cayucos beach for a sack lunch. The women who run

the camp said that ours was one of the most engaging days planned and they selected our day to be the one that the grant managers were there to evaluate the program. Everyone seemed very pleased with the program, and hopefully they are awarded the grant to hold it again next year.

Downtown Transit Center Upgrade Project Update:

The design/engineering drawings are complete and have been accepted by the City and County. However, as reported earlier, the engineer's construction cost estimate is higher than what we originally budgeted. So we included the gap-funding in the adopted FY18-19 budget and included the federal request as part of our annual formula grant in May. We should hear back from the FTA in late-July and we can bid the construction shortly thereafter. If all goes as planned, we will present a draft agreement with the low-bid contractor at the September RTA Board meeting.

On July 15th, we will install the Ticket Vending Machine in the hallway inside the County Public Works building. That will give us a chance to work out any kinks with the system before moving it outdoors to the upgraded passenger facility in late 2019.

Update on Consolidation of SoCo Transit into the RTA:

Staff will reignite efforts to consolidate SoCo Transit into the RTA with a planned implementation date of January 1, 2020. This will allow sufficient time to present the issue to each jurisdiction. We will contact each municipal clerk in the coming weeks to:

1. Pass a resolution to adopt the amended and restated Joint Powers Agreement for the San Luis Obispo Regional Transit Authority, and
2. Pass a resolution terminating the current Joint Powers Agreement for South County Area Transit (only by the four SoCo jurisdictions).

Once resolutions are completed for all jurisdictions, staff will file necessary paperwork with the California Secretary of State, and bring an budget amendment to the RTA Board at its November 2018 meeting that includes South County services as a separate "silo" in the budget document.

Finance and Administration:

The RTA and SoCo Transit have been long-time members of the California Transit Indemnity Pool, which is comprised of 30+ transit agencies throughout the state. CalTIP provides both liability and physical damage coverage, as well as a range of on-site risk management training services provided to our staff. RTA Deputy Director Tania Arnold has served on the Finance Committee for many years, and she has served as CalTIP's elected Treasurer since 2017. I have served on the CalTIP Oversight Committee since 2016 and, in 2017 I was elected by my peers to serve as CalTIP's Vice-President of the

Board. Last month, I assumed the CalTIP Board President position upon the retirement of Culver City Transit Manager Art Ida.

On June 27th, Governor Gavin Newsom signed AB 74, the state's FY19-20 budget. Included in the budget are several line-items that will be critical to implementation of the California Air Resources Board's Innovative Clean Transit fleet rule regulation. These include: \$182 million for ARB incentives that reduce the cost of zero-emission buses, trucks and off-road freight equipment; and, \$245 million for air quality management districts statewide for incentives to reduce mobile and stationary sources of emissions, like buses. This funding is expected to be available to transit agencies later this year.

Our operating and financial results through the first ten months of FY18-19 are presented in the graphs and tables on pages A-1-6 through A-1-9. This information is summarized as follows:

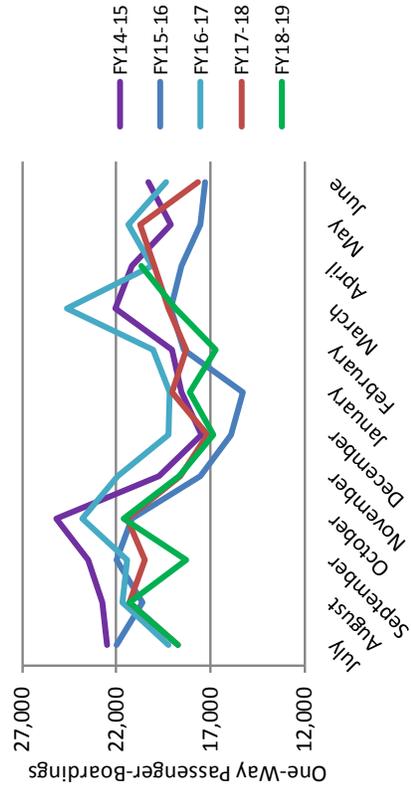
- RTA core fixed-route ridership totaled 589,032 through the end of April 2019. In comparison, the ridership for the same period last year was 604,028, which represents a decline of 2.5%.
- Runabout ridership totaled 33,217, which is essentially the same as the first ten months of the previous year (33,066). Staff will continue to look for ways to reduce Runabout demand and/or reduce costs for this highly-subsidized and federally mandated program.
- Trends over the past five years for productivity, which is defined as the average number of passenger-boardings per service hour, are provided in the graphs on page A-1-7. The results are trending favorably over the past two years.
- In terms of financial results, staff worked hard to keep operating and capital costs within budget in light of the relatively weakened ridership. See the tables on pages A-1-8 and A-1-9 for details. Some important takeaways include:
 - In terms of overall non-capital expenses, we are slightly below budget – 79.0% through 83.3% of the fiscal year.
 - Administrative costs are right on budget (83.1% through 83.3% of the fiscal year).
 - Overall Service Delivery costs equated to 93.8% of YTD budget (78.2% through 83.3% of the year); these costs include both day-to-day operations and vehicle maintenance activities. The major exception is fuel, where we spent 85.6% of the annual budget through the end of April. Fortunately, we are well below budget on parts and third-party repairs (overall 63.5% of budget).

- The farebox recovery ratio for core fixed-route services equated to 18.2%, while Runabout achieved a ratio of 5.0%. The RTA's results for this performance measure below the SBP standard of 25%, yet they are still above the 17.15% TDA requirement established by SLOCOG for FY18-19.
- The YTD subsidy per passenger-trip on core fixed-route services is \$7.49 and for Runabout it was \$78.18. Agenda Item A-2, we present updated information Runabout trip-taking – including updated data for use of fare-free fixed-route services in lieu of using the very expensive Runabout service. When those boardings and the fare payments are included, the overall Runabout-eligible subsidy per passenger-trip is actually quite lower – much more in-line with nationwide experience in larger, more-dense urban areas.

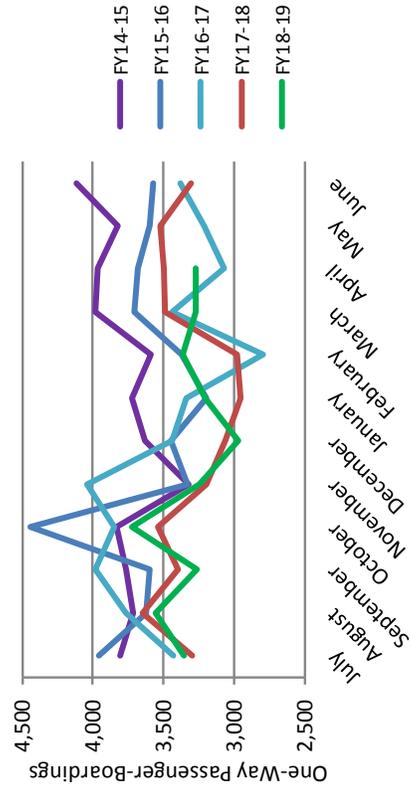
STAFF RECOMMENDATION:

Receive and file report.

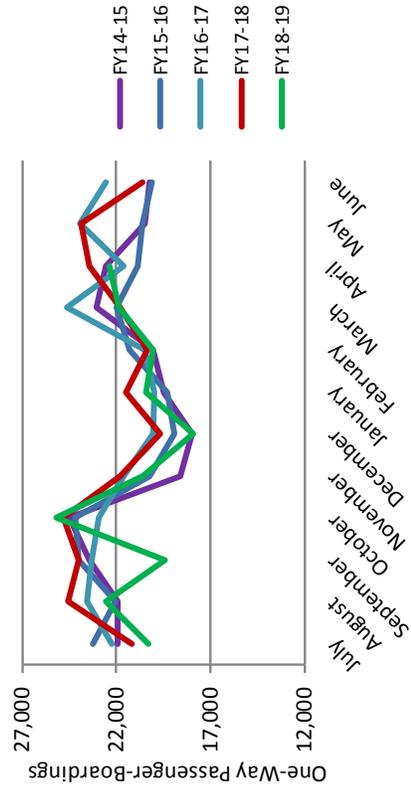
RTA Route 10 Ridership By Month



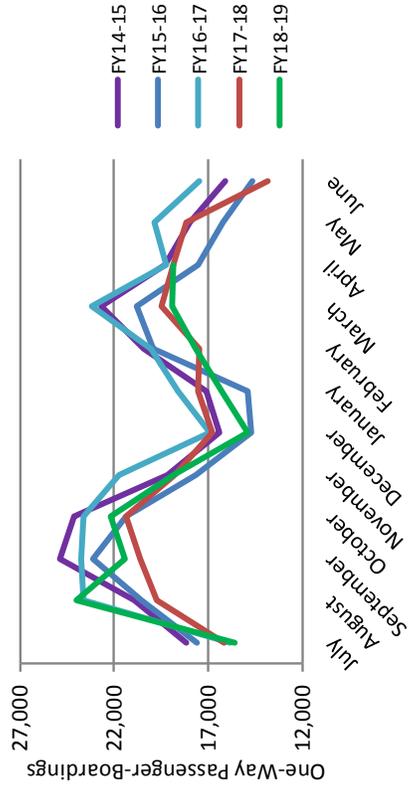
RTA Runabout Ridership by Mo.



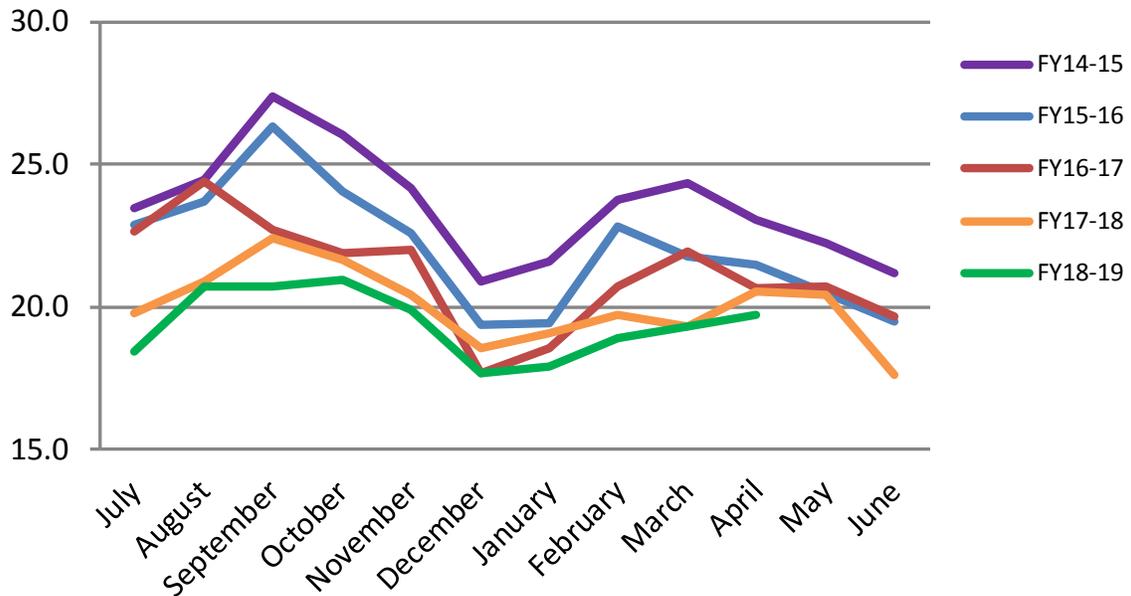
RTA Route 9 Ridership By Month



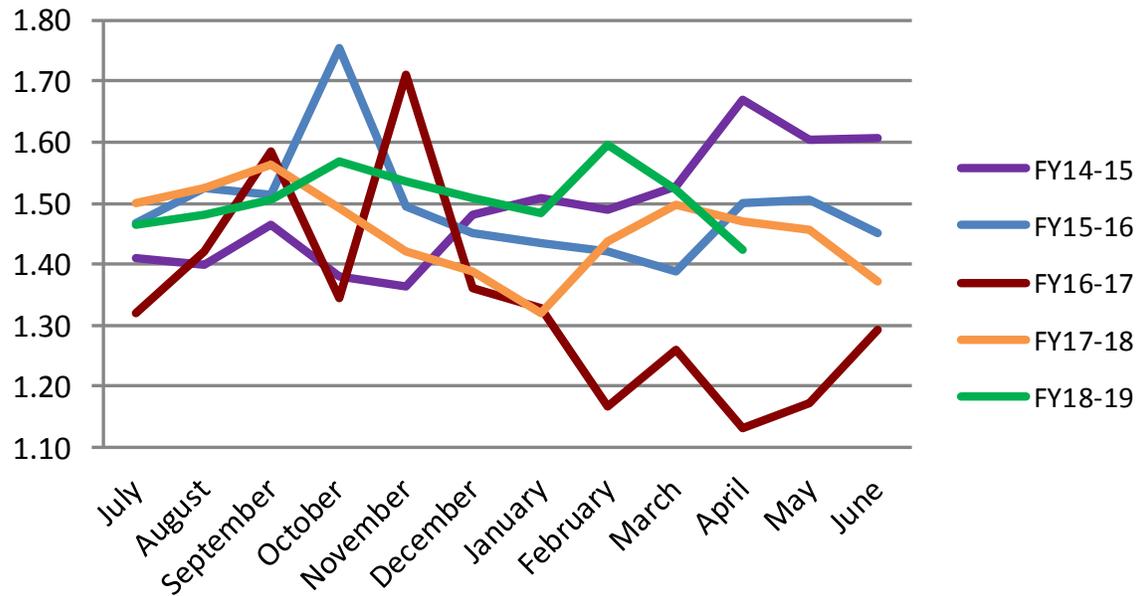
RTA Rtes. 12, 14 & 15 Pass./Mo.



RTA Fixed Route Productivity



RTA Runabout Productivity



	Adopted Budget FY 2018-19	March Actual	April Budget	April Actual	April Variance	Year to Date FY 2018-19	Percent of Total Budget FY 2018-19
Administration:							
Labor							
Labor - Administration Workers Comp							
Office Space Rental							
Property Insurance							
Professional Technical Services							
Operating Expense							
Marketing and Reproduction							
North County Management Contract							
County Management Contract							
SCT Management Contract							
Total Administration	1,624,850	1,35,055	135,404	136,538	(1,134)	1,318,104	81.1%
Service Delivery:							
Labor - Operations							
Labor - Operations Workers Comp							
Labor - Maintenance							
Labor - Maintenance Workers Comp							
Fuel							
Insurance							
Special Transportation (for SLOCAT and Paso)							
Avila Trolley							
Maintenance (parts, supplies, materials)							
Maintenance Contract Costs							
Total Operations	4,556,490	3,79,708	379,101	379,101	606	3,465,225	76.1%
Capital/Studies:							
Computer System Maintenance/Upgrades							
Miscellaneous Capital							
Maintenance Equipment							
Specialized Maintenance Tools							
Desks and Office Equipment							
Vehicle ITS							
Bus Stop Improvements/Bus Stop Solar Lighting Vehicles							
Support Vehicles							
40 Coaches							
Cutaway and Dial A Ride Vehicles							
Runabout Vehicles							
Total Capital Outlay	43,830	1,040	2,100	2,053	47	24,850	56.7%
Contingency							
Interest Expense							
Loan Paydown							
Short Range Transit Plan - Nipomo							
Elks Lane Project							
Management Contracts							
TOTAL FUNDING USES	18,233,490	902,962	1,941,874	1,840,610	101,264	11,476,961	62.9%
TOTAL NON-CAPITAL EXPENDITURES	10,891,620	754,666	1,016,964	973,482	43,482	8,613,257	79.1%

**SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
YEAR TO DATE THRU APRIL 30, 2019
CURRENT FISCAL YEAR - 2018/2019**

	RT 9 P.R., TEMP., ATAS., S.M., CAL POLY, S.L.O.	RT 10 S.M., NIPOMO, A.G., S.L.O.	RT 12 MORRO BAY, CUESTA, SAN LUIS	RT 14 CUESTA, SAN LUIS TRIPPER	RT 15 SAN SIM., CAMBRIA, CAYUCOS, M.B.	TOTAL RTA CORE SERVICES	RT 7 PASO EXPRESS ROUTE A	RT 8 PASO EXPRESS ROUTE B	TOTAL PASO EXPRESS FIXED ROUTE	PASO EXPRESS DIAL A RIDE	RUNABOUT	SYSTEM TOTAL
REVENUES:												
FARES	\$ 293,839	\$ 298,539	\$ 216,677	\$ 16,504	\$ 29,156	\$ 854,714	\$ 55,232	\$ 59,917	\$ 115,149	\$ 5,077	\$ 136,623	\$ 1,111,564
TOTAL ROUTE REVENUES	\$ 293,839	\$ 298,539	\$ 216,677	\$ 16,504	\$ 29,156	\$ 854,714	\$ 55,232	\$ 59,917	\$ 115,149	\$ 5,077	\$ 136,623	\$ 1,111,564
EXPENDITURES:												
ADMINISTRATION	\$ 306,682	\$ 253,439	\$ 166,872	\$ 18,485	\$ 73,183	\$ 818,661	\$ 15,203	\$ 15,035	\$ 30,238	\$ 6,214	\$ 596,003	\$ 1,451,116
MARKETING	23,766	19,724	13,079	1,617	5,798	63,984	-	-	-	-	-	63,984
OPERATIONS/CONTINGENCY	1,035,456	874,406	563,163	63,106	255,206	2,791,336	243,130	241,217	484,347	94,955	1,838,843	5,209,481
FUEL	222,327	217,814	121,863	12,881	66,858	641,743	24,300	24,472	48,772	4,177	136,402	831,094
INSURANCE	132,036	129,353	72,382	7,583	39,757	381,111	15,620	15,761	31,380	3,967	162,191	578,650
TOTAL EXPENDITURES	\$ 1,720,267	\$ 1,494,735	\$ 937,359	\$ 103,672	\$ 440,802	\$ 4,696,835	\$ 298,252	\$ 296,486	\$ 594,737	\$ 109,314	\$ 2,733,439	\$ 8,134,325
FAREBOX RATIO	17.1%	20.0%	23.1%	15.9%	6.6%	18.2%	18.5%	20.2%	19.4%	4.6%	5.0%	13.7%
SERVICE MILES	300,814.1	294,682.2	164,863.7	17,236.6	90,430.5	868,027.1	35,571.7	35,883.4	71,455.1	9,059.0	369,563.0	1,318,104.2
SERVICE HOURS	11,326.8	9,370.7	6,168.7	698.3	2,715.1	30,279.5	2,592.6	2,562.6	5,155.2	1,063.1	22,025.2	58,522.9
RIDERSHIP (Automatic Counters)	210,591	189,739	148,964	18,855	20,883	589,032	44,429	45,799	90,228	2,207	33,217	714,684
RIDERS PER MILE	0.70	0.64	0.93	1.09	0.25	0.68	1.25	1.28	1.26	0.24	0.09	0.54
RIDERS PER HOUR	18.4	20.2	25.0	27.0	8.4	19.5	17.1	17.9	17.5	2.1	1.5	12.2
COST PER PASSENGER	\$ 8.17	\$ 7.88	\$ 6.29	\$ 5.50	\$ 21.11	\$ 7.97	\$ 6.71	\$ 6.47	\$ 6.59	\$ 49.53	\$ 82.29	\$ 11.38
SUBSIDY PER PASSENGER	\$ 6.77	\$ 6.30	\$ 4.84	\$ 4.62	\$ 19.71	\$ 6.52	\$ 5.47	\$ 5.17	\$ 5.32	\$ 47.23	\$ 78.18	\$ 9.83
RIDERSHIP (GFI Fareboxes)	191,991	161,560	131,265	10,997	17,195	513,008	42,900	44,769	87,669	2,207	33,217	636,101
RIDERS PER MILE	0.64	0.55	0.80	0.64	0.19	0.59	1.21	1.25	1.23	0.24	0.09	0.48
RIDERS PER HOUR	17.0	17.2	21.3	15.7	6.3	16.9	16.5	17.5	17.0	2.1	1.5	10.9
COST PER PASSENGER	\$ 8.96	\$ 9.25	\$ 7.14	\$ 9.43	\$ 25.64	\$ 9.16	\$ 6.95	\$ 6.62	\$ 6.78	\$ 49.53	\$ 82.29	\$ 12.79
SUBSIDY PER PASSENGER	\$ 7.43	\$ 7.40	\$ 5.49	\$ 7.93	\$ 23.94	\$ 7.49	\$ 5.66	\$ 5.28	\$ 5.47	\$ 47.23	\$ 78.18	\$ 11.04

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SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

JULY 10, 2019

STAFF REPORT

AGENDA ITEM: A-2

TOPIC: Analysis of Runabout Trip Patterns

ACTION: Receive

PRESENTED BY: Geoff Straw, RTA Executive Director

STAFF RECOMMENDATION: Accept Report

BACKGROUND/DISCUSSION:

Trip patterns have changed over time throughout the Runabout service area, and ridership has declined since its peak of 45,266 in Fiscal Year 2014-15. The Board has supported staff's recommendations over the past decade to implement service, scheduling and fare changes that help improve efficiencies. The analysis below compares trip patterns since the fare structure was significantly revised in February 2015.

Major findings are as follows:

1. Runabout Ridership Declined – a total of the ridership evaluated in 2014 was 38,909, in comparison to 32,900 in 2019. That represents a reduction of 15.4%. This has been a welcome relief from unsustainable gains in the previous few years.
2. Longer-Distance External Trips Declined – external trips now represent 53.0% of total passenger-boardings in 2019, in comparison to 63.1% in 2014. This is likely due to the Board implementing Runabout fares equating to twice that of the zonal fares charged on RTA regional fixed-routes. This reduced demand for longer-distance trips, and saved the region subsidy costs.
3. Reduced Runabout Demand in Morro Bay and SLO – two local efforts contributed to a reduction in Runabout demand: a) agreements to provide fare-free service on SLO Transit in 2016 and Morro Bay Transit in 2017 for Runabout-eligible riders, and b) SLOCOG helped negotiate a new rate for TCRC-funded Ride-On and RTA negotiated “premium” rates for TCRC clients on Runabout service.
4. Route-Deviation Service Successful – in February 2015, the RTA converted the weekday Route 15 service along the North Coast from a traditional fixed-route to

route-deviation. As a result, Runabout declined from roughly 600 roundtrips in 2014 to 100 in 2019. This has saved considerable resources.

5. Demand for North County to SLO Increased Significantly – the demand for Atascadero-SLO service almost doubled, while Paso-SLO went up roughly 50 percent. More strikingly, the ridership within Paso (internal trips) has increased significantly from 1,736 (12.1% of total regional internal trips) to 4,134 (26.7%). RTA will further evaluate the trips by location in the city and increase marketing outreach efforts to those passengers who could instead use Paso Express Dial-A-Ride and/or fixed-route services. On the flip-side, the number of trips between Atascadero and Paso Robles declined significantly. This could be due to the consolidation of Paso Express Route C and the Atascadero El Camino Shuttle into RTA Route 9, which improved the travel options for all riders in North County.

More nuanced and detailed information is discussed below:

Proportional Use by Jurisdiction – To get a better understanding of recent trip patterns in the Runabout service area, staff evaluated a full 12-month period and those data are presented in the tables below. Table 1 shows the origin-destinations for 32,900 Runabout passenger-origins and passenger-destinations between April 1, 2018 and March 31, 2019. It should be noted that these data were obtained through our RouteMatch computerized dispatch program, and it includes both origins and destinations by city or unincorporated community. As indicated, the greatest number of boardings and alightings occurred in San Luis Obispo: 41.1% of total trips. This is consistent with what was reported in July 2014 (40.1%). The other high-use areas are also generally consistent: Paso Robles is ranked second-highest (20.4% vs. 13.5% in 2014), followed by Atascadero (9.7% vs. 9.2% in 2014) and Templeton (5.3% vs. 5.7% in 2014). Templeton's high generation of trips – mostly external/regional – is due primarily to the medical services available at and near the Twin Cities Regional Hospital.

Per Capita Use Changing – An interesting finding is that per capita trip generation has changed over the past five years. Whereas it was the highest in San Luis Obispo in 2014 (0.344 trips per capita), SLO is now ranked second (0.283 in 2019). Staff believes that this reduction is due, in part, to our 2016 agreement to allow Runabout riders to board fare-free on SLO Transit fixed-route buses and the RTA compensates the City at a much lower reimbursement rate than when providing those trips on Runabout vans. Along the same lines, the City of Morro Bay's per capita ranking dropped from third to fifth in 2019, since Runabout riders began boarding fare-free on Morro Bay Transit in 2017. Templeton ranked the highest in 2019 at 0.310 (second in 2014 at 0.309), followed by Paso Robles (third in 2019 and fifth in 2014) and Pismo Beach (fourth in 2019 and seventh in 2014) to round out the current top five.

TABLE 1: Annual Runabout Origin-Destination Analysis, April 2018 through March 2019

Community	Internal Only (within that community)			External			Combined Internal & External			Trips Per Capita (by Census Defined City or Place)			
	Internal Trips	Percent of Internal Trips	Rank	External Trips	Percent of External Trips	Rank	Total Combined Trips	Percent of Combined Trips	Rank	Population	Trips Per Capita	Rank	
SLO County Incorporated Cities in	Arroyo Grande	426	2.8%	4	970	5.8%	7	1,396	4.3%	5	17,971	0.078	8
	Atascadero	1,018	6.6%	3	2,122	12.6%	3	3,140	9.7%	3	29,797	0.105	6
	Grover Beach	48	0.3%	9	1,281	7.6%	5	1,329	4.1%	6	13,524	0.098	7
	Morro Bay	353	2.3%	5	842	5.0%	8	1,195	3.7%	7	10,568	0.113	5
	Paso Robles	4,134	26.7%	2	2,469	14.6%	2	6,603	20.4%	2	31,409	0.210	3
	Pismo Beach	155	1.0%	7	1,009	6.0%	6	1,164	3.6%	8	8,060	0.144	4
	San Luis Obispo	8,834	57.2%	1	4,444	26.4%	1	13,278	41.1%	1	46,997	0.283	2
	Arroyo County Area	0	0.0%	12	10	0.1%	16	10	0.0%	16	Not Avail.	N/A	N/A
	Avila Beach	0	0.0%	12	77	0.5%	13	77	0.2%	13	1,080	0.071	9
	Cambria	0	0.0%	12	75	0.4%	14	75	0.2%	14	6,394	0.012	13
Unincorporated Communities in SLO County	Cayucos	0	0.0%	12	29	0.2%	15	29	0.1%	15	2,847	0.010	14
	Cuesta Area	0	0.0%	12	779	4.6%	10	779	2.4%	10	Not Avail.	N/A	N/A
	Los Osos	143	0.9%	8	810	4.8%	9	953	2.9%	9	15,714	0.061	10
	Nipomo	11	0.1%	10	446	2.6%	11	457	1.4%	11	16,706	0.027	11
	Oceano	0	0.0%	12	108	0.6%	12	108	0.3%	12	7,788	0.014	12
	San Miguel	1	0.0%	11	7	0.0%	17	8	0.0%	17	2,824	0.003	15
	Santa Margarita	0	0.0%	12	1	0.0%	18	1	0.0%	18	7,989	0.000	16
	Templeton	334	2.2%	6	1,381	8.2%	4	1,715	5.3%	4	5,535	0.310	1
	Santa Maria	1	0.0%	11	582	3.5%	#N/A	583	1.8%	N/A	N/A	N/A	N/A
	TOTALS	15,458	100%	N/A	17,442	100%	N/A	32,900	100%	N/A	225,203	0.146	

Detailed Runabout travel within communities and between communities is provided in Tables 2 and 3 at the end of this report. As shown, San Luis Obispo generates the greatest number of trips, while some of the more outlying communities generated no Runabout trips. The internal trips within Paso Robles increased the greatest amount – from 1,736 in 2014 (12.1% of total internal trips) to 4,134 in 2019 (26.7%). Another trip pattern that stands out is the steady number of trips between Atascadero and Templeton – roughly 500 roundtrips annually – over the past five years.

Another important performance measure is the high number of Runabout-eligible registrants who ride fixed-routes fare-free under agreements with each fixed-route operator in the county. As shown in Table 4 at the end of this report, a total of 22,649 boardings were logged. This is more than two-thirds of the trips provided on Runabout vans and represents a significant cost-avoidance.

Steps Staff Will Take to Conserve Future Need for Resources:

1. Conduct a focused marketing effort to encourage more Paso Robles Runabout-eligible riders to use fare-free fixed-routes (Paso Express Routes A/B and RTA Route 9) when possible.
2. Atascadero Dial-A-Ride has recently implemented off-peak service to the medical services at or near the Twin Cities Regional Hospital. Staff will work with the City to determine if the RTA can contract to provide some Runabout trips on Atascadero DAR vans when it makes sense from a resource standpoint.

Recommendations:

Receive and file.

TABLE 2: Trip Pairs by Community
DESTINATION

ORIGIN	DESTINATION																			Total	%
	Arroyo Grande	Arroyo County Zone	Atascadero	Avila Beach	Cambria	Cayucos	Cuesta Area	Grover Beach	Los Osos	Morro Bay	Nipomo	Oceano	Paso Robles	Pismo Beach	San Luis Obispo	Santa Maria	San Miguel	Santa Margarita	Templeton		
Arroyo Grande	426	3	5	23	0	0	0	176	4	14	85	27	2	218	366	47	0	0	0	1,396	4.2%
Arroyo County Zone	3	0	0	0	0	0	0	0	0	0	0	0	0	2	5	0	0	0	0	10	0.0%
Atascadero	3	0	1,018	0	0	0	100	69	1	6	0	0	959	2	523	0	0	0	459	3,140	9.5%
Avila Beach	22	0	0	0	0	0	6	3	0	0	1	0	0	14	31	0	0	0	0	77	0.2%
Cambria	0	0	0	0	0	0	0	0	0	75	0	0	0	0	0	0	0	0	0	75	0.2%
Cayucos	0	0	0	0	0	0	0	0	0	0	0	0	2	0	26	0	1	0	0	29	0.1%
Cuesta Area	0	0	109	0	0	0	0	42	0	0	0	0	59	4	546	0	0	0	19	779	2.4%
Grover Beach	187	0	73	4	0	0	113	48	1	1	9	24	2	222	542	102	0	0	1	1,329	4.0%
Los Osos	5	0	6	0	0	0	0	1	143	43	0	0	269	16	470	0	0	0	0	953	2.9%
Morro Bay	14	0	7	0	83	2	0	2	41	353	1	0	125	3	358	181	0	0	25	1,195	3.6%
Nipomo	76	0	0	1	0	0	0	9	0	1	11	0	0	150	173	36	0	0	0	457	1.4%
Oceano	23	0	0	0	0	0	0	23	0	0	0	0	0	31	31	0	0	0	0	108	0.3%
Paso Robles	2	0	632	0	0	2	1	1	271	136	0	0	4,134	4	651	5	7	0	757	6,603	20.1%
Pismo Beach	248	2	3	14	0	0	4	190	18	3	126	52	4	155	342	3	0	0	0	1,164	3.5%
San Luis Obispo	346	6	606	29	0	28	557	510	478	374	195	34	641	380	8,834	180	0	0	80	13,278	40.4%
Santa Maria	53	0	0	0	0	0	0	102	0	185	38	0	7	15	182	1	0	0	0	583	1.8%
San Miguel	0	0	0	0	0	1	0	0	0	0	0	0	6	0	0	0	1	0	0	8	0.0%
Santa Margarita	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0.0%
Templeton	0	0	493	0	0	0	18	1	0	29	0	0	768	0	71	1	0	0	334	1,715	5.2%
Totals	1,408 4.3%	11 0.0%	2,952 9.0%	71 0.2%	83 0.3%	33 0.1%	799 2.4%	1,177 3.6%	957 2.9%	1,220 3.7%	466 1.4%	137 0.4%	6,979 21.2%	1,216 3.7%	13,151 40.0%	556 1.7%	9 0.0%	0 0.0%	1,675 5.1%		

Rank	Origin	Destination	% Total Runabout Trips	Avg. Miles
1	San Luis Obispo	San Luis Obispo	26.9%	N/A
2	Paso Robles	Paso Robles	12.6%	N/A
3	Atascadero	Atascadero	3.1%	N/A
4	Atascadero	Paso Robles	2.9%	11.1
5	Templeton	Paso Robles	2.3%	5.5
6	Paso Robles	Templeton	2.3%	5.5
7	Paso Robles	San Luis Obispo	2.0%	28.0
8	Paso Robles	Atascadero	1.9%	11.1
9	San Luis Obispo	Paso Robles	1.9%	28.0
10	San Luis Obispo	Atascadero	1.8%	17.5
11	Cuesta Area	San Luis Obispo	1.7%	6.2
12	San Luis Obispo	Cuesta Area	1.7%	6.2
13	San Luis Obispo	Grover Beach	1.6%	15.8
14	Grover Beach	San Luis Obispo	1.6%	15.8
15	Atascadero	San Luis Obispo	1.6%	17.5
16	San Luis Obispo	Los Osos	1.5%	11.8
17	Templeton	Atascadero	1.5%	5.9
18	Atascadero	Templeton	1.4%	5.9
19	Los Osos	San Luis Obispo	1.4%	11.8
20	Arroyo Grande	Arroyo Grande	1.3%	N/A
21	San Luis Obispo	Pismo Beach	1.2%	11.0
23	San Luis Obispo	Morro Bay	1.1%	12.9
25	Arroyo Grande	San Luis Obispo	1.1%	16.9
22	Morro Bay	San Luis Obispo	1.1%	12.9
24	San Luis Obispo	Arroyo Grande	1.1%	16.9

Paso Express		
Route A	Paso Clockwise	3,387
Route B	Paso Counterclockwise	1,720
Paso Express Subtotal		5,107
RTA		
Route 9	SLO - Paso Robles	4,402
Route 10	SLO - Santa Maria	2,218
Route 12	SLO - Cuesta - Morro Bay, Los Osos	1,933
Route 14	SLO - Cuesta	201
Route 15	Morro Bay, Cayucos, Cambria	299
RTA Subtotal		9,053
SoCo Transit		
Route 21	Five Cities Loop Clockwise	453
Route 24	Five Cities Loop Counterclockwise	309
Route 27	Grover, AG, Oceano Clockwise	141
Route 28	Grover, AG, Oceano Counterclockwise	327
SoCo Transit Subtotal		1,230
SLO Transit		
Route 1A	Johnson, Tank Farm, Airport	<i>Individual route data not available</i>
Route 1B	Broad, Airport, Johnson	
Route 2A	Higuera, LOVR, Madonna	
Route 2B	Madonna, LOVR, Higuera	
Route 3A	Promenade, LOVR, Cal Poly	
Route 3B	Cal Poly, LOVR, Amtrak	
Route 4A	Foothill, Cal Poly, Monterey	
Route 4B	Monterey, Cal Poly, Foothill	
SLO Transit Subtotal		7,129
Morro Bay Transit		
Fixed-Route/Call-A-Ride		<i>Ibid</i>
Trolleys		
Morro Bay Transit Subtotal		130
TOTAL		22,649

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

JULY 10, 2019

STAFF REPORT

AGENDA ITEM: A-3

TOPIC: RTA Bus Maintenance Facility Update on Design & Financing

ACTION: Receive

PRESENTED BY: Geoff Straw, RTA Executive Director

STAFF RECOMMENDATION: Accept Update

BACKGROUND/DISCUSSION:

The RTA continues to work closely with its design team led by Stantec Architects, as well as City of San Luis Obispo Development Department officials, to move the planned new Bus Maintenance Facility (BMF) project forward. Below are some important milestones that we have achieved over the past few months:

1. Staff met with senior SLO City officials on June 10th to determine cost-sharing proportions for the realignment of Elks Lane as part of the City's Prado Road overpass project, as well as the overall schedule for the project. These discussions will continue in the next few weeks, and any resulting agreement will be brought back to the RTA Board at a future meeting.
2. Staff presented the BMF to the SLO City Architectural Review Commission on June 17th. The ARC unanimously recommended the project, although they asked that we soften the color palette and further refine the security fencing. The SLO Planning Commission will consider the project at its July 24th meeting.
3. The RTA used the *Bus Maintenance Facility Programming Plan*, which was published on our website on April 17th, to help prepare another FTA Section 5339(b) Bus and Bus Facilities grant application. The application package was submitted on June 20th. We received 14 support letters from stakeholders at the local, regional and national levels, and we hope to be awarded another round of funding – we received \$6.3 million in the last round – when the awards are announced in September.
4. The RTA received three proposals for the Building Commissioning Service RFP by the May 1st deadline, and we selected 3C Engineering. See Agenda Item C-8 for details. The purpose of state-mandated commissioning is to provide documented confirmation that a facility fulfills functional and performance

requirements, including maintainability and environmental sustainability. A kick-off meeting with 3C Engineering and our design team is planned for July 25th.

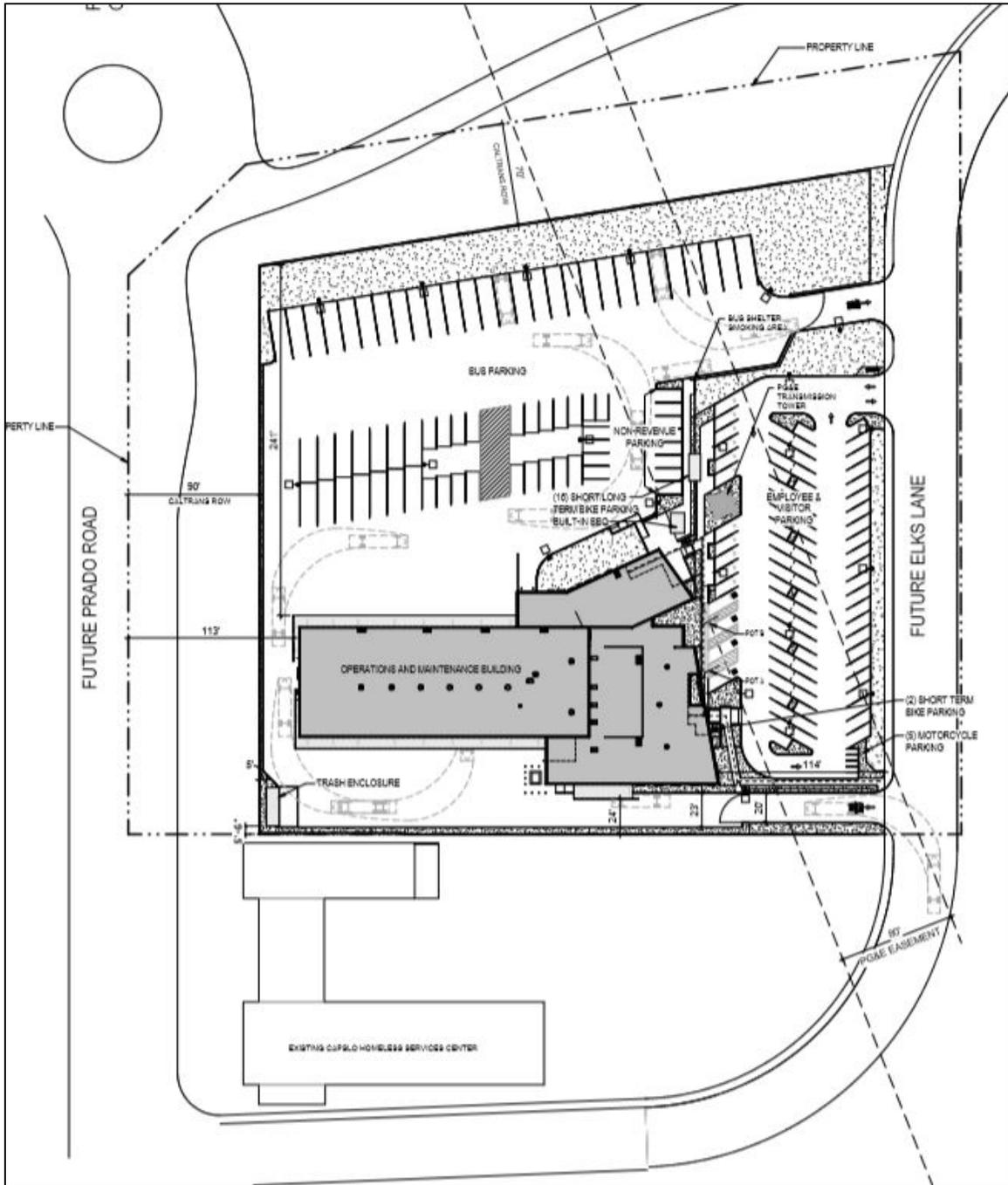
5. With the help of KNN Financial Advisors, we conducted a teleconference with the Build America Bureau branch of USDOT on May 22nd regarding the possibility of financing a portion of the project through the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. We submitted a TIFIA letter of interest on May 31st. More information is available in Agenda Item C-7.
6. KNN also assisted us with procurement of Bond Counsel services. We received five bids by the June 5th deadline. We selected Nossaman LLP, since that firm has direct experience with both traditional bond financing and TIFIA loans. See Agenda Item C-5 for details.
7. The RTA received Stantec's 60% Design Development package on June 25th, which includes an updated Engineer's Estimate. See the narrative in the Engineer's Estimate section below for more details.
8. We shared pertinent 60% design documents with our contracted furniture vendor Tri-County Office Furniture on June 27th. Tri-County will coordinate with us and Stantec on supplying those items that cannot be moved from our current facility.
9. The RTA published an RFP for a Solar Canopy-Mounted and Roof-Mounted Photovoltaic System on July 3rd. Bidders will be asked to provide pricing under a full-purchase system and under a power purchasing agreement (PPA). Given our need to finance the project, it is more likely that a PPA would work best for our project. It should be noted that canopies are an important aspect of the solar project, since they will provide both weather protection for the buses and convenient locations to mount future overhead battery-electric bus recharging infrastructure. Proposals are due July 24th.

Engineer's Estimate

With regard to the Engineer's Estimate, the 60% design suggests a construction cost of \$24,350,158. This is roughly \$4 million lower than the 30% estimate, and deducts several items that were removed since the Peer Review conference in April. Of particular note is the construction cost of \$495.53 per square foot, or \$15,029,329 for the building. The sitework is another \$7,939,947, or \$50.78 per square foot. The 2012 planning document identified a building cost of \$220/s.f. and a sitework cost of \$15.00/s.f.

The 60% estimate still includes a 10% design contingency, so there still might be additional changes as we approach the 90% design expected in October 2019. The estimate also accounts for market conditions and that the number of bids can affect the bid price – so it is important to ensure a minimum of 4-5 valid bids.

Below is a “near-final” site layout graphic. Staff will present a “flyover” video of the project during the Board meeting.



Recommendations:

Receive and file.

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SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

July 10, 2019

STAFF REPORT

AGENDA ITEM: B-1

TOPIC: **PUBLIC HEARING: Bus Maintenance Facility Impacts on Minority and Low-Income Populations**

PRESENTED BY: **Geoff Straw, Executive Director**

STAFF RECOMMENDATION: **Accept Public Input, and Consider Impacts to Disadvantaged Populations**

BACKGROUND/DISCUSSION:

The RTA certified an Initial Study – Mitigated Negative Declaration report for the Bus Maintenance Facility (BMF) at the September 6, 2017 Board of Directors meeting. The IS/MND helped the RTA determine that the BMF project would not impose significant impacts on humans or the environment as long as the mitigations identified in the report are appropriately implemented. At today’s meeting, staff is asking the RTA Board to conduct a Public Hearing and consider input on how planned new BMF could adversely affect minority and low-income populations.

It should be noted that additional environmental studies were required by the City of San Luis Obispo in June 2019 as part of the BMF project development process. This was necessary due to recent changes to the BMF project that were identified in the final master planning, design and engineering process. Specifically, the master plan identified methods to reduce the scope of the BMF project, which would both reduce the construction cost and will also further reduce impacts of the project. Working through the City of San Luis Obispo Development Department, the RTA hired Rincon Environmental Consultants to develop an addendum to the IS/MND that will ultimately be considered by the City as part of the project entitlement process.

The RTA will use the addendum to request that the Federal Transit Administration amend its Categorical Exclusion determination as it relates to the National Environmental Protection Act. The FTA provided its original Categorical Exclusion determination in September 2017. Staff will also ask the FTA to include the analysis in the ensuing pages and any determination made by the RTA Board at today’s meeting regarding impacts of the project on minority and low-income populations.

Recommendation

Conduct a Public Hearing to solicit input on the Equity Analysis for the Planned New Bus Maintenance Facility and any impacts to minority and low-income communities.

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Equity Analysis for Planned New Bus Maintenance Facility

I. Executive Summary

Prior to constructing new facilities, recipients of federal transportation funding must consider how the location of a proposed facility may impact the affected minority and low-income community. While the impacts of constructing and operating a facility need to be environmentally analyzed for potential impacts, the selection of the site location must also be scrutinized to ensure that the site was selected in a non-discriminatory manner.

As required by Title VI of Civil Rights Act of 1964, the RTA has conducted a Fixed Facility Equity Analysis intended to ensure that the location of the planned new Bus Maintenance Facility was selected without regard to race, color, or national origin. In addition, as required under Executive Order 12898 *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, staff has completed a parallel review to ensure minority and low-income populations are not disproportionately affected by the selection of the preferred site.

Along with data and studies undertaken as part of the environmental review process, the RTA has determined that the selection of the proposed Bus Maintenance Facility site at 253 Elks Lane in San Luis Obispo would not result in a disparate impact to minority or low-income populations.

II. Background

TITLE VI AND ENVIRONMENTAL JUSTICE REQUIREMENTS

Under Title VI of the Civil Rights Act of 1964, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. As a recipient of federal funds, the RTA is required to conduct a Fixed Facility Equity Analysis, highlighted in both the federal Title VI guidance¹ and under Title 49 of the Code of Federal Regulation² that is intended to ensure that the location is selected without regard to race, color, or national origin. This analysis must also “give attention to other facilities with similar impacts in the area to determine if any cumulative adverse impacts might result.”

In addition, Executive Order 12898³ *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* requires DOT recipients to undertake analyses to ensure adverse impacts do not disproportionately impact minority and low-income communities. It should be stressed that disproportionately high and adverse effects, not

¹ FTA Circular C4702.1B

² Title 49 CFR Section 21.9(b)(3) and Appendix C, Section (3) (iv)

³ FTA Circular 4703.1

population size, are the bases for environmental justice. While the minority or low-income population in an area may be small, this does not eliminate the possibility of a disproportionately high and adverse effect of a proposed action. Although we present population size in a latter part of this report, the environmental reviews completed to identify and address impacts/mitigations under the California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA) are an important element of this evaluation.

POLICIES

The RTA has developed policies and procedures to satisfy all requirements established by federal guidance under FTA Circulars C4702.1B and 4703.1. The RTA's policies were established so that no person would be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity provided by the RTA. The policies also provide for meaningful access to programs for persons with Limited English Proficiency (LEP). The RTA provides public notice of its policy to uphold and assure full compliance with Title VI on their agency website (<https://www.slorta.org/about-rta/civil-rights-information/#title>).

Information regarding the RTA's Title VI policies and the procedures for filing civil rights complaints are provided in English and Spanish.

PROJECT CONTEXT

The RTA is a Joint Powers Authority created by a Joint Powers Agreement with the County of San Luis Obispo, and the Cities of Arroyo Grande, Atascadero, Paso Robles, Grover Beach, Morro Bay, Pismo Beach, and San Luis Obispo. Pursuant to section 6500 et seq. of the California Government Code, a Joint Powers Authority is established when two or more public agencies by agreement jointly exercise any power common to the contracting agencies. The purpose of the Joint Powers Agreement is to enable the RTA to exercise the common powers of the member agencies to own, operate, and administer a county-wide public transportation system within the boundaries and over the territory within the jurisdiction of the Joint Powers Authority. Specifically, the RTA manages regional fixed route and paratransit services throughout San Luis Obispo County and is contracted by the County of San Luis Obispo and the City of Paso Robles to operate and provide services in the unincorporated areas and the Paso Express fixed route and Paso Robles Dial-A-Ride services. Five fixed-route services run throughout the region from as far north as San Miguel and San Simeon to as far south as Orcutt in Santa Barbara County.

In January 2015, the RTA completed the *Siting Analysis Report*, which provided a summary of the RTA's need for a long-term transit administration, operations, and maintenance facility. The report was intended to inform the RTA Board of Directors and the public, and for the RTA Board of Directors to provide RTA staff with direction, regarding the next steps to develop the project. The *Siting Analysis Report* includes a review of the RTA operations and system needs, and a brief review of several alternative sites considered for the facility.

As described in the *Siting Analysis Report* presented to the RTA Board of Directors at its January 7, 2015 meeting, the RTA has determined that the existing transit administration, operations, and maintenance facility in the City of San Luis Obispo will not support expansions in regional transit service and is inadequate to support existing services efficiently. The existing facility does not contain enough bus maintenance bays, sufficient storage space for batteries and tires, or any potential expansion space. The existing facility is also located at 179 Cross Street, several miles from the downtown San Luis Obispo transit center located at corner of Palm Street and Osos Street, resulting in increased travel costs and poor customer service (Refer to Figure 3). As detailed on page B-2-8 and explained in the *Siting Analysis Report*, RTA staff determined the necessary size (in square feet) of each functional area for the maintenance facility using the *Transit Garage Planning Guidelines* model (SG Associates, Inc. 1987). This information was then presented to the RTA Property Subcommittee, which was comprised of two elected Board of Directors members and supported by RTA staff and technical staff members from the City of San Luis Obispo.

SITE SELECTION CONSIDERATIONS

As detailed in the *Siting Analysis Report*, the site selected for development of a permanent operating base for the RTA should meet several criteria. The site should:

- Be located reasonably close to the points at which fixed route buses begin and end revenue service.
- Be large enough to support development of required facilities (about 6.0 acres gross area).
- Be reasonably level, so that extensive grading is not required.
- Have provision of communications, water, electric and sewer service, or access to same.
- Be free of hazardous wastes or be capable of remediation at low cost.
- Be in an area of compatible land uses (preferably industrial or commercial).

The first criterion – location with respect to the start and end points of revenue service – is necessary to minimize non-revenue (“deadhead”) vehicle-miles and vehicle-hours. It should be noted that deadhead operating costs occur daily for the life of the facility. Excess deadhead costs can become large over time and can affect the ability to provide service. The RTA route operations now and projected in the future are concentrated in the San Luis Obispo area, while park-outs will be provided in Paso Robles, Arroyo Grande and Cambria to meet local transportation needs. A facility site within or immediately adjacent to the San Luis Obispo urbanized area is therefore necessary, in order to minimize deadhead costs.

There are a number of factors indicating that the appropriate site is located in the southern portion of San Luis Obispo, or to the west of San Luis Obispo along State Route 1, for the following reasons:

- All of the parcels within or adjacent to the City of San Luis Obispo that are zoned Office, Service-Commercial or Manufacturing are located to the south, relatively close to the Airport.
- A parcel along State Route 1 between San Luis Obispo and Morro Bay might also be largely compatible with surrounding uses.
- While property costs tend to be lower the further one travels from San Luis Obispo city limits, deadhead costs would increase the further a facility is located from the downtown transit center located at Osos/Palm.
- In addition, travel time reliability also tends to decline the further one travels to/from downtown San Luis Obispo. This has been quantitatively demonstrated in the SLOCOG 2014 US-101 Mobility Study.

For these reasons, the search of potential sites was confined to southern/southeastern San Luis Obispo and to land near the County Corporation Yard at Kansas Street / State Route 1.

Potential Sites Examined

A list of potential sites to be examined was developed by RTA staff and reviewed by the RTA Property Subcommittee. The Subcommittee was originally formed during development of the *2006 SLOCOG Moving Toward the Efficiencies of Synergy: Operating Plan and Financial Analysis for a Coordinated Transit Maintenance and Dispatch Facility* report. The Subcommittee continued to meet when it became clear that the RTA's current 2.7 acre leased site at 179 Cross Street in San Luis Obispo would not meet long-term needs of the region.

A total of twelve sites were originally identified by the Subcommittee, and these candidate sites were then reviewed with local real estate professionals and Public Works staff from the city and county. The following eight sites in the City of San Luis Obispo were found to be potentially adequate for current service levels but too small for future planned service levels:

- | | |
|--|--|
| 1. 2950 Broad Street (3.3 acres) | 5. 4100 Vachell Street (2.6 acres) |
| 2. 3450 Broad Street (3.5 acres) | 6. 2923 & 3021 So. Higuera St. (2.7 acres) |
| 3. 2885 South Higuera Street (2.9 acres) | 7. Orcutt St. at Duncan St. (3.2 acres) |
| 4. 284 South Higuera Street (2.9 acres) | 8. 201 Bridge Street (3.4 acres) |

Based on those evaluations, the twelve original sites were narrowed down to four sites. All of the remaining four sites currently have proper zoning of either Public Facility, Manufacturing, or

Office. Only the Prado site is located in an identified 100-year floodplain. The four sites can be described as:

1. Kansas at State Route 1 in unincorporated San Luis Obispo County (6 acres)
2. 125 Venture Drive in the City of San Luis Obispo (9.3 acres)
3. 4880 Broad Street in the City of San Luis Obispo (5.7 acres)
4. 40 Prado Road in the City of San Luis Obispo (10 acres) – more recently referred to as 253 Elks Lane

Based on a number of factors presented in the *Site Consideration for a RTA Long-Term Garage Facility* document presented to the RTA Board of Directors in January 2015, the 40 Prado Road site was determined to be the most centrally located and economically feasible option that had the fewest impacts on residential areas and vulnerable populations. This document further explains the reasoning for selecting 40 Prado as the preferred site as it relates to impacts to minority and low-income occupants.

PUBLIC PROCESS ON SITE SELECTION

Before taking the site selection to the public, it was necessary to ensure that the site would be available, cost effective, and eligible to receive grant funds or loans for development. As a result, conducting aspects of the site development such as seeking funding, consulting with local planning agencies regarding the ability to construct on the site, and considering the impacts to minority and low-income communities has delayed engaging the public-at-large until it was clear that the site should be further considered. Along with the analysis of adverse impacts to minority residents and businesses, as well as low-income populations, the public engagement process set the stage for environmental clearance.

ENVIRONMENTAL CLEARANCE TIMELINE AND/OR ACTIVITIES

The preferred site at 40 Prado is associated with an Initial Study Mitigated Negative Declaration (IS/MND) report that was certified by the RTA Board of Directors in September 2017. Additional technical studies are currently being undertaken to document conditions and related data that has changed since the date the original IS/MND was certified, resulting in reduced impacts. More specifically, the RTA has reduced the building size and eliminated two core functions originally identified in the IS/MND (on-site liquid fueling and automated bus wash system). As such, the IS/MND is currently undergoing amendments that will be incorporated into amended state (CEQA) and federal (NEPA) environmental review documents in summer 2019.

III. Project Description

The September 2017 IS/MND report envisioned construction of an approximately 45,000 square-foot, two-story combined administration headquarters and bus maintenance building on the eastern portion of the approximately 6.5 acre project site. However, after further master

planning and preliminary engineering efforts, in March 2019 the building has been reduced from two stories to one, equating to roughly 29,000 square feet. As such, all three functions – administration, bus operations and maintenance – will all be located on one floor, and will include maintenance bays, large- and small-parts storage, clean-room workspace (for high-tech components servicing), offices, a conference room, and employee restrooms, showers, and lockers. The remainder of the project site would be developed for outdoor circulation, storage, servicing, and inspection. The proposed on-site parking would accommodate approximately 67 public transit buses and vans as well as 84 employee and visitor vehicles. In total the developed area proposed for the project remains approximately 4.2 acres. The remaining 2.3 acres is anticipated to be used for the future Prado Road overpass and Elks Lane re-alignment. Construction of the project would require development of the proposed building to withstand a 100-year flood level event.

PREFERRED SITE LOCATION

As described in the September 2017 IS/MND report, the project site is a 6.5-acre parcel (Assessor's Parcel Number [APN] 053-041-071), located at 253 Elks Lane adjacent to the intersection of Elks Lane and Prado Road, in the City of San Luis Obispo, California. The site is regionally accessible from United States Highway 101 (U.S. 101) which runs in the north-south direction, parallel to Elks Lane, west of the site. The project site is within the floodplain of San Luis Obispo Creek located to the east of the site.

The site is currently occupied by a small U-Haul facility, including a building and parking lot, in the southwest corner of the site. The remainder of the property is vacant with scattered ruderal vegetation and most recently used as a leased employee parking/carpool/vanpool center for a distant multi-year construction project. Thus, most of the site was graded and paved for a parking and transportation use. One high-voltage electric power transmission tower is located near the center of the site.

The project site parcel is designated Office in the City of San Luis Obispo General Plan Land Use Element. The site is also located within the General Plan's Sunset Drive-In Theater/Prado Road Area Special Focus Area. According to the City's Zoning Map, the project site is zoned Office with a Planned Development overlay (O-PD). The project site is also located in the San Luis Obispo County Regional Airport Land Use Plan Safety Area S-1b, which has been substituted by City overrule for the requirements of the Airport Overlay Zone which are outlined in Chapter 17.57 of the City's Zoning Regulations (Zoning Regulations Section 17.22.010.B).

Existing uses surrounding the site include the following:

West: Elks Lane and U.S. 101, which run in the north-south direction parallel to Elks Lane, are located to the west of the project site. The U.S. 101 northbound on-ramp from Prado Road is located near the southwest corner of the site and runs parallel to the western boundary of the site connecting Prado Road to U.S. 101. Beyond U.S. 101 are a variety of commercial uses zoned Commercial Retail with a Planned Development overlay (C-R-PD).

North: The Sunset Drive-In Theater is located north of the project site with a mobile home park and the San Luis Cemetery (also known as the International Order of Odd Fellows and Lawn Cemeteries) beyond. This area has a General Plan designation of Community Commercial and is zoned Community-Commercial with a Special Focus overlay (C-C-SF).

East: To the east of the project site is the recently completed Community Action Partnership of San Luis Obispo (CAPSLO) Homeless Services Center. Next to this lot is a storage yard with three existing structures. Two residential structures are located at the east end of the storage yard. A bus stop is planned for the area adjacent to the CAPSLO Homeless Services Center to be served primarily by the municipal transit operator (SLO Transit). The area is zoned Office with a Special Focus overlay (O-SF).

South: The City of San Luis Obispo's corporation yard, which includes the Water Reclamation and Resources Facility (WRRF), is located across Prado Road, directly south of the project site, in the Public Facility (PF) zone. The SLO Transit (local fixed route system) bus maintenance facility is also located within the City's corporation yard. The U.S. 101 northbound off-ramp to Prado Road extends from U.S. 101 in the north-south direction parallel to western boundary of the City's corporation yard property.

IV. Site Selection Process

The RTA closely followed its Environmental Evaluation Policy to complete the CEQA IS/MND Report. The Policy was adopted by the RTA Board of Directors at its May 4, 2016 meeting. While the Policy primarily focuses on environmental reviews required under CEQA, it also provides direction to staff when developing environmental reviews required under the National Environmental Protection Act (NEPA), including requests for Categorical Exclusions (CE) such as the one submitted to the Federal Transit Administration for the Bus Maintenance Facility on September 7, 2017. The Policy identifies public outreach and agency coordination steps, including coordinating input through the State Clearinghouse agency outreach process, County Clerk notification responsibilities, and other outreach requirements.

A draft copy of the CE request and of the draft CEQA IS/MND Report were presented to the RTA Board at its July 12, 2017 meeting. At that meeting, the RTA Board directed staff to open the minimum 30-day public comment period, and to schedule a September 6, 2017 public hearing to consider certifying the CEQA Mitigated Negative Declaration finding. The RTA published notice of the public hearing in The Tribune newspaper on August 23, 2017; this publication has the highest circulation in the county. Working with SLO City Planning Department officials, we sent notification of the public hearing via postcards to persons living within 1,000 feet of the property. Finally, notice of the public hearing was posted at the project site, on our website and on the LCD information screens inside each RTA bus. The State Clearinghouse assigned our project SCH number 2017071040, and the public comment period was officially recognized from July 20, 2017 through August 18, 2017. As detailed in an August 21, 2017 letter from Scott

Morgan, Director of the State Clearinghouse, no comments were submitted by any of the responding agencies through the State Clearinghouse process.

The RTA Board conducted a public hearing on September 6, 2107. Staff provided a summary of public agency and citizen input received, as well as a list of slight language and graphics revisions that were included in the final CEQA IS/MND Report. No persons provided oral or written testimony during the Public Hearing. The RTA Board of Directors voted 11 to 0 in favor of:

1. Certifying the CEQA finding,
2. Authorizing the RTA Executive Director to submit the NEPA Categorical Exclusion request letter, and
3. Authorizing the RTA Executive Director to solicit proposals for design/engineering services for the RTA Bus Maintenance Facility Project.

The RTA publicized the final/amended CEQA IS/MND Report with the County Clerk for 30 days, which completed our CEQA obligations per State law. The County Clerk notice also referenced the fact that the final CEQA Report is posted on our website.

SITE SELECTION GOALS AND RESULTS

In January 2015, the RTA Board accepted the *Siting Analysis Report*, which included evaluations of site functionality, site efficiency and site development. The RTA then competitively procured Environmental Planning Services in February 2016, led by a team from Rincon Consultants to develop the CEQA and NEPA reports. Over the ensuing 15 months, the RTA worked with our consultants, public agency representatives and adjoining neighbors to evaluate any potential impacts of the proposed project. In particular, we worked closely with City of SLO, SLO County Air Pollution Control District, County Regional Airport, and Tribal representatives. A total of fifteen mitigation measures were identified to avoid impacts during preconstruction (four measures), construction (ten measures) and post-construction/operations (one measure). None of the impacts of the new facility would result in avoidable discriminatory impacts based on race, color, or national origin, nor disproportionate impacts on low-income populations.

The goals below include the evaluative measures within each CEQA category. The 40 Prado location (Census Tract Block Group 111.03-2) was selected as the preferred site based on how well it performed against the goals developed by the Property Subcommittee and presented in the *Siting Analysis Report*; the other three alternative site were evaluated but ultimately rejected.

V. Analysis of Adverse Impacts & Effects on Minority and Low-Income Populations

As referenced in the September 2017 IS/MND, the preferred 40 Prado location has been analyzed for impacts in the following 18 areas required under CEQA:

1. Aesthetics
2. Agricultural & Forest Resources
3. Air Quality
4. Biological Resources
5. Cultural Resources
6. Geology & Soils
7. Greenhouse Gas Emissions
8. Hazards & Hazardous Materials
9. Hydrology & Water Quality
10. Land Use Planning
11. Mineral Resources
12. Noise
13. Population & Housing
14. Public Services
15. Transportation
16. Tribal Cultural Resources
17. Utility & Service Systems
18. Mandatory Findings of Significance

In addition, the RTA conducted a parallel evaluation of impacts as they relate to areas covered under NEPA. Following certification of the IS/MND, the RTA submitted a request for a Categorical Exclusion (CE) to the FTA Region 9 office on September 7, 2017. The FTA provided a concurrence letter on September 29, 2017. The CE letter details the analysis of potential impacts in the following 16 areas required under NEPA:

1. Metropolitan Planning & Air Quality Conformity
2. Land Use & Zoning
3. Traffic & Parking Impacts
4. Carbon Monoxide, PM2.5 and PM10 Hot Spots
5. Historic & Cultural Resource Impacts
6. Noise & Vibration Impacts
7. Acquisitions & Relocations
8. Hazardous Materials
9. Community Disruption & Environmental Justice Analysis
10. Use of 4(f) Resources
11. Impacts on Wetlands
12. Floodplain Impacts
13. Impacts on Water Quality, Navigable Waterways, and Coastal Zones
14. Impacts on Ecologically-Sensitive Areas & Endangered Species
15. Impacts on Safety & Security
16. Impacts Caused by Construction

The conclusion under both CEQA and NEPA analyses is that the proposed project will have a less-than-significant impact that would cause substantial adverse effects on human beings, either directly or indirectly. The IS/MND commits the RTA to implement a range of Preconstruction, Construction, and Post-Construction/Operations mitigations to ensure any

adverse impacts are addressed. Although some construction noise and vibration may occur during daylight hours, overall impacts associated with operation of the project on the site would remain similar to current conditions and consistent with the planned use at the site.

For the purposes of environmental justice analysis, federal agencies are required to identify whether a proposed project will possibly have disproportionately high and adverse effects on minority or low-income populations within the proposed project vicinity. The proposed project vicinity, or the affected environment for the environmental justice analysis, consists of the proposed project site and adjacent census blocks. For the purposes on this analysis, an impact is considered to be significant and require mitigation if it would result in any of the following:

Impact 1. Substantially affect employment, industry, or commerce, including requiring the displacement of businesses or farms;

Impact 2. Substantially affect property values or the local tax base;

Impact 3. Substantially, disproportionately affect minority, low-income, elderly, disabled, transit-dependent, or other specific interest group(s); or

Impact 4. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

Based on all four of these impact areas, the proposed project will not result in any adverse socioeconomic and environmental justice effects. Additionally, the proposed project would have a beneficial effect to the minority communities in the project vicinity by providing additional employment opportunities.

METHODOLOGY AND DATA USE

Although the project is deemed to have no significant adverse impact to the environment, it is important to further determine if any of the less-than-significant impacts identified in the IS/MND report would disproportionately impact minority or low-income populations near the preferred site. To determine the presence of minority and low-income populations near the four alternative sites, we compiled information at both the 2010 U.S. Census block group level and the 2017 American Community Survey census tract level. A **block group** is a cluster of census blocks, and generally have populations between 600 and 3,000 people; a **census tract** is a cluster of block groups with populations generally between 1,500 and 8,000 people. However, if too few sample cases are reported at the block group level, then that data is not available. This was the case when attempting to evaluate populations living below poverty at the block group level. So all of the data presented for the four alternative sites reflects census tract information; we also present statewide, county and city data for comparison.

Using mapping software, a 1000-foot buffer was drawn around each alternative site that was considered to determine each potentially impacted census tract. Residents falling within the

buffer were included for analysis. While 1000-feet may appear to be a fairly large area, it represents a conservative approach to analysis, as it identifies potential impact areas that may be greater than actually would be impacted. The reader will remember that postcards were sent to all persons living within 1,000 feet during the IS/MND public comment period. No input was received from persons identifying as low-income, although we worked directly with Tribal interests to identify how to mitigate cultural resources that might be discovered during ground-disturbing activities. No other input was received from communities identifying as a minority population.

As shown in Table 2 below, the population in poverty in the census tract that includes the preferred site at 40 Prado (15.6%) is well below the entire City of San Luis Obispo (32.4%), although it is slightly higher than the countywide proportion (13.8%). The proportion is roughly the same as the statewide average (15.1%).

The minority population percentages of three of the four alternative site locations are higher than either the City or the County of San Luis Obispo as a whole, although the proportion of all four sites are well below the statewide average.

Location	Population in Poverty	Poverty Percentage	Minority Population	Minority Percentage
<i>Preferred Site: 40 Prado</i> (Census Tract 113.02)	436	15.6%	407	27.9%
Alt Sites 1 & 2: 125 Venture Dr & 4880 Broad (Census Tract 115.03)	400	11.0%	340	15.3%
Alt Site 3: Kansas @ SR-1 (Census Tract 115.04)	38	5.2%	395	29.8%
City of San Luis Obispo	14,899	32.4%	7,180	15.3%
County of San Luis Obispo	36,420	13.8%	39,535	14.1%
State of California	5,773,408	15.1%	15,375,605	39.4%

Source: 2013-2017 American Community Survey 5-Year Estimates

To get a better understanding of minority communities in the area that includes the preferred 40 Prado site, staff evaluated race at the much more detailed 2010 Census block group level. We discovered a relatively high proportion of Hispanic or Latino residents live near the preferred 40 Prado site: 23.0% in Census Tract 111.03 Block Group 2. In comparison, 14.7% of City residents and 20.8% of County resident reported their race as Hispanic or Latino. The statewide average is much higher at 37.6%. Staff mailed a copy of this analysis to the Promotores Collaborative on June 27, 2019 and invited representatives to provide comments in writing or in-person at the July 10th public hearing.

VI. Conclusions

In accordance with both federal and state environmental law and federal guidance, the RTA has conducted focused environmental impact evaluations for the proposed Bus Maintenance Facility Project. This has included both technical studies and analyses associated with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA),

as well as a qualitative site selection evaluation and public review that is required by Title VI of the Civil Rights Act of 1964.

Based upon the analyses conducted, the proposed project would not result in significant impacts to the environment. Additionally, based on the qualitative site selection evaluation and public review of the proposed sites, the site was chosen without regard to race, color or national origin, nor are low-income communities disproportionately impacted.

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

July 10, 2019

STAFF REPORT

AGENDA ITEM: B-2

TOPIC: Relinquish FTA Funds for Downtown Transit Center Property Purchase

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Relinquish Grant Funds, and Request SLOCOG Reapportionment of Local Funds to the Bus Maintenance Facility

BACKGROUND/DISCUSSION:

At the January 2018 meeting, staff advised the RTA Board of Directors that the long-term Coordinated Downtown Transit Center project cannot move forward as originally envisioned and as described in the May 2016 grant proposal for Federal Transit Administration (FTA) Section 5339(b) funds. RTA and SLOCOG staff met with FTA officials in May 2018 to develop alternatives, including a request that the 5339(b) funds be transferred to the RTA Bus Maintenance Facility (BMF) project; that request was formally rejected in May 2019.

Staff is recommending that the RTA Board declare the property purchase project identified in FTA Grant CA-2017-154 to be infeasible, and request Congressman Carbajal's assistance in relinquishing the 5339(b) funds back to the FTA. The RTA would ask that the relinquishment letter includes immediate support for fully-funding the BMF project and to consider future funding for an eventual long-term downtown transit center once a revised project is locally adopted. Staff is also recommending that the RTA Board request that SLOCOG reapportion local funds originally identified for the Downtown Transit Center instead for the BMF.

Downtown Transit Center Fast Facts

1. The *Coordinated Downtown Transit Center Plan* was accepted by the San Luis Obispo City Council on April 17, 2012 and subsequently adopted by the San Luis Obispo Council of Government (SLOCOG) Board of Directors on June 6, 2012. The site with the overall highest ranking is Higuera Street Alternative 6, shown on the next page.
2. The FTA granted SLOCOG a Categorical Exclusion in January 2014 to purchase Right-of-Way (ROW) of properties along Higuera Street between Toro Street and Santa Rose Street. Appraisals were completed in 2015, showing \$5M is needed for ROW.



3. On behalf of the regional partners, the RTA submitted an FTA Section 5339(b) grant proposal in May 2016. The total project cost was identified at \$12.2M, including \$4M in 5339(b) funds for ROW. The ROW portion was funded in the Federal Fiscal Year 2015-16 (FFY15-16) apportionment. The RTA executed Grant CA-2017-154 in August 2017; the grant also includes \$100k in FFY16-17 FTA Section 5307 funds. A 20% local match of \$1 million is provided by California Proposition 1b funds and \$150,000 in TDA funds.
4. The preferred Higuera Street site is comprised of four pieces of property. However, the Shell Gas Station property and the property immediately to the north (known as the Blum Property) were subsequently purchased by a local developer in late 2016. The developer completed a new office building in 2018 that houses a Bank of America branch.
5. Neither the RTA nor SLOCOG is authorized to condemn property. More importantly, neither the City of San Luis Obispo nor the County of San Luis Obispo is willing to condemn the property needed for this Higuera Street project. As such, the Higuera Street Alternative 6 site is no longer viable for the *Downtown Transit Center* project.
6. A new site selection plan and an FTA Categorical Exclusion request must be completed in order for the *Downtown Transit Center* project identified in grant CA-2017-154 to move forward. However, no planning resources have been secured nor are current staffing levels at either SLOCOG, the RTA or the City of San Luis Obispo available to attempt to complete the requisite planning. In essence, this property purchase project is now dormant.

7. The RTA has until September 30, 2019 obtain the FTA's concurrence to revise the project scope in the grant. If not completed by this fast-approaching deadline, the grant money can only be used to purchase the properties originally identified in the grant. Because that action is essentially infeasible, the funding in the grant will effectively revert back to the FTA for non-action soon after the September 30 deadline.

The RTA's lease for its current operations and maintenance facility at 179 Cross Street ends on February 28, 2022. The planned new BMF is currently at the 60% Design Development phase and is scheduled for San Luis Obispo Planning Commission review on July 24, 2019. The design/engineering of the project is slated for an October 2019 completion, and the RTA is finalizing the construction financing phase so that construction can be bid in March 2020.

To some degree, the need for a new long-term Downtown Transit Center is alleviated by the improvements planned at the RTA's existing passenger facility on Osos Street at Palm Street. As noted in Agenda Item A-1, staff expects to bid the construction improvements project in late-summer and to present a draft agreement at the September 4th RTA Board meeting. However, staff still believes a long-term passenger facility is needed and we are committed to working with our SLOCOG and City of San Luis Obispo partners to develop a solution in the coming years.

Recommendation

Staff recommends the following:

1. Direct staff to work with Congressman Salud Carbajal's office to relinquish the \$4 million in FFY15-16 Section 5339(b) funds originally intended to purchase right-of-way back to the Federal Transit Administration.
2. Direct staff to work with FTA officials to amend Grant CA-2017-154 to reallocate \$100,000 in FFY16-17 FTA Section 5307 funds from the Coordinated Downtown Transit Center to another eligible project.
3. Ask the FTA to recognize that the RTA Bus Maintenance Facility project is in immediate need of additional construction funding, and to support another allocation of FTA Section 5339(b) funds in the FFY19-20 review of grant applications.
4. Ask the FTA to recognize that a long-term Coordinated Downtown Transit Center is still needed in our region, and the region is committed to finding a solution that will be eligible for future FTA funding in the coming years.
5. Request that SLOCOG authorize transfer of \$1 million in Proposition 1b funds and \$150,000 in TDA to the RTA Bus Maintenance Facility.

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DRAFT
SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
RTA SPECIAL BOARD MEETING
MINUTES OF APRIL 3, 2019
C-1

BOARD MEMBERS PRESENT:

DEBBIE ARNOLD, FIFTH DISTRICT, COUNTY OF SAN LUIS OBISPO
ROBERT DAVIS, CITY OF MORRO BAY
BRUCE GIBSON, SECOND DISTRICT, COUNTY OF SAN LUIS OBISPO
JOHN PESCHONG, FIRST DISTRICT, COUNTY OF SAN LUIS OBISPO (Vice President)
JEFF LEE, CITY OF GROVER BEACH
HEATHER MORENO, CITY OF ATASCADERO
JIMMY PAULDING, CITY OF ARROYO GRANDE
ANDY PEASE, CITY OF SAN LUIS OBISPO
FRED STRONG, CITY OF PASO ROBLES (President)
ED WAAGE, CITY OF PISMO BEACH

BOARD MEMBERS ABSENT:

LYNN COMPTON, FOURTH DISTRICT, COUNTY OF SAN LUIS OBISPO
ADAM HILL, THIRD DISTRICT, COUNTY OF SAN LUIS OBISPO

STAFF PRESENT:

GEOFF STRAW, EXECUTIVE DIRECTOR
TANIA ARNOLD, DEPUTY DIRECTOR/CFO
JON ANSOLABEHERE, SAN LUIS OBISPO COUNTY COUNSEL
CHELSEA SPERAKOS, ADMINISTRATIVE ASSISTANT

CALL TO ORDER AND ROLL CALL: **President Fred Strong** called the RTA meeting to order at 12:20 PM. A roll call was taken and a quorum was present.

PUBLIC COMMENT: There was no public comment.

A. ACTION AGENDA

A-1 Public Bid Opening: Short-Term License for Parking Yard at 253 Elks Lane (Action)

Mr. Geoff Straw requested Agenda Item A-1 be pulled because RTA had not received bids for this item.

President Strong accepted the request and the item was pulled from the agenda.

B. CONSENT AGENDA:

B-1 Agreement with CPS HR Consulting for Audit and Compliance Review (Approve)

B-2 Authorize Executive Director to Terminate Lease for U-Haul Tenant at 253 Elks Lane and Negotiate Relocation Terms (Approve)

Vice President John Peschong motioned to approve items B-1 through B-2, and Ms. Heather Moreno seconded. The motion passed unanimously via roll call vote.

****NOTE**** Mr. Ed Waage left the meeting at 12:34 PM after the vote.

C. INFORMATION AGENDA

C-1 Funding Scenarios for New Bus Maintenance Facility (Verbal - Receive and File)

Mr. Straw introduced Ms. Melissa Shick from KNN Finance, who is here to report on consulting for the new bus maintenance facility.

Ms. Shick stated that KNN Finance is a municipal advisory firm that will be consulting RTA on the new bus maintenance facility project funding. There are several ways to approach paying for the project such as “pay as you go,” or borrowing funds, or issuing bonds. There usually remains a funding gap where grants fall short. A public offering is intended to reduce borrowing costs. Borrowing options include: a loan with a bank where borrowing is restricted by term; a loan with the state or federal government which has a lengthy application and execution process.

Ms. Shick went on to discuss other financing opportunities that will be explored such as New Market Tax Credit and certificates of participation. KNN will review the impact of borrowing costs—overall funding need, borrowing term, credit rating, structuring features, and interest rates. KNN will also help estimate borrowing needs, estimated annual debt vs. current rent, and TI payments. Financing participants will include the RTA Board members and Executive team, municipal advisor, and bond counsel. The next steps are to engage with staff on alternatives, develop a credit strategy, and engage bond counsel.

Mr. Straw stated that the \$26 million estimate is the result of the 30% plan, RTA is already planning lower costs through plan changes.

President Strong questioned when the Board can expect more information on the subject.

Mr. Straw replied that a 90% cost estimate can be expected in October 2019.

D. CLOSED SESSION ITEMS

There were no closed session items.

E. BOARD MEMBER COMMENTS

President Fred Strong adjourned the meeting at 12:41 PM.

Next regularly-scheduled RTA Board meeting on May 1, 2019

Respectfully Submitted, Chelsea Sperakos Administrative Assistant

DRAFT
SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
RTA BOARD MEETING
MINUTES OF MAY 1, 2019
C-2

BOARD MEMBERS PRESENT:

DEBBIE ARNOLD, FIFTH DISTRICT, COUNTY OF SAN LUIS OBISPO
LYNN COMPTON, FOURTH DISTRICT, COUNTY OF SAN LUIS OBISPO
BRUCE GIBSON, SECOND DISTRICT, COUNTY OF SAN LUIS OBISPO
ADAM HILL, THIRD DISTRICT, COUNTY OF SAN LUIS OBISPO
JEFF LEE, CITY OF GROVER BEACH
JIMMY PAULDING, CITY OF ARROYO GRANDE
ANDY PEASE, CITY OF SAN LUIS OBISPO
FRED STRONG, CITY OF PASO ROBLES (President)
ED WAAGE, CITY OF PISMO BEACH

BOARD MEMBERS ABSENT:

ROBERT DAVIS, CITY OF MORRO BAY
JOHN PESCHONG, FIRST DISTRICT, COUNTY OF SAN LUIS OBISPO (Vice President)
HEATHER MORENO, CITY OF ATASCADERO

STAFF PRESENT:

GEOFF STRAW, EXECUTIVE DIRECTOR
TANIA ARNOLD, DEPUTY DIRECTOR/CFO
OMAR MCPHERSON, OPERATIONS MANAGER
NINA NEGRANTI, SAN LUIS OBISPO COUNTY COUNSEL
CHELSEA SPERAKOS, ADMINISTRATIVE ASSISTANT
MARY GARDNER, MARKETING & COMMUNITY RELATIONS MANAGER
JUSTIN KOBIELUSZ, ACCOUNTING TECHNICIAN
KAYLEIGH MCLEOD, HUMAN RESOURCES OFFICER

CALL TO ORDER AND ROLL CALL: President Fred Strong called the RTA meeting to order at 8:31 AM. A roll call was taken and a quorum was present.

PUBLIC COMMENT:

Mr. Eric Greening expressed his appreciation for the electric bus demonstration and the reports regarding electric bus impacts; he encouraged the board members to consider policies that make “earth friendly choices.”

Ms. Andy Pease thanked Mr. Greening for his input, and she reaffirmed her support for the SLO community to continue the effort towards renewable energy.

A. INFORMATION AGENDA

A-1 Executive Director's Report (Receive)

Mr. Geoff Straw stated the Employee of the Quarter BBQ will be May 10th in the Paso Robles bus parking yard. RTA has completed training for four new bus operators. **Ms. Allison McCullough** was promoted to Operations Supervisor. There have been additional new hires and promotions to the administration team; **Mr. Omar McPherson** was promoted to Operations Manager, **Ms. Kayleigh McLeod** was hired as Human Resources Officer, and **Mr. Justin Kobielus** was hired as Administration Accounting Technician. RTA is now seeking to fill the Grants Manager position formerly occupied by **Mr. McPherson**.

Token Transit mobile ticketing has been a success and staff has had positive feedback from users, accumulating \$1,000 in the first week in sales. RTA has arranged a demonstration of a battery electric bus for the Board after this meeting, including a media event.

RTA has submitted a 30% design of the bus garage facility to SLO Architectural Review Committee and a hearing is scheduled June 10th; a full design of the facility is expected to be completed in October. RTA hosted a peer review where a few partner agencies visited our site and made recommendations for the bus garage facility. They suggested removal of onsite liquid fueling, in-ground lifts, and automated bus washing. According to the 30% design plan, construction cost estimate was \$27.5 million, before removed items. After removed items, the cost estimate is down to roughly \$22 million. RTA is working with SLO City Public Works on cost sharing agreement for realignment of Elks Lane; the timing of both projects poses a design challenge.

We are seeing ridership increases, back to where RTA was during FY16-17. Non-capital expenses and administrative costs are on budget; service delivery costs have been below budget.

RTA has acquired three new Gillig buses which will be added to the fixed-route fleet in the coming weeks.

President Strong opened Board questions and public comment.

Mr. Jimmy Paulding asked if the battery electric buses (BEBs) are being considered during the bus garage facility design.

Mr. Straw replied that a transportation electrification plan is being completed as part of the design project, and RTA will be putting in all of the utilities to support electrification at the new facility.

President Strong asked if RTA has looked into federal funding for a facility.

Mr. Straw replied that RTA has been working with members of the House of Representatives to gain access to funding.

President Strong closed Board questions and public comment.

A-2 Strategic Business Plan Results (Receive)

Mr. Straw stated RTA has met 8 of the 14 standards. Ridership based goals and productivity goals still need work.

President Strong opened Board questions and public comment.

Mr. Greening stated he would like to extra focus towards service quality and efficiency standard 3, missing connections can be important, and catching transfers within the systems but also transfers from other systems.

Mr. Straw replied that RTA is working closely with partners within our area, and drivers are required to request transfers with SLO Transit via dispatch for route transfer courtesy.

President Strong closed Board questions and public comment.

B. ACTION AGENDA

B-1 Fiscal Year 2019-20 Operating and Capital Budget (Approve)

Ms. Tania Arnold stated the FY19-20 budget is balanced, and the report includes an advisory budget for FY20-21 and additional advisory capital budget through FY23-24. Routes 9, 10, 12, 14, 15 will have the same service levels but we are eliminating express trips during holidays the week between Christmas and New Year's. Route 14 will continue to operate during the academic year and Route 15 will operate deviated fixed-route. Runabout hours and miles are steady and there is an expected increase for the farebox recovery ratio. If service demands significantly change, a budget amendment will be presented, including the review of possibly utilizing taxicab services.

The cash flow reserve is one quarter of net operating costs due to federal funding coming after the end of the fiscal year. The capital reserve is the projected five year average local match to federal funds. The RTA uses all grants and other funding sources before requesting local funding. Services for SLO County and City of Paso Robles are separately identified. With regard to the current year budget, we are currently under budget, but expected to be at budget due to a planned Bus Operator and Technician wage increase, as well as higher fuel prices. Local Transit Funds (LTF), which are derived from sales tax, is estimated at \$3.3 million for RTA core services next fiscal year.

Some of the reasons for the reduction in the LTF request are due to operating revenue sources savings in the current year and workers compensation expense has come down considerably, as a result of closing claims quickly. The increase in marketing and reproduction cost includes adding WiFi on all RTA fixed-route vehicles, and there has been a decrease in administrative labor costs due to turnover.

South County Transit consolidation could provide cost savings and will be addressed as part of a budget amendment as consolidation moves forward. Fuel prices for next year continue to be uncertain; we do not have the ability to purchase fuel in bulk.

Capital expenditures this year have been replacement computer systems, maintenance tools, bus stop improvements, replacement vehicles, and the Elks Lane project. Next year's budget no longer includes the payment for the 2009 tenant improvement loan, which was fully paid-off in April 2019.

Mr. Straw stated that RTA has shared the budget with City Managers and Finance Managers in each city and the County.

President Strong opened Board questions and public comment.

Mr. Pete Rodgers stated he is in support of the RTA budget. In 2006 with David Lily, the budget increase asked for was \$1 million, and the finance managers were not happy; currently there is an increase, and reauthorization is coming. Potential cost increases are coming. There are discussions on infrastructure that still needs funding. There could be worse timing for an LTF increase.

Mr. Greening stated LTF projections got most of the discussion at RTAC. When it comes to the actual numbers, RTAC approved the budget. He agrees with Pete, and the Mayor of SLO took flack to stop using services of Amazon because nothing benefits the jurisdiction. He encouraged Board members to be visibly shopping within your jurisdiction. Sales tax goes towards the community. Mr. Greening said he looks forward to larger LTF.

Mr. John Fischer stated he had one word: “Poway”.

President Strong closed Board questions and public comment.

Ms. Lynn Compton moved to approve the agenda item B-1 and **Mr. Bruce Gibson** seconded the motion. A roll call vote was taken and the motion passed unanimously.

C. CONSENT AGENDA: (Roll Call Vote)

C-1 Executive Committee Meeting Minutes of February 6, 2019 (Information)

C-2 RTA Board Meeting Minutes of March 6, 2019 (Approve)

C-3 Authorize License to SLO City for 253 Elks Lane Property (Approve)

C-4 Youth Ride Free Promotion (Approve)

C-5 Authorize USDOT BUILD Grant Application (Approve)

C-6 Authorize FTA Section 5339(b) Bus & Bus Facilities Grant App. (Approve)

C-7 Authorize FTA Section 5339(c) Low or No Emission Grant App. (Approve)

C-8 AGP Video Agreement Renewal (Approve)

C-9 Declare Vehicle Maintenance Equipment as Surplus (Approve)

C-10 Resolution to Appoint CalTIP Board Director and Alternate (Approve)

C-11 Agreement for County Auditor/Controller Services (Approve)

C-12 Update RTA Title VI Policy (Approve)

C-13 Memorandum of Understanding – Dental Program (Approve)

C-14 Authorization to Seek Proposals for Solar Bus Parking Canopies (Approve)

C-15 Job Descriptions for Positions Revised During FY18-19 (Accept)

Comment:

Mr. Straw highlighted the partnership with SLO Transit to park vehicles on Elks Lane is consent item C-3.

President Strong opened Board questions and public comment.

Ms. Andy Pease expressed her appreciation for the partnership on behalf of the City of San Luis Obispo.

President Strong closed Board questions and public comment.

Mr. Ed Waage moved to approve the consent agenda items C-1 through C-15 and **Ms. Compton** seconded the motion. A roll call vote was taken and the motion passed unanimously.

D. CLOSED SESSION: – CONFERENCE WITH LEGAL COUNSEL: It is the intention of the Board to meet in closed session concerning the following items:

1. **Initiation of litigation pursuant to subdivision (c) of Section 54956.9. One case.**
2. **Conference with Labor Negotiator (CA Government Code Section 54957.6(a))**

Negotiating Party: Fred Strong, President

Unrepresented Employee: Geoff Straw, Executive Director

President Strong opened and closed Board questions and public comment.

The Board entered into closed session at 9:30 AM and ended closed session at 10:05 AM.

Ms. Nina Negranti stated there was no reportable action from closed session.

E. BOARD MEMBER COMMENTS

Mr. Robert Davis stated that Caltrans district 5 will hold annual worker memorial ceremony tomorrow. 189 workers have been killed on the job, 8 of whom were residents in District 5; please mind the cone zone and slow down.

Ms. Pease stated that May is bike month, biking and transit go well together.

President Strong adjourned the RTA meeting at 10:07 AM.

Special RTA Board meeting on June 5, 2019 (following SLOCOG meeting)

Next regularly-scheduled RTA Board meeting on July 10, 2019

Respectfully Submitted, Chelsea Sperakos Administrative Assistant

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DRAFT
SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
RTA BOARD MEETING
MINUTES OF JUNE 5, 2019
C-3

BOARD MEMBERS PRESENT:

DEBBIE ARNOLD, FIFTH DISTRICT, COUNTY OF SAN LUIS OBISPO
LYNN COMPTON, FOURTH DISTRICT, COUNTY OF SAN LUIS OBISPO
ROBERT DAVIS, CITY OF MORRO BAY
BRUCE GIBSON, SECOND DISTRICT, COUNTY OF SAN LUIS OBISPO
ADAM HILL, THIRD DISTRICT, COUNTY OF SAN LUIS OBISPO
JEFF LEE, CITY OF GROVER BEACH
JIMMY PAULDING, CITY OF ARROYO GRANDE
JOHN PESCHONG, FIRST DISTRICT, COUNTY OF SAN LUIS OBISPO (Vice President)
ANDY PEASE, CITY OF SAN LUIS OBISPO
HEATHER MORENO, CITY OF ATASCADERO
FRED STRONG, CITY OF PASO ROBLES (President)
ED WAAGE, CITY OF PISMO BEACH

BOARD MEMBERS ABSENT:

LYNN COMPTON, FOURTH DISTRICT, COUNTY OF SAN LUIS OBISPO

STAFF PRESENT:

NINA NEGRANTI, SAN LUIS OBISPO COUNTY COUNSEL
CHELSEA SPERAKOS, ADMINISTRATIVE ASSISTANT

CALL TO ORDER AND ROLL CALL: RTA Meeting called to order at 9:58 AM and roll call was taken. A quorum was present.

President Fred Strong moved to go into recess until 10:15 AM, after which the Board would go straight into closed session. The Board approved.

PUBLIC COMMENT:

Mr. Eric Greening asked what is the expected time to come out of closed session.

Ms. Nina Negranti replied approximately 10:35 AM.

The meeting went into recess at 10:00AM and reconvened as a closed session at 10:15 AM.

D. CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL: It is the intention of the Board to meet in closed session concerning the following items:

Initiation of litigation pursuant to subdivision (c) of Section 54956.9. One case.

Closed session ended at 10:50 AM.

Board Members **Ms. Andy Pease** and **Mr. Ed Waage** left the meeting after closed session.

Ms. Negranti stated there was no reportable action from closed session.

A. INFORMATION AGENDA: None

B. ACTION AGENDA: None

C. CONSENT AGENDA: (Roll Call Vote)

Ms. Debbie Arnold requested for the consent items to be voted on individually.

C-1 Amended Contract with Executive Director (Approve)

Ms. Arnold stated that she would oppose in the vote based on cost.

Mr. Bruce Gibson moved to approve the agenda item C-1 and **Mr. Adam Hill** seconded the motion. A roll call vote was taken with six members (**Gibson, Hill, Davis, Lee, Paulding, and Strong**) in favor of the motion, and three members (**Arnold, Peschong, and Moreno**) opposing the motion. The motion passed.

C-2 Authorization to Procure Bond Counsel (Approve)

Mr. Gibson moved to approve the agenda item C-1 and **Mr. Hill** seconded the motion. A roll call vote was taken and the motion passed unanimously.

E. BOARD MEMBER COMMENTS: None

President Strong adjourned the RTA meeting at 10:54 AM.

Next regularly-scheduled RTA Board meeting on July 10, 2019

Respectfully Submitted, Chelsea Sperakos Administrative Assistant

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

JULY 10, 2019

STAFF REPORT

AGENDA ITEM: C-4

TOPIC: CalTIP JPA and Bylaws Revisions

ACTION: Approve

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Approve Resolution that Authorizes the Executive Director to Execute the Amended CalTIP JPA

BACKGROUND/DISCUSSION:

The San Luis Obispo Regional Transit Authority (RTA) joined California Transit Systems Joint Powers Authority (CalTIP or Authority) in May 1991 to obtain liability coverage, vehicle physical damage coverage, and risk management services through jointly pooling resources with the other transit agencies that are members of CalTIP. CalTIP has provided competitive rates and needed risk management services over the years.

As were many other self-insurance pools, CalTIP was formed in 1987 during a difficult time for public entities to obtain coverage from the insurance market. Although the difficulty of obtaining insurance from the standard markets eventually waned, the coverage provided by the insurance industry usually was not tailored to the specific needs of the public entities and did not provide the tailored risk management services. CalTIP was formed with the signing of a joint powers agreement by each of its members. The Agreement was drafted in 1987 and was last amended in May 2011 to align the document with current operations and practices of the authority at that time. The document has not been updated since then.

The current amendments to the Agreement are the result of discussions with CalTIP's Oversight Committee and Board to address CalTIP's ongoing challenges associated with achieving certain quorum requirements at Board meetings in order to conduct business and to ensure the governing documents align with CalTIP's current practices and procedures.

CalTIP's draft Agreement and Bylaws with changes shown in redline were distributed to all CalTIP members on April 3, 2019, to provide members with time to review the changes, provide comments, and ask questions.

At its April 18, 2019 meeting, the CalTIP Board approved submitting the amended Joint Powers Authority Agreement to the Parties for approval. In addition, the CalTIP Board approved the Bylaws as amended to become effective upon approval of the Agreement. While the CalTIP Board has the authority to approve the amendments to the CalTIP Bylaws, because the Agreement makes reference to that document, it has been included for informational purposes.

CONCLUSION: The Agreement needs to be adopted by the governing bodies of at least three-fourths of the members of CalTIP, although CalTIP believes it best to have all members adopt the amended Agreement. The amendments are intended to address ongoing challenges with quorum requirements and provide the CalTIP Board the flexibility and ability to make decisions and carry-forth initiatives in a more expeditious manner to the benefit of the organization. Each member, including the RTA, has representation on the CalTIP Board of Directors and each director has similar interests as the RTA in the operations of CalTIP because each member is a transit agency similar to the RTA. Thus, staff respectfully requests the RTA Board to pass the attached resolution.

STAFF RECOMMENDATION:

Approve the attached Resolution that authorizes the Executive Director to execute the amended joint powers agreement for the California Transit Systems Joint Powers Authority.

ATTACHMENTS:

- Resolution
- Amended CalTIP Joint Powers Agreement – 2019
- Amended CalTIP Bylaws – 2019
- Comparison of Amended Joint Powers Agreement to Current Agreement

**SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
RESOLUTION NO. _____**

**RESOLUTION OF THE SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
BOARD OF DIRECTORS APPROVING THE AMENDED JOINT POWERS
AUTHORITY AGREEMENT FORMING THE CALIFORNIA TRANSIT SYSTEMS JOINT
POWERS AUTHORITY**

WHEREAS, on May 1, 1991, the San Luis Obispo Regional Transit Authority (RTA) approved entering into an agreement that provided for the creation of the California Transit Systems Joint Powers Authority (hereinafter CalTIP) for the purpose of jointly funding tort liabilities and other losses and providing risk management services to reduce such losses;

WHEREAS, CalTIP has provided the RTA coverage for such liabilities, including losses to vehicles, at overall cost-effective pricing;

WHEREAS, the RTA Board of Directors finds it is in the best interest of the RTA to continue its participation in CalTIP and obtain liability coverage and risk management services from CalTIP;

WHEREAS, the joint powers authority agreement of CalTIP has retained its original form as drafted in 1987 and amended in 2011 and there have been changes in operations of CalTIP since that time;

WHEREAS, the RTA Board of Directors recognizes the need to amend the CalTIP joint powers authority agreement to enable CalTIP to effectively govern the organization and adapt to changes in the environment in which CalTIP operates.

NOW, THEREFORE, BE IT RESOLVED that the RTA Board of Directors accepts the changes to the joint powers authority agreement as presented, and

BE IT FURTHER RESOLVED that the RTA Board of Directors authorizes the RTA Executive Director to sign the amended joint powers authority agreement that shall enable the RTA to continue to enjoy the joint self-insurance and risk management programs provided by CalTIP.

THIS RESOLUTION DULY PASSED this 10th day of July, 2019.

AYES:

NOES:

ABSENT:

ABSTAIN:

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CALIFORNIA TRANSIT SYSTEMS

JOINT POWERS AUTHORITY

AMENDED AND RESTATED
JOINT POWERS AUTHORITY AGREEMENT

As Amended 2019

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AMENDED AND RESTATED
JOINT POWERS AUTHORITY AGREEMENT

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This Amended and Restated Joint Powers Agreement (“Agreement”) is executed by and among those public entities which are signatories to this Agreement. Such parties shall hereinafter be referred to individually as “Party” or collectively, “Parties.”

RECITALS

Whereas, Article 1, Chapter 5, Division 7, Title 1 of the California Government Code (Section 6500 et seq.) permits two or more public entities, by agreement, to exercise jointly powers common to the contracting parties; and

Whereas, it is the mutual benefit of the Parties and in the public interest that the Parties join together to provide:

- Pooling of their self-insured losses caused by injury to, or disease of, a person or damage to property;
- Sharing the cost of excess insurance or reinsurance, if any, or pooling with other joint powers authorities or public entity pooling arrangement; and
- Sharing the administration of the Authority created by this document.

Whereas, each Party desires to enter into this Agreement with each of the other Parties for the purpose of joint risk sharing and/or insuring against various risk of loss jointly, rather than individually;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

AGREEMENT

This amended Agreement replaces and restates in its entirety the Agreement and any prior amendments that may exist and is effective upon approval by three-quarters of the current Parties to the Agreement.

This Agreement is made under the authority of Government Code Section 6500 et seq. between the undersigned public entities, after the governing boards of the entities determine that it is in their best interest to execute this Agreement.

ARTICLE I - PURPOSE

The purpose of this Agreement is to exercise jointly powers common to each Party by:

- Creating an authority under Government Code Section 6500 et seq., a public entity that is separate and apart from the Parties, to be known as the California Transit System Joint Powers Authority, to administer a self-insurance pool,
- Sharing losses and purchase as a group, insurance or reinsurance and participate in other joint powers authorities or other public entity pooling arrangements,
- Maintaining funds sufficient to pay the losses to which the Parties agree to share through a Coverage Program, and
- Purchasing jointly administrative and other services, including risk management, loss prevention, and legal defense in connection with the Coverage Programs.

ARTICLE II - CREATION OF THE CALIFORNIA TRANSIT SYSTEMS JOINT POWERS AUTHORITY

Pursuant to Government Code Section 6500 et seq., the Parties to this Agreement hereby create a public entity separate and apart from the Parties. This public entity created by this Agreement shall be known as the California Transit Systems Joint Powers Authority.

ARTICLE III - DEFINITIONS

1. "Authority" shall mean the California Transit Systems Joint Powers Authority.
2. "Board" or "Board of Directors" shall mean the governing board of the Authority.
3. "Coverage Programs" shall mean programs as defined and adopted by the Board which may, but need not be limited to pooled risk programs, group purchase of insurance or reinsurance, or participation in other public entity pooling programs.
4. "Coverage Program Documents" shall mean the Master Program Document defining the policies and procedures of the program and the Memorandum of Coverage defining the coverage provided by the program.
5. "Contributions" shall mean payments by Members to the Authority, for other than interest, penalties paid, or reimbursements for payments made on behalf of the Member, for which the Authority is not liable.
6. "Governing Documents" shall be those documents described in Article VII, Governing Documents.
7. "Member" or collectively "Members" shall mean a Party who is participating in a particular Coverage Program.
8. "Party" shall mean a signatory to this Agreement.
9. "Officer" shall mean an officer of the Authority as defined in Article XIII.

ARTICLE IV - PARTIES TO THIS AGREEMENT

Each Party to this Agreement certifies that it intends to, and does, contract with all other Parties who are signatories to this Agreement, and any signatories that may sign this Agreement in the future, pursuant to Article XVI. The withdrawal of any Party to this Agreement shall not affect this Agreement as respects the remaining Parties and those remaining Parties' intent to be bound by this Agreement.

ARTICLE V - TERM OF AGREEMENT

As authorized by Government Code Section 6510, this Agreement which was originally effective May 1, 1987 shall stay in full force, as amended from time to time, until terminated in accordance with Article XX.

ARTICLE VI - POWERS OF THE AUTHORITY

The powers of the Authority shall be the powers enjoyed by the County of Nevada or, if the County of Nevada is no longer a Party to this Agreement then, the County of Siskiyou, and is authorized to do all acts necessary to fulfill the purposes of this Agreement including, but not limited to, the following:

1. Make and enter into contracts;
2. Incur debts, liabilities and obligations, but no debt, liability or obligation of the Authority is the debt, liability or obligation of any Party except as otherwise provided;
3. Acquire, hold or dispose of real and personal property;
4. Receive contributions and donations of property, funds, services and other forms of assistance from any source;
5. Assess Parties as deemed appropriate by the Board;
6. Sue and be sued in its own name;
7. Acquire, construct, manage and maintain buildings; and
8. Lease real or personal property including property of a Party, and receive, collect, invest and disburse monies.

These powers shall be executed in a manner provided by appropriate law and as set forth in this Agreement.

ARTICLE VII - GOVERNING DOCUMENTS

The attached amended Bylaws shall be deemed adopted upon the effective date of this Agreement. Thereafter, the Board of Directors may amend the Bylaws consistent with this Agreement and applicable law to govern the operations of the Authority. The Board of Directors may adopt Coverage Program Documents, consistent with this Agreement and the Bylaws. These Coverage Program Documents define the Coverage Programs, the Members' rights and duties, the Authority's rights and duties, and the operations of the programs. The Board may also adopt policies and procedures, consistent with this Agreement, the Bylaws, or Coverage Program Documents, to assist in the governance of the Authority's operations and activities. The Agreement, the Bylaws, Coverage Program Documents and policies and procedures adopted by the Board shall constitute the Governing Documents of the Authority.

Unless otherwise stated, a Governing Document may be amended by a majority of the Board of Directors at a duly noticed regular or special Board meeting.

ARTICLE VIII - RESPONSIBILITIES OF THE PARTIES

The Parties to this Agreement shall have the following responsibilities:

1. To abide by the terms of this Agreement and other Governing Documents;
2. To cooperate fully with the Authority in the settlement of claims;
3. To pay Contributions, assessments, or other charges promptly to the Authority when due; and
4. To appoint a Director and one or more Alternates to the Board of Directors and to reappoint those positions upon the departure of anyone from those positions.

ARTICLE IX - POWERS RESERVED UNTO THE PARTIES

The Parties reserve unto themselves the following powers:

1. To amend this Agreement;
2. Appoint the Representatives and Alternates to the Board of Directors; and
3. To terminate the Authority in accordance with Article XX.

ARTICLE X - BOARD OF DIRECTORS

There shall be a Board of Directors to govern the affairs of the Authority. The Board of Directors shall have all the powers of the Authority except those specifically reserved to the Parties. The Board of Directors shall have the authority to create committees as deemed necessary for the operations of the Authority. The Board has the power to delegate any and all of its powers, not specifically reserved exclusively to the Board, to a committee or an Officer of the Authority.

The Board of Directors shall consist of one Director and one or more Alternates for each Party to this Agreement as provided for in the Bylaws.

ARTICLE XI - DUTIES OF THE BOARD NOT DELEGABLE

The Board may not delegate to any committee, office or person the authority to:

1. Adopt, amend or alter the Bylaws;
2. Adopt the Authority's Annual Budget;
3. Create a Coverage Program;
4. Accept a Party to this Agreement; or
5. Expel a Party to this Agreement.

ARTICLE XII - BOARD MEETINGS AND RECORDS

The Board of Directors shall hold at least one meeting each fiscal year. Regular and special meetings may be called in accordance with the Bylaws of this Authority and applicable laws. All meetings shall be open to the public except as permitted by Government Code Section 54950 et seq. The Secretary shall keep full and complete minutes of all Board meetings.

ARTICLE XIII - OFFICERS OF THE AUTHORITY

The Board shall elect one of its members as Chairperson and one as Vice Chairperson. The Board shall appoint a Secretary. The duties of the Chairperson, Vice Chairperson and Secretary shall be defined in the Bylaws.

In lieu of the designation of a treasurer and auditor as per Government Code Section 6505.6, the Board shall elect a Treasurer, who shall have, among other duties defined in the Bylaws, the duties of the treasurer and auditor as described in Government Code Section 6505.5.

The Board may appoint other officers of the Authority as described in the Bylaws.

ARTICLE XIV - ANNUAL BUDGET

Pursuant to Government Code Section 6508, the Board shall approve a budget for any given fiscal year prior to the inception of that year.

ARTICLE XV - ADMINISTRATION OF FUNDS

The Authority shall be responsible for the strict accountability of all funds and reports of all receipts and disbursements in conformity with Government Code Section 6505. All funds of the Authority may be held in common although there shall be a separate accounting for funds of each Coverage Program.

ARTICLE XVI - NEW PARTIES

Prospective Parties may apply to the Board of Directors at any time. The Board shall have the power to accept a prospective Party, after reviewing their application. The membership shall become effective upon the Board's approval and the signing of this Agreement, participation in all mandatory Coverage Programs, and compliance with any and all other requirements imposed upon membership by the Bylaws or other Governing Documents.

ARTICLE XVII - WITHDRAWAL

A Party to this Agreement may not withdraw as a party to this Agreement prior to being a Party for at least three full fiscal years. A Party, who has been a Party for at least three full fiscal years, may withdraw from this Agreement only on the completion of a fiscal year. The Party must provide the Chairperson written notice of intent to withdraw at least six-months prior to withdrawal. The Party may rescind its notice of intent to withdraw at any time prior to ninety-days prior to the commencement of the next fiscal year. The Board may authorize rescission of the intent to withdraw upon a Party's request pursuant to the Bylaws at any time.

ARTICLE XVIII - EXPULSION

The Board may expel a Party to this Agreement as a Party as provided for in the Bylaws. The expelled Party shall be given written notice of such action of the Board at least ninety-days prior to the effective date of the expulsion.

ARTICLE XIX - EFFECT OF EXPULSION OR WITHDRAWAL

Pursuant to Government Code Section 6512.2, termination of any Party to this Agreement as a Party shall not be construed to be completion of the purpose of the Agreement and shall not require the return of any Contributions, payments or advances made by the Party until the Agreement is rescinded or terminated by all Parties in accordance with Article XX.

Termination of a Party to this Agreement as a Party shall not terminate its continuing responsibilities defined in any Governing Document or Coverage Program Document for the period of time in which the Party participated, including, but not limited to:

1. Cooperate fully with the Authority in the investigation and settlement of a claim;
2. Pay any Contributions, retentions or deductibles, assessments or other charges which are due and payable; and
3. Provide any statistical or loss experience data and other information as may be necessary for the Authority to carry out the purpose of this Agreement.

ARTICLE XX - TERMINATION AND DISTRIBUTION

This Agreement may be terminated at any time with written consent of three-fourths of the Parties; provided, however, that this Agreement and the Authority shall exist for the purpose of disposing of all claims, distribution of assets and any other functions necessary to wind up the affairs of the Authority. The Board shall be vested with all the powers of the Authority for the purposes of winding down and dissolving the business affairs of the Authority, including the power to assess past and present Parties in accordance with Coverage Program Documents.

In accordance with Government Code Section 6512, all assets of the Authority shall be distributed among those who were Parties within ten years of termination, in proportion to the Parties' Contributions. The Board shall determine when claims and liabilities are sufficiently realized as to not jeopardize the payment of any claim or liability that may arise in the future.

ARTICLE XXI - LIABILITY AND INDEMNIFICATION

Pursuant to Government Code Section 6508.1, the debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of any Party, except to the extent and in the proportions, imposed by the Bylaws or other Governing Documents. Each Party is independent of every other Party and of the Authority and not the agent of any Party or of the Authority. In contemplation of the provisions of Section 895.2 of the California Government Code, imposing certain tort liability jointly

upon public entities, solely by reason of a joint powers agreement as defined in Section 895 of that code, each Party, as between each other, pursuant to the authorization contained in Section 895.4 and 895.6 of that code, does hereby assume the full liability imposed upon it, or any of its officers, agents, or employees by law for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Section 895.2 of the California Government Code. To achieve the above-stated purpose, each Party shall indemnify and hold harmless each other Party for any loss, costs, or expense that may be imposed upon such other Party solely by virtue of Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part of this Agreement as if set forth fully in this Agreement.

The members of the Board of Directors and the Officers and employees of the Authority shall act in good faith and in the best interests of the Authority in the performance of their duties. The members of the Board of Directors and Officers and employees shall be liable for an act or omission within the scope of their employment with the Authority as a public entity only in the event that they act or fail to act because of actual fraud, corruption, or malice. No member shall be liable for any actions taken or omissions by another member of the Board. Funds of the Authority shall be used to defend and indemnify members of the Board, Officers, and employees for any act or omission pursuant to the provisions of the Government Code Section 910 to 996.6, inclusive. The Authority may purchase insurance covering acts or omissions of the Board of Directors, Officers, and employees.

ARTICLE XXII - NOTICES

Notices to any or all Parties shall be sufficient if mailed to their respective addresses on file with the Authority. Notice to the Authority shall be sufficient if mailed to the official address of the Authority as established by Resolution. Notices of meetings may be given by electronic mail to the respective electronic mail addresses on file with the Authority, which notice shall be deemed sufficient notice.

ARTICLE XXIII - PROHIBITION AGAINST ASSIGNMENT

No Party may assign any right, claim, or interest it may have under this Agreement, and no creditor, assignee, or third party beneficiary of the Party shall have any right, claim or title to any part, share, interest, fund, premium, or asset of the Authority.

ARTICLE XXIV - ARBITRATION

Any controversy between the Parties hereto arising out of this Agreement shall be submitted to arbitration, and such arbitration shall comply with and be governed by the provisions of the California Arbitration Act, Sections 1280 through 1294.2 of the California Code of Civil Procedure.

ARTICLE XXV - AMENDMENTS

This Agreement may be amended at any time by approval of two-thirds of the Parties.

ARTICLE XXVI - AGREEMENT COMPLETE

The foregoing constitutes the full and complete agreement of the Parties. There are no oral understandings or agreements not set forth in writing herein.

In Witness Whereof, the undersigned Party hereto has executed this Agreement on the date indicated below:

Date: _____

By: _____

Printed Name of Authorized Signor

Signature of Authorized Signor

Title of Authorized Signor

Name of Agency

CALIFORNIA TRANSIT SYSTEMS

JOINT POWERS AUTHORITY

BYLAWS

Effective – 2019

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BYLAWS

For the regulation of the California Transit Systems Joint Powers Authority, except as otherwise provided by statute or the Joint Powers Agreement creating the California Transit Systems Joint Powers Authority, also known as the California Transit Indemnity Pool ("CalTIP").

ARTICLE I - DEFINITIONS

The terms in these Bylaws have the same definitions as those given in the Joint Powers Agreement Creating the California Transit Systems Joint Powers Authority, unless otherwise specified herein.

- A. "Master Program Document" is a document issued by the Authority specifying the rights and obligations of the Authority and the Members in the Coverage Program as well as the procedures and operations of the program.
- B. "Memorandum of Coverage" is the document issued by the Authority to the Members in a Coverage Program, specifying the type, term, and amount of coverage provided by the Authority.

ARTICLE II - OFFICES

The principal executive office for the transaction of business of the Authority is hereby fixed and located at the address shown in Appendix A. Notwithstanding Article XVI, the Board shall have the authority to change the location of the principal executive office from time to time by a simple majority vote of the Board of Directors present at a duly authorized meeting and with 30 days' prior notice of such change. A revised Appendix A will be distributed to all then current Parties to the Agreement. Other business offices may at any time be established by the Board at any place or places.

ARTICLE III - BOARD OF DIRECTORS

A. GOVERNING BOARD

In accordance with Article X of the Agreement, the Board of Directors shall be the governing body of the Authority. Each Party's governing board shall appoint, by resolution, an officer or employee of the Party to be the Director and one or more officers or employees of the Party to act as Alternate on the Board of Directors of the Authority. Such appointment shall not take effect until such resolution is received by the Authority at its executive office as defined in Article II above, and the appointees have complied with the Authority's Conflict of Interest Policy. Voting members of the Board of Directors shall be the Directors, or in the case of their absence, an Alternate. Alternates shall have all the same rights to hold office or sit on committees as a Director. No more than one alternate may exercise a Party's voting rights at a meeting.

The Board of Directors shall provide policy direction to the committees, the Officers, and any employees or contracted service providers of the Authority. The Board may delegate any and all powers except those specifically reserved onto the Board or specifically requiring a vote by the Board of Directors. The Board cannot delegate the following powers:

1. By a three-fourths vote of the Directors present and voting:
 - a. Expel an existing member from the Authority.

2. By a two-thirds vote of the Directors present and voting:
 - a. Accept a new Party to this Agreement.

3. By a majority vote of the Directors present and voting:
 - a. Amend these Bylaws pursuant to Article XVI of these Bylaws;
 - b. Create or terminate any self-insurance, group purchase insurance program, or Coverage program;
 - c. Remove an officer of the Authority or committee member;
 - d. Adopt an operating budget for each of the Authority's fiscal years;
 - e. Authorize a payment of a dividend, or charge an assessment under a retrospective adjustment;
 - f. Change the location of the principal executive office; or
 - g. Authorize a cash assessment.

B. MEETINGS

All regular and special meetings of the Board of Directors shall be conducted in accordance with the Ralph M. Brown Act (Government Code Section 54950) as it now exists or may be amended from time to time. The Secretary shall cause notice to be given of all meetings and cause minutes to be prepared and distributed to the Board of Directors. The Board of Directors cannot conduct business unless a quorum is present at the meeting. A quorum consists of a majority of the Directors, or in the absence of a Director, the Alternate, that have complied with the requirements of Article III, A, and vacancies shall not be counted in determining a quorum. An official set of minutes of all Board meetings shall be kept at the principal executive offices of the Authority as defined in Article II.

All matters duly noticed and within the purview of the Board of Directors may be decided by a simple majority of those Directors voting at a regular or special meeting, unless the Governing Documents prescribe otherwise. Where the matter before the Board affects a particular Coverage Program, other than the financing of the Program, only those Directors representing Parties participating in the Coverage Program may vote; provided, however, that in the absence of a quorum of Coverage Program participant representatives the vote shall be by the Board of Directors.

The Board shall have at least one regular meeting a fiscal year. The date and time of such meeting and all other regular meetings of the Board for the next fiscal year shall be established by resolution of the Board adopted at the last regular Board meeting of the then current fiscal year.

Pursuant to Government Code Section 54956, a special meeting of the Board of Directors may be called by the Oversight Committee or by the Chairperson, with 24 hours' notice, stating the time and place of such meeting and the matter to be discussed. Such notice may be delivered personally, by way of electronic transmission (other than voice communication) or by mail. Notice by mail must be received at least 24 hours prior to the meeting.

All meetings may be postponed or cancelled by the Chairperson with at least 24 hours' prior notice.

ARTICLE IV - ELECTION AND DUTIES OF THE OFFICERS

A. ELECTION OF THE OFFICERS

The Officers of the Board of Directors shall be the Chairperson, Vice Chairperson, Treasurer, and

Secretary. The Officers shall be elected in the following manner:

1. Each Director may place any member of the Oversight Committee in nomination for the offices of Chairperson and Vice Chairperson. Each Director may place any member of the Board in nomination for the office of Treasurer.
2. Each Director shall cast one vote for the candidate of his or her choice for each office.
3. The terms of office of the Chairperson, the Vice Chairperson, and Treasurer shall be two years, commencing during the even numbered years. The Officers will begin serving terms upon the beginning of the fiscal year immediately following the election. The terms as Officers will end on the last day of a fiscal year. No officer may serve more than three consecutive terms in the same office. An exception may be made for the Treasurer's office if there are no other qualified Directors to serve.
4. Elections will be held whenever there is an Officer vacancy to fill the unexpired term.
5. The Office of the Secretary of the Board of Directors shall be the General Manager unless a separate Secretary of the Board of Directors is appointed by the Board of Directors.
6. The Office of Secretary has no set term but continues until there is a new General Manager or the Board appoints another as Secretary.

B. DUTIES OF THE OFFICERS

The duties of the Chairperson shall be to preside at all meetings of the Board and to perform such other duties as the Board may specify. Upon the death, incapacity, or vacancy in the office of the Chairperson, the Vice Chairperson shall succeed to such office automatically, subject to ratification by the Board at its next meeting, at which time the Board shall also elect a new Vice Chairperson.

The duties of the Vice Chairperson shall be to act as the Chairperson in the absence of the Chairperson and to perform such other duties as the Board may specify.

The duties of the Treasurer shall be those specified in the Agreement, duties imposed on the Treasurer and Controller/Auditor as defined in Section 6505.5 and 6506 of the California Government Code and other duties as required by law or as specified by the Board. The Authority, at its own expense, shall maintain a bond covering the Treasurer and any other person having contact with funds of the Authority in an amount not less than \$250,000.

The duties of the Secretary shall be to cause minutes to be kept and to perform such other duties as the Board may specify.

ARTICLE V - OVERSIGHT COMMITTEE

There shall be an Oversight Committee consisting of not less than seven nor more than nine members from the Board of Directors. The Board of Directors shall elect each member to a term of two-years concurrent with the fiscal year of the Authority, and commencing during the even numbered years. The Board of Directors shall determine the number of members to serve for the following two years at the time of each election. The elected members will begin serving terms upon the beginning of the fiscal year immediately following the election. The terms as elected members will end on the last day of a fiscal year. There is no maximum number of terms a member can serve. A vacancy shall be filled by an election by the Board of Directors at its next meeting.

The Board Chairperson shall be the Chair of the Oversight Committee. The Board Vice Chairperson shall be the Vice Chair of the Oversight Committee.

The Oversight Committee shall have the full authority of the Board of Directors except that authority for which the Board is precluded from delegating. The Oversight Committee shall review disputes between a Party and the Authority, and make a determination of appropriate action, regarding coverage or the administration of the Authority, enter into contracts where such authority has not been delegated to another, contract for a financial audit and for general legal services. The Oversight Committee shall monitor the performance and the operations of the Authority and Board policy and make recommendations of change where the Committee deems appropriate.

A majority of the members of the Oversight Committee shall constitute a quorum. An action by the Oversight Committee shall require a majority vote of those in attendance. Vacancies shall not be counted in determining a quorum.

ARTICLE VI - ADDITIONAL COMMITTEES

In addition to the Oversight Committee, there shall be a Member Services Committee and a Finance and Administration Committee.

A. MEMBER SERVICES COMMITTEE

The Member Services Committee shall consist of not less than five nor more than nine members of the Board of Directors, at the discretion of the Oversight Committee. The members are to be elected by the Oversight Committee. The terms of office shall be two years, with half the elected positions incepting on fiscal years starting on even numbered years and half the elected positions incepting on fiscal years starting on odd numbered years, if there are an even number of committee members. If the committee has an odd number of members, then the majority of the terms (half plus one) will incept on even years and the remaining members' terms incept on odd years. There is no maximum number of terms a member can serve. A vacancy shall be filled by an election by the Oversight Committee.

The Chairperson of the Member Services Committee shall serve a one-year term concurrent with the fiscal year of the Authority. Upon the completion of the term of the Committee Chair, the Committee Vice Chairperson shall become the Committee Chair. The Member Services Committee shall elect a new Vice Chairperson at its first meeting of the fiscal year of the Authority in which the Committee Vice Chairperson will be serving. In the absence of the Committee Chairperson, the Committee Vice Chairperson shall assume the role of Chairperson. If the Committee Chairperson has resigned or becomes incapacitated, the Committee Vice Chairperson shall assume the position as Chairperson and the Committee shall elect a new Vice Chairperson.

The Member Services Committee shall review applications for membership and make recommendations to the Board of Directors, underwrite Members of a Coverage Program, review claims made against a Coverage Program and take action as needed, including providing settlement authority, and implement safety and loss control strategies.

A majority of the members of the Member Services Committee shall constitute a quorum. An action by the Member Services Committee shall require a majority vote of those in attendance. Vacancies shall not be counted in determining a quorum.

B. FINANCE AND ADMINISTRATION COMMITTEE

The Finance and Administration Committee shall consist of not less than five nor more than nine members of the Board of Directors, at the discretion of the Oversight Committee. All but one of the members is to be elected by the Oversight Committee, and the remaining member being the Treasurer, who shall have all the same rights as the other members. The terms of office shall be two years, with half the elected positions incepting on fiscal years starting on even numbered years and half the elected positions incepting on fiscal years starting on odd numbered years, if there are an even number of committee members. If the committee has an odd number of members, then the majority of the terms (half plus one) will incept on even years and the remaining members' terms incept on odd years. There is no maximum number of terms a member can serve. A vacancy shall be filled by an election by the Oversight Committee.

The Chairperson of the Finance and Administration Committee shall serve a one-year term concurrent with the fiscal year of the Authority. Upon the completion of the term of the Committee Chair, the Committee Vice Chairperson shall become the Committee Chair. The Finance and Administration Committee shall elect a new Committee Vice Chairperson at its first meeting of the fiscal year of the Authority in which the Committee Vice Chairperson shall be serving. In the absence of the Committee Chairperson, the Committee Vice Chairperson shall assume the role of Chairperson. If the Committee Chairperson has resigned or becomes incapacitated, the Committee Vice Chairperson shall assume the position as Chairperson and the Committee shall elect a new Vice Chairperson.

The Finance and Administration Committee shall review current financial conditions of the Authority and provide direction in the development of the budget for the coming fiscal year, review the allocation of revenues in the budget and make recommendations for change to the Board of Directors, and recommend to the Board the appropriate reserves for contingencies.

A majority of the members of the Finance and Administration Committee shall constitute a quorum. An action by the Finance and Administration Committee shall require a majority vote of those in attendance. Vacancies shall not be counted in determining a quorum.

C. OTHER COMMITTEES

The Board of Directors may establish additional standing or ad hoc committees and delegate authority to such committees to accomplish certain tasks. Members of a committee shall remain members of that committee until such time as the Board appoints new members to the committee, the committee is dissolved by the Board, or the purpose has been completed and there are no more responsibilities assigned to the committee.

A quorum of a committee created under this section shall be a majority of the members of the committee, without counting any vacant positions. All actions by such committee shall require a majority vote of those in attendance, unless otherwise specifically stated.

Each committee shall appoint a chairperson who shall call the meetings.

ARTICLE VII – FISCAL YEAR

The fiscal year shall commence on May 1 of each year and conclude on April 30 of the following year. Revenue and expenses shall be recorded on a full accrual basis.

ARTICLE VIII - BUDGET

A budget shall be adopted prior to the inception of the fiscal year. The Budget shall separately show the following:

1. General and administrative costs;
2. Contributions, projected interest income and other income; and
3. The actuarially estimated claims and allocated claims adjustment costs.

ARTICLE IX - RECEIPT AND DISBURSEMENT OF FUNDS

Payments to the Authority shall be received at its principal executive office. The Treasurer or other designee shall safeguard and invest funds in accordance with the Authority's current Investment Policy.

All disbursements (via check or electronic funds transfer) issuing funds of the Authority (for other than the payment of claims) shall require the signatures or approvals of the Treasurer and Chairperson, Vice Chairperson, or other Director or designee as approved by the Board. A register of all checks or electronic funds transfers issued since the last Board meeting shall be provided at each Board meeting and approved by the Board.

ARTICLE X – RESPONSIBILITIES OF THE PARTY

The Authority is a participatory organization with the goal of reducing exposures to losses. To facilitate this goal, each Party agrees to perform the following functions in discharging its responsibilities:

1. Abide by all the rules and obligations imposed upon the Party by the Agreement, these Bylaws, any administrative policies and procedures adopted, any Master Program Documents and Memoranda of Coverage for any and all Coverage Programs to which the Member participates;
2. Appoint a Director and at least one Alternate to the Board;
3. Participate in the Liability Coverage Program;
4. Remit Contributions and other amounts due within 30 days of the date of invoice;
5. Cooperate fully with the Authority in reporting, and in determining the cause of claims and in the settlement of such claims; and
6. Upon withdrawal from the Authority, the Party shall remain responsible for any losses and any other costs which it has incurred while a Member of a Coverage Program and a Party to the Agreement.

ARTICLE XI - COVERAGE PROGRAMS

All Parties to the Agreement shall participate in the Liability Coverage Program. Participation in any other Coverage Program is at the discretion of the Party.

Each Coverage Program shall have a Master Program Document that describes the rights and duties of the Authority, the Member, and the process by which the Coverage Program will be administered.

ARTICLE XII - PENALTY FOR MONEY IN ARREARS

The penalty for Contributions not paid to the Authority within 30 days of the date of the invoice shall be the prime interest rate plus two points on the amount of Contributions owed. The prime rate used for penalty calculation will be the prime rate in effect 30 days after the invoice date at the commercial bank which holds funds of the Authority. This penalty is subject to a minimum amount established by resolution of the Board of Directors.

On appeal to the Oversight Committee, the Committee may waive the late payment penalty if the Party shows a hardship and presents a plan for repayment, if not already paid. Alternatively, or in addition, the Oversight Committee may prescribe or approve a payment plan for the Party other than those outlined in the Governing Documents of the Authority.

ARTICLE XIII - RIGHT OF OFFSET

The Authority may offset any moneys owed to a Party, with amounts owed by the Party to the Authority whether the amounts owed by the Party are Contributions or any other amounts owed.

ARTICLE XIV - NEW PARTIES TO THE AGREEMENT

A qualified public entity requesting to be a Party to the Authority shall complete an application form and provide other information and documentation requested by the Authority, including that required by any Coverage Program in which the prospective Party would like to participate.

Each prospective Party will submit a non-refundable application fee, as determined by the Board, to defray processing costs along with its completed application form. The prospective Party shall be presented in summary to the Board of Directors for a vote in accordance with the Agreement.

ARTICLE XV - HIERARCHY OF GOVERNING DOCUMENTS

The Agreement forming the Authority shall be superior to these Bylaws and any provisions in these Bylaws that are contradictory or in conflict with any provisions in the Agreement shall be interpreted to be consistent with the Agreement or be voided to the extent it conflicts or is contradictory. The Board shall adopt Master Program Documents, and policies or procedures. However, such other documents shall be consistent with the Agreement and these Bylaws, and to the extent they are not consistent, those documents will be superseded by the Agreement and Bylaws.

ARTICLE XVI - AMENDMENTS

These Bylaws may be amended by a majority vote of the Directors present and voting, provided that any amendment is compatible with the purposes of the Authority, is not in conflict with the Agreement, and has been submitted to the Board at least 30 days in advance. Any such amendment shall be effective immediately, unless otherwise designated.

APPENDIX A - PRINCIPAL EXECUTIVE OFFICE

The principal executive office for the transaction of business of the Authority is hereby fixed and located at:

1750 Creekside Oaks Drive, Suite 200

Sacramento, CA 95833

California Transit Systems Joint Powers Authority
Comparison of JPA Agreements – Current versus Proposed

Current to Proposed:

Current JPA Reference	Changes in Proposed JPA	Proposed JPA Reference
Page 1, Lines 1 - 3	Changing the opening paragraph prior to recitals for clarification purposes.	Page 1, Lines 1 - 3
Page 1, Line 27	Adding language to clarify the amended Agreement will become effective as soon as three-quarters of the current Parties to the Agreement approve the Agreement.	Page 1, Lines 26 - 27
Page 2, Lines 81 - 83	Article IV – Term of Agreement: Adding language to clarify the agreement is effective as amended from time to time.	Page 2, Lines 85 - 87
Page 3, Line 111 - 112	Article VII – Governing Documents: Including language stating the amended Bylaws are attached to the document and noting they will be deemed adopted upon the effective date of the Agreement. (The Board has the authority to adopt the Bylaws; however, because some of the amendments to the Bylaws dovetail with the amendments to the Agreement, the Board adopted the amended Bylaws to become effective upon the effective date of the Agreement). The language was also changed to clarify the Board may amend the Bylaws.	Page 3, Lines 113 - 114
Page 3, Line 130	Article VIII – Responsibilities of the Parties: Clarifying one or more Alternates may be appointed to the Board, which is CalTIP’s current practice.	Page 3, Line 134
Page 4, Lines 148 - 154	Article X – Board of Directors: Adding language to maintain consistency regarding appointment of “one or more Alternates” to the Board, referring to the Bylaws for specifics regarding the constitution of the Board of Directors, and removing the specifics from the Agreement.	Page 4, Lines 153 - 154
Page 5, Line 202 - 203	Article XVI – New Parties: Removing the quorum requirement from this section of the Agreement. Specifics regarding the quorum requirement are contained in the amended Bylaws. (The Bylaws require a two-thirds affirmative vote of the Board present and voting).	N/A
Page 6, Lines 221 - 223	Article XVIII – Expulsion: Removing the quorum requirement from this section of the Agreement and referencing the Bylaws. (The Bylaws require a three-fourths vote of the Board present and voting). Adding language to clarify written notice of such action will be provided to the expelled Party at least 90 days prior to the effective date of the expulsion.	Page 6, Lines 220 - 222
N/A	Article XXII – Notices: Adding language stating notices of meetings may be provided via e-mail.	Page 7, Lines 290 - 291
Page 7, Line 303	Article XXV – Amendments: Changing the approval requirement to amend the Agreement from three-fourths of the Parties to two-thirds of the Parties for future amendments.	Page 7, Line 310

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CALIFORNIA TRANSIT SYSTEMS

JOINT POWERS AUTHORITY

JOINT POWERS AUTHORITY AGREEMENT

May 2011

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JOINT POWERS AUTHORITY AGREEMENT

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1 This Agreement is executed in the State of California by and among those public entities which are
2 parties signatory to this Agreement. All parties signatory to this Agreement shall hereinafter be called
3 "Party" [collectively "Parties"].
4

5 **RECITALS**

6
7 **Whereas**, Article 1, Chapter 5, Division 7, Title 1 of the California Government Code (Section 6500 et
8 seq.) permits two or more public entities, by agreement, to exercise jointly powers common to the
9 contracting parties; and
10

11 **Whereas**, it is the mutual benefit of the Parties and in the public interest that the Parties join together
12 to provide:
13

- 14 • Pooling of their self-insured losses caused by injury to, or disease of, a person or damage to
15 property;
- 16 • Sharing the cost of excess insurance or reinsurance, if any, or pooling with other joint powers
17 authorities or public entity pooling arrangement; and
- 18 • Sharing the administration of the Authority created by this document.
19

20 **Whereas**, each Party desires to enter into this Agreement with each of the other Parties for the purpose
21 of joint risk sharing and/or insuring against various risk of loss jointly, rather than individually;
22

23 **NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**
24

25 **AGREEMENT**

26
27 This amended Agreement replaces the original Agreement and any prior amendments that may exist.
28

29 This Agreement is made under the authority of Government Code Section 6500 et seq. between the
30 undersigned public entities, after the governing boards of the entities determine that it is in their best
31 interest to execute this Agreement.
32

33 **ARTICLE I - PURPOSE**

34
35 The purpose of this Agreement is to exercise jointly powers common to each Party by:
36

- 37 • Creating an authority under Government Code Section 6500 et seq., a public entity that is
38 separate and apart from the Parties, to be known as the California Transit System Joint Powers
39 Authority, to administer a self-insurance pool,
- 40 • Sharing losses and purchase as a group, insurance or reinsurance and participate in other joint
41 powers authorities or other public entity pooling arrangements,
- 42 • Maintaining funds sufficient to pay the losses to which the Parties agree to share through a
43 Coverage Program, and
- 44 • Purchasing jointly administrative and other services, including risk management, loss
45 prevention, and legal defense in connection with the Coverage Programs.

46 **ARTICLE II - CREATION OF THE CALIFORNIA TRANSIT SYSTEMS JOINT POWERS AUTHORITY**

47
48 Pursuant to Government Code Section 6500 et seq., the Parties to this Agreement hereby create a public
49 entity separate and apart from the Parties. This public entity created by this Agreement shall be known
50 as the California Transit Systems Joint Powers Authority.
51

52 **ARTICLE III - DEFINITIONS**

- 53
- 54 1. "Authority" shall mean the California Transit Systems Joint Powers Authority.
 - 55 2. "Board" or "Board of Directors" shall mean the governing board of the Authority.
 - 56 3. "Coverage Programs" shall mean programs as defined and adopted by the Board which may, but
57 need not be limited to pooled risk programs, group purchase of insurance or reinsurance, or
58 participation in other public entity pooling programs.
 - 59 4. "Coverage Program Documents" shall mean the Master Program Document defining the policies
60 and procedures of the program and the Memorandum of Coverage defining the coverage
61 provided by the program.
 - 62 5. "Contributions" shall mean payments by Members to the Authority, for other than interest,
63 penalties paid, or reimbursements for payments made on behalf of the Member, for which the
64 Authority is not liable.
 - 65 6. "Governing Documents" shall be those documents described in Article VII, Governing
66 Documents.
 - 67 7. "Member" or collectively "Members" shall mean a Party who is participating in a particular
68 Coverage Program.
 - 69 8. "Party" shall mean a signatory to this Agreement.
 - 70 9. "Officer" shall mean an officer of the Authority as defined in Article XIII.
- 71

72 **ARTICLE IV - PARTIES TO THIS AGREEMENT**

73
74 Each Party to this Agreement certifies that it intends to, and does, contract with all other Parties who
75 are signatories to this Agreement, and any signatories that may sign this Agreement in the future,
76 pursuant to Article XVI. The withdrawal of any Party to this Agreement shall not affect this Agreement
77 as respects the remaining Parties and those remaining Parties' intent to be bound by this Agreement.
78

79 **ARTICLE V - TERM OF AGREEMENT**

80
81 As authorized by Government Code Section 6510, this Agreement was effective from May 1, 1987 and
82 shall stay in full force, as is, as amended on May 1, 2012 or any other subsequent amendments, until
83 terminated in accordance with Article XX.
84
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87

88 **ARTICLE VI - POWERS OF THE AUTHORITY**

89
90 The powers of the Authority shall be the powers enjoyed by the County of Nevada or, if the County of
91 Nevada is no longer a Party to this Agreement then, the County of Siskiyou, and is authorized to do all
92 acts necessary to fulfill the purposes of this Agreement including, but not limited to, the following:
93

- 94 1. Make and enter into contracts;
95 2. Incur debts, liabilities and obligations, but no debt, liability or obligation of the Authority is the
96 debt, liability or obligation of any Party except as otherwise provided;
97 3. Acquire, hold or dispose of real and personal property;
98 4. Receive contributions and donations of property, funds, services and other forms of assistance
99 from any source;
100 5. Assess Parties as deemed appropriate by the Board;
101 6. Sue and be sued in its own name;
102 7. Acquire, construct, manage and maintain buildings; and
103 8. Lease real or personal property including property of a Party, and receive, collect, invest and
104 disburse monies.

105
106 These powers shall be executed in a manner provided by appropriate law and as set forth in this
107 Agreement.
108

109 **ARTICLE VII - GOVERNING DOCUMENTS**

110
111 The Board of Directors shall adopt Bylaws consistent with this Agreement and applicable law to govern
112 the operations of the Authority. The Board of Directors may adopt Coverage Program Documents,
113 consistent with this Agreement and the Bylaws. These Coverage Program Documents define the
114 Coverage Programs, the Members rights and duties, the Authority's rights and duties, and the
115 operations of the programs. The Board may also adopt policies and procedures, consistent with this
116 Agreement, the Bylaws, or Coverage Program Documents, to assist in the governance of the Authority's
117 operations and activities. The Agreement, the Bylaws, Coverage Program Documents and policies and
118 procedures adopted by the Board shall constitute the Governing Documents of the Authority.
119

120 Unless otherwise stated, a Governing Document may be amended by a majority of the Board of
121 Directors at a duly noticed regular or special Board meeting.
122

123 **ARTICLE VIII - RESPONSIBILITIES OF THE PARTIES**

124
125 The Parties to this Agreement shall have the following responsibilities:
126

- 127 1. To abide by the terms of this Agreement and other Governing Documents;
128 2. To cooperate fully with the Authority in the settlement of claims;
129 3. To pay Contributions, assessments, or other charges promptly to the Authority when due; and
130 4. To appoint a Director and an Alternate to the Board of Directors and to reappoint those
131 positions upon the departure of anyone from those positions.

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ARTICLE IX - POWERS RESERVED UNTO THE PARTIES

The Parties reserve unto themselves the following powers:

1. To amend this Agreement;
2. Appoint the Representatives and Alternates to the Board of Directors; and
3. To terminate the Authority in accordance with Article XX.

ARTICLE X - BOARD OF DIRECTORS

There shall be a Board of Directors to govern the affairs of the Authority. The Board of Directors shall have all the powers of the Authority except those specifically reserved to the Parties. The Board of Directors shall have the authority to create committees as deemed necessary for the operations of the Authority. The Board has the power to delegate any and all of its powers, not specifically reserved exclusively to the Board, to a committee or an Officer of the Authority.

The Board of Directors shall consist of one Director and one Alternate from each Party to this Agreement. The Party shall appoint by official action an officer or employee of the Party to be the Director and such appointment shall remain in effect until such time as the Party appoints another to be the Director. The Party shall appoint by official action an officer or employee of the Party to be the Alternate and such appointment shall remain in effect until such time as the Party appoints another to be the Alternate. Each Director shall have one vote, and each Alternate shall have one vote only if the Director for which he/she is an Alternate is absent from the meeting.

ARTICLE XI - DUTIES OF THE BOARD NOT DELEGABLE

The Board may not delegate to any committee, office or person the authority to:

1. Adopt, amend or alter the Bylaws;
2. Adopt the Authority's Annual Budget;
3. Create a Coverage Program;
4. Accept a Party to this Agreement; or
5. Expel a Party to this Agreement.

ARTICLE XII - BOARD MEETINGS AND RECORDS

The Board of Directors shall hold at least one meeting each fiscal year. Regular and special meetings may be called in accordance with the Bylaws of this Authority and applicable laws. All meetings shall be open to the public except as permitted by Government Code Section 54950 et seq. The Secretary shall keep full and complete minutes of all Board meetings.

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ARTICLE XIII - OFFICERS OF THE AUTHORITY

The Board shall elect one of its members as Chairperson and one as Vice Chairperson. The Board shall appoint a Secretary. The duties of the Chairperson, Vice Chairperson and Secretary shall be defined in the Bylaws.

In lieu of the designation of a treasurer and auditor as per Government Code Section 6505.6, the Board shall elect a Treasurer, who shall have, among other duties defined in the Bylaws, the duties of the treasurer and auditor as described in Government Code Section 6505.5.

The Board may appoint other officers of the Authority as described in the Bylaws.

ARTICLE XIV - ANNUAL BUDGET

Pursuant to Government Code Section 6508, the Board shall approve a budget for any given fiscal year prior to the inception of that year.

ARTICLE XV - ADMINISTRATION OF FUNDS

The Authority shall be responsible for the strict accountability of all funds and reports of all receipts and disbursements in conformity with Government Code Section 6505. All funds of the Authority may be held in common although there shall be a separate accounting for funds of each Coverage Program.

ARTICLE XVI - NEW PARTIES

Prospective Parties may apply to the Board of Directors at any time. The Board shall have the power to accept a prospective Party, after reviewing their application, with at least two-thirds affirmative vote of the entire Board. The membership shall become effective upon the Board's approval and the signing of this Agreement, participation in all mandatory Coverage Programs, and compliance with any and all other requirements imposed upon membership by the Bylaws or other Governing Documents.

ARTICLE XVII - WITHDRAWAL

A Party to this Agreement may not withdraw as a party to this Agreement prior to being a Party for at least three full fiscal years. A Party, who has been a Party for at least three full fiscal years, may withdraw from this Agreement only on the completion of a fiscal year. The Party must provide the Chairperson written notice of intent to withdraw at least six-months prior to withdrawal. The Party may rescind its notice of intent to withdraw at any time prior to ninety-days prior to the commencement of the next fiscal year. The Board may authorize rescission of the intent to withdraw upon a Party's request pursuant to the Bylaws at any time.

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ARTICLE XVIII - EXPULSION

The Authority may expel a Party to this Agreement as a Party by a three-fourth vote of the entire Board. The Party shall be given written notice of such action of the Board at least ninety-days prior to the expulsion.

ARTICLE XIX - EFFECT OF EXPULSION OR WITHDRAWAL

Pursuant to Government Code Section 6512.2, termination of any Party to this Agreement as a Party shall not be construed to be completion of the purpose of the Agreement and shall not require the return of any Contributions, payments or advances made by the Party until the Agreement is rescinded or terminated by all Parties in accordance with Article XX.

Termination of a Party to this Agreement as a Party shall not terminate its continuing responsibilities defined in any Governing Document or Coverage Program Document for the period of time in which the Party participated, including, but not limited to:

1. Cooperate fully with the Authority in the investigation and settlement of a claim;
2. Pay any Contributions, retentions or deductibles, assessments or other charges which are due and payable; and
3. Provide any statistical or loss experience data and other information as may be necessary for the Authority to carry out the purpose of this Agreement.

ARTICLE XX - TERMINATION AND DISTRIBUTION

This Agreement may be terminated at any time with written consent of three-fourths of the Parties; provided, however, that this Agreement and the Authority shall exist for the purpose of disposing of all claims, distribution of assets and any other functions necessary to wind up the affairs of the Authority. The Board shall be vested with all the powers of the Authority for the purposes of winding down and dissolving the business affairs of the Authority, including the power to assess past and present Parties in accordance with Coverage Program Documents.

In accordance with Government Code Section 6512, all assets of the Authority shall be distributed among those who were Parties within ten years of termination, in proportion to the Parties' Contributions. The Board shall determine when claims and liabilities are sufficiently realized as to not jeopardize the payment of any claim or liability that may arise in the future.

ARTICLE XXI - LIABILITY AND INDEMNIFICATION

Pursuant to Government Code Section 6508.1, the debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of any Party, except to the extent and in the proportions, imposed by the Bylaws or other Governing Documents. Each Party is independent of every other Party and of the Authority and not the agent of any Party or of the Authority. In contemplation of the provisions of Section 895.2 of the California Government Code, imposing certain tort liability jointly

263 upon public entities, solely by reason of a joint powers agreement as defined in Section 895 of that
264 code, each Party, as between each other, pursuant to the authorization contained in Section 895.4 and
265 895.6 of that code, does hereby assume the full liability imposed upon it, or any of its officers, agents, or
266 employees by law for injury caused by a negligent or wrongful act or omission occurring in the
267 performance of this Agreement, to the same extent that such liability would be imposed in the absence
268 of Section 895.2 of the California Government Code. To achieve the above-stated purpose, each Party
269 shall indemnify and hold harmless each other Party for any loss, costs, or expense that may be imposed
270 upon such other Party solely by virtue of Section 895.2. The provisions of Section 2778 of the California
271 Civil Code are made a part of this Agreement as if set forth fully in this Agreement.
272

273 The members of the Board of Directors and the Officers and employees of the Authority shall act in good
274 faith and in the best interests of the Authority in the performance of their duties. The members of the
275 Board of Directors and Officers and employees shall be liable for an act or omission within the scope of
276 their employment with the Authority as a public entity only in the event that they act or fail to act
277 because of actual fraud, corruption, or malice. No member shall be liable for any actions taken or
278 omissions by another member of the Board. Funds of the Authority shall be used to defend and
279 indemnify members of the Board, Officers, and employees for any act or omission pursuant to the
280 provisions of the Government Code Section 910 to 996.6, inclusive. The Authority may purchase
281 insurance covering acts or omissions of the Board of Directors, Officers, and employees.
282

283 **ARTICLE XXII - NOTICES**

284
285 Notices to any or all Parties shall be sufficient if mailed to their respective addresses on file with the
286 Authority. Notice to the Authority shall be sufficient if mailed to the official address of the Authority as
287 established by Resolution.
288

289 **ARTICLE XXIII - PROHIBITION AGAINST ASSIGNMENT**

290
291 No Party may assign any right, claim, or interest it may have under this Agreement, and no creditor,
292 assignee, or third party beneficiary of the Party shall have any right, claim or title to any part, share,
293 interest, fund, premium, or asset of the Authority.
294

295 **ARTICLE XXIV - ARBITRATION**

296
297 Any controversy between the Parties hereto arising out of this Agreement shall be submitted to
298 arbitration, and such arbitration shall comply with and be governed by the provisions of the California
299 Arbitration Act, Sections 1280 through 1294.2 of the California Code of Civil Procedure.
300

301 **ARTICLE XXV - AMENDMENTS**

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303 This Agreement may be amended at any time by approval of three-fourths of the Parties.
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ARTICLE XXVI - AGREEMENT COMPLETE

The foregoing constitutes the full and complete agreement of the Parties. There are no oral understandings or agreements not set forth in writing herein.

In Witness Whereof, the undersigned Party hereto has executed this Agreement on the date indicated below:

Date: _____

By: _____

Printed Name of Authorized Signor

Signature of Authorized Signor

Title of Authorized Signor

Name of Agency

CALIFORNIA TRANSIT SYSTEMS

JOINT POWERS AUTHORITY

AMENDED AND RESTATED
JOINT POWERS AUTHORITY AGREEMENT

As Amended 2019

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AMENDED AND RESTATED
JOINT POWERS AUTHORITY AGREEMENT

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1 This Amended and Restated Joint Powers Agreement (“Agreement”) is executed by and among those
2 public entities which are signatories to this Agreement. Such parties shall hereinafter be referred to
3 individually as “Party” or collectively, “Parties.”

4 **RECITALS**

5
6 **Whereas**, Article 1, Chapter 5, Division 7, Title 1 of the California Government Code (Section 6500 et
7 seq.) permits two or more public entities, by agreement, to exercise jointly powers common to the
8 contracting parties; and

9
10 **Whereas**, it is the mutual benefit of the Parties and in the public interest that the Parties join together
11 to provide:

- 12
- 13 • Pooling of their self-insured losses caused by injury to, or disease of, a person or damage to
14 property;
 - 15 • Sharing the cost of excess insurance or reinsurance, if any, or pooling with other joint powers
16 authorities or public entity pooling arrangement; and
 - 17 • Sharing the administration of the Authority created by this document.
- 18

19 **Whereas**, each Party desires to enter into this Agreement with each of the other Parties for the purpose
20 of joint risk sharing and/or insuring against various risk of loss jointly, rather than individually;

21
22 **NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

23
24 **AGREEMENT**

25
26 This amended Agreement replaces and restates in its entirety the Agreement and any prior amendments
27 that may exist and is effective upon approval by three-quarters of the current Parties to the Agreement.

28
29 This Agreement is made under the authority of Government Code Section 6500 et seq. between the
30 undersigned public entities, after the governing boards of the entities determine that it is in their best
31 interest to execute this Agreement.

32
33
34 **ARTICLE I - PURPOSE**

35
36 The purpose of this Agreement is to exercise jointly powers common to each Party by:

- 37
- 38 • Creating an authority under Government Code Section 6500 et seq., a public entity that is
39 separate and apart from the Parties, to be known as the California Transit System Joint Powers
40 Authority, to administer a self-insurance pool,
 - 41 • Sharing losses and purchase as a group, insurance or reinsurance and participate in other joint
42 powers authorities or other public entity pooling arrangements,
 - 43 • Maintaining funds sufficient to pay the losses to which the Parties agree to share through a
44 Coverage Program, and
 - 45 • Purchasing jointly administrative and other services, including risk management, loss
46 prevention, and legal defense in connection with the Coverage Programs.

47 **ARTICLE II - CREATION OF THE CALIFORNIA TRANSIT SYSTEMS JOINT POWERS AUTHORITY**

48
49 Pursuant to Government Code Section 6500 et seq., the Parties to this Agreement hereby create a public
50 entity separate and apart from the Parties. This public entity created by this Agreement shall be known
51 as the California Transit Systems Joint Powers Authority.
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ARTICLE III - DEFINITIONS

- 55
56 1. "Authority" shall mean the California Transit Systems Joint Powers Authority.
57 2. "Board" or "Board of Directors" shall mean the governing board of the Authority.
58 3. "Coverage Programs" shall mean programs as defined and adopted by the Board which may, but
59 need not be limited to pooled risk programs, group purchase of insurance or reinsurance, or
60 participation in other public entity pooling programs.
61 4. "Coverage Program Documents" shall mean the Master Program Document defining the policies
62 and procedures of the program and the Memorandum of Coverage defining the coverage
63 provided by the program.
64 5. "Contributions" shall mean payments by Members to the Authority, for other than interest,
65 penalties paid, or reimbursements for payments made on behalf of the Member, for which the
66 Authority is not liable.
67 6. "Governing Documents" shall be those documents described in Article VII, Governing
68 Documents.
69 7. "Member" or collectively "Members" shall mean a Party who is participating in a particular
70 Coverage Program.
71 8. "Party" shall mean a signatory to this Agreement.
72 9. "Officer" shall mean an officer of the Authority as defined in Article XIII.
73

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ARTICLE IV - PARTIES TO THIS AGREEMENT

76
77 Each Party to this Agreement certifies that it intends to, and does, contract with all other Parties who
78 are signatories to this Agreement, and any signatories that may sign this Agreement in the future,
79 pursuant to Article XVI. The withdrawal of any Party to this Agreement shall not affect this Agreement
80 as respects the remaining Parties and those remaining Parties' intent to be bound by this Agreement.
81

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ARTICLE V - TERM OF AGREEMENT

84
85 As authorized by Government Code Section 6510, this Agreement which was originally effective May
86 1, 1987 shall stay in full force, as amended from time to time, until terminated in accordance with
87 Article XX.

88 **ARTICLE VI - POWERS OF THE AUTHORITY**

89
90 The powers of the Authority shall be the powers enjoyed by the County of Nevada or, if the County of
91 Nevada is no longer a Party to this Agreement then, the County of Siskiyou, and is authorized to do all
92 acts necessary to fulfill the purposes of this Agreement including, but not limited to, the following:
93

- 94 1. Make and enter into contracts;
95 2. Incur debts, liabilities and obligations, but no debt, liability or obligation of the Authority is the
96 debt, liability or obligation of any Party except as otherwise provided;
97 3. Acquire, hold or dispose of real and personal property;
98 4. Receive contributions and donations of property, funds, services and other forms of assistance
99 from any source;
100 5. Assess Parties as deemed appropriate by the Board;
101 6. Sue and be sued in its own name;
102 7. Acquire, construct, manage and maintain buildings; and
103 8. Lease real or personal property including property of a Party, and receive, collect, invest and
104 disburse monies.

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106 These powers shall be executed in a manner provided by appropriate law and as set forth in this
107 Agreement.
108

109
110 **ARTICLE VII - GOVERNING DOCUMENTS**

111
112 The attached amended Bylaws shall be deemed adopted upon the effective date of this Agreement.
113 Thereafter, the Board of Directors may amend the Bylaws consistent with this Agreement and
114 applicable law to govern the operations of the Authority. The Board of Directors may adopt Coverage
115 Program Documents, consistent with this Agreement and the Bylaws. These Coverage Program
116 Documents define the Coverage Programs, the Members' rights and duties, the Authority's rights and
117 duties, and the operations of the programs. The Board may also adopt policies and procedures,
118 consistent with this Agreement, the Bylaws, or Coverage Program Documents, to assist in the
119 governance of the Authority's operations and activities. The Agreement, the Bylaws, Coverage Program
120 Documents and policies and procedures adopted by the Board shall constitute the Governing
121 Documents of the Authority.
122

123 Unless otherwise stated, a Governing Document may be amended by a majority of the Board of
124 Directors at a duly noticed regular or special Board meeting.
125

126
127 **ARTICLE VIII - RESPONSIBILITIES OF THE PARTIES**

128
129 The Parties to this Agreement shall have the following responsibilities:
130

- 131 1. To abide by the terms of this Agreement and other Governing Documents;
132 2. To cooperate fully with the Authority in the settlement of claims;
133 3. To pay Contributions, assessments, or other charges promptly to the Authority when due; and
134 4. To appoint a Director and one or more Alternates to the Board of Directors and to
135 reappoint those positions upon the departure of anyone from those positions.

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ARTICLE IX - POWERS RESERVED UNTO THE PARTIES

The Parties reserve unto themselves the following powers:

- 1. To amend this Agreement;
- 2. Appoint the Representatives and Alternates to the Board of Directors; and
- 3. To terminate the Authority in accordance with Article XX.

ARTICLE X - BOARD OF DIRECTORS

There shall be a Board of Directors to govern the affairs of the Authority. The Board of Directors shall have all the powers of the Authority except those specifically reserved to the Parties. The Board of Directors shall have the authority to create committees as deemed necessary for the operations of the Authority. The Board has the power to delegate any and all of its powers, not specifically reserved exclusively to the Board, to a committee or an Officer of the Authority.

The Board of Directors shall consist of one Director and one or more Alternates for each Party to this Agreement as provided for in the Bylaws.

ARTICLE XI - DUTIES OF THE BOARD NOT DELEGABLE

The Board may not delegate to any committee, office or person the authority to:

- 1. Adopt, amend or alter the Bylaws;
- 2. Adopt the Authority's Annual Budget;
- 3. Create a Coverage Program;
- 4. Accept a Party to this Agreement; or
- 5. Expel a Party to this Agreement.

ARTICLE XII - BOARD MEETINGS AND RECORDS

The Board of Directors shall hold at least one meeting each fiscal year. Regular and special meetings may be called in accordance with the Bylaws of this Authority and applicable laws. All meetings shall be open to the public except as permitted by Government Code Section 54950 et seq. The Secretary shall keep full and complete minutes of all Board meetings.

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ARTICLE XIII - OFFICERS OF THE AUTHORITY

The Board shall elect one of its members as Chairperson and one as Vice Chairperson. The Board shall appoint a Secretary. The duties of the Chairperson, Vice Chairperson and Secretary shall be defined in the Bylaws.

In lieu of the designation of a treasurer and auditor as per Government Code Section 6505.6, the Board shall elect a Treasurer, who shall have, among other duties defined in the Bylaws, the duties of the treasurer and auditor as described in Government Code Section 6505.5.

The Board may appoint other officers of the Authority as described in the Bylaws.

ARTICLE XIV - ANNUAL BUDGET

Pursuant to Government Code Section 6508, the Board shall approve a budget for any given fiscal year prior to the inception of that year.

ARTICLE XV - ADMINISTRATION OF FUNDS

The Authority shall be responsible for the strict accountability of all funds and reports of all receipts and disbursements in conformity with Government Code Section 6505. All funds of the Authority may be held in common although there shall be a separate accounting for funds of each Coverage Program.

ARTICLE XVI - NEW PARTIES

Prospective Parties may apply to the Board of Directors at any time. The Board shall have the power to accept a prospective Party, after reviewing their application. The membership shall become effective upon the Board's approval and the signing of this Agreement, participation in all mandatory Coverage Programs, and compliance with any and all other requirements imposed upon membership by the Bylaws or other Governing Documents.

ARTICLE XVII - WITHDRAWAL

A Party to this Agreement may not withdraw as a party to this Agreement prior to being a Party for at least three full fiscal years. A Party, who has been a Party for at least three full fiscal years, may withdraw from this Agreement only on the completion of a fiscal year. The Party must provide the Chairperson written notice of intent to withdraw at least six-months prior to withdrawal. The Party may rescind its notice of intent to withdraw at any time prior to ninety-days prior to the commencement of the next fiscal year. The Board may authorize rescission of the intent to withdraw upon a Party's request pursuant to the Bylaws at any time.

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ARTICLE XVIII - EXPULSION

The Board may expel a Party to this Agreement as a Party as provided for in the Bylaws. The expelled Party shall be given written notice of such action of the Board at least ninety-days prior to the effective date of the expulsion.

ARTICLE XIX - EFFECT OF EXPULSION OR WITHDRAWAL

Pursuant to Government Code Section 6512.2, termination of any Party to this Agreement as a Party shall not be construed to be completion of the purpose of the Agreement and shall not require the return of any Contributions, payments or advances made by the Party until the Agreement is rescinded or terminated by all Parties in accordance with Article XX.

Termination of a Party to this Agreement as a Party shall not terminate its continuing responsibilities defined in any Governing Document or Coverage Program Document for the period of time in which the Party participated, including, but not limited to:

1. Cooperate fully with the Authority in the investigation and settlement of a claim;
2. Pay any Contributions, retentions or deductibles, assessments or other charges which are due and payable; and
3. Provide any statistical or loss experience data and other information as may be necessary for the Authority to carry out the purpose of this Agreement.

ARTICLE XX - TERMINATION AND DISTRIBUTION

This Agreement may be terminated at any time with written consent of three-fourths of the Parties; provided, however, that this Agreement and the Authority shall exist for the purpose of disposing of all claims, distribution of assets and any other functions necessary to wind up the affairs of the Authority. The Board shall be vested with all the powers of the Authority for the purposes of winding down and dissolving the business affairs of the Authority, including the power to assess past and present Parties in accordance with Coverage Program Documents.

In accordance with Government Code Section 6512, all assets of the Authority shall be distributed among those who were Parties within ten years of termination, in proportion to the Parties' Contributions. The Board shall determine when claims and liabilities are sufficiently realized as to not jeopardize the payment of any claim or liability that may arise in the future.

ARTICLE XXI - LIABILITY AND INDEMNIFICATION

Pursuant to Government Code Section 6508.1, the debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of any Party, except to the extent and in the proportions, imposed by the Bylaws or other Governing Documents. Each Party is independent of every other Party and of the Authority and not the agent of any Party or of the Authority. In contemplation of the provisions of Section 895.2 of the California Government Code, imposing certain tort liability jointly

265 upon public entities, solely by reason of a joint powers agreement as defined in Section 895 of that
266 code, each Party, as between each other, pursuant to the authorization contained in Section 895.4 and
267 895.6 of that code, does hereby assume the full liability imposed upon it, or any of its officers, agents, or
268 employees by law for injury caused by a negligent or wrongful act or omission occurring in the
269 performance of this Agreement, to the same extent that such liability would be imposed in the absence
270 of Section 895.2 of the California Government Code. To achieve the above-stated purpose, each Party
271 shall indemnify and hold harmless each other Party for any loss, costs, or expense that may be imposed
272 upon such other Party solely by virtue of Section 895.2. The provisions of Section 2778 of the California
273 Civil Code are made a part of this Agreement as if set forth fully in this Agreement.
274

275 The members of the Board of Directors and the Officers and employees of the Authority shall act in good
276 faith and in the best interests of the Authority in the performance of their duties. The members of the
277 Board of Directors and Officers and employees shall be liable for an act or omission within the scope of
278 their employment with the Authority as a public entity only in the event that they act or fail to act
279 because of actual fraud, corruption, or malice. No member shall be liable for any actions taken or
280 omissions by another member of the Board. Funds of the Authority shall be used to defend and
281 indemnify members of the Board, Officers, and employees for any act or omission pursuant to the
282 provisions of the Government Code Section 910 to 996.6, inclusive. The Authority may purchase
283 insurance covering acts or omissions of the Board of Directors, Officers, and employees.
284

285 286 **ARTICLE XXII - NOTICES**

287
288 Notices to any or all Parties shall be sufficient if mailed to their respective addresses on file with the
289 Authority. Notice to the Authority shall be sufficient if mailed to the official address of the Authority as
290 established by Resolution. Notices of meetings may be given by electronic mail to the respective
291 electronic mail addresses on file with the Authority, which notice shall be deemed sufficient notice.
292

293 294 **ARTICLE XXIII - PROHIBITION AGAINST ASSIGNMENT**

295
296 No Party may assign any right, claim, or interest it may have under this Agreement, and no creditor,
297 assignee, or third party beneficiary of the Party shall have any right, claim or title to any part, share,
298 interest, fund, premium, or asset of the Authority.
299

300 301 **ARTICLE XXIV - ARBITRATION**

302
303 Any controversy between the Parties hereto arising out of this Agreement shall be submitted to
304 arbitration, and such arbitration shall comply with and be governed by the provisions of the California
305 Arbitration Act, Sections 1280 through 1294.2 of the California Code of Civil Procedure.
306

307 308 **ARTICLE XXV - AMENDMENTS**

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310 This Agreement may be amended at any time by approval of two-thirds of the Parties.

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ARTICLE XXVI - AGREEMENT COMPLETE

The foregoing constitutes the full and complete agreement of the Parties. There are no oral understandings or agreements not set forth in writing herein.

In Witness Whereof, the undersigned Party hereto has executed this Agreement on the date indicated below:

Date: _____

By: _____

Printed Name of Authorized Signor

Signature of Authorized Signor

Title of Authorized Signor

Name of Agency

**SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
JULY 10, 2019
STAFF REPORT**

AGENDA ITEM: C-5

TOPIC: Agreement with Bond Counsel

ACTION: Approve

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Authorize the Executive Director to Execute Agreement with Nossaman LLP

BACKGROUND/DISCUSSION:

As noted during the April 3, 2019 RTA Board meeting, staff is working to develop funding scenarios to address the funding shortfall for the bus maintenance facility at 253 Elks Lane. At that meeting, Melissa Shick from KNN Public Finance presented information regarding the range of options they would be working with staff to explore.

Since that time, KNN and the RTA staff has worked through the funding options (see Agenda Item C-7 on Transportation Infrastructure Finance and Innovation Act, or TIFIA), in addition to securing the support needed in order to proceed with securing financing. One of those items is securing Bond Counsel. There are various fee components that will be incurred, depending on which method the RTA eventually chooses.

On May 21, 2019 the RTA worked with KNN to release a request for proposals (RFP) for Bond Counsel Services. Five proposals were submitted by the June 5th deadline. After conducting a due diligence review, the review committee unanimously selected Nossaman LLP.

At this point of time, staff anticipates the following items:

- TIFIA Bond Counsel: \$55,000 to \$70,000
- Private Placement: \$39,500

Should the process with TIFIA not move forward, the private placement portion may still be need in addition to:

- Public Bond Offering (including Bond and Disclosure Counsel): \$75,000

One of the first items that Bond Counsel will work with the RTA and KNN to provide additional information needed in the RTA TIFIA letter of interest.

STAFF RECOMMENDATION: Approve the attached service agreement with Nossaman LLP for legal services related to the financing needed for the bus maintenance facility.

**SAN LUIS OBIPO REGIONAL TRANSIT AUTHORITY
PROFESSIONAL SERVICES AGREEMENT WITH NOSSAMAN, LLP**

This "Agreement" is made as of this 10th day of July, 2019, by and between the San Luis Obispo Regional Transit Authority ("RTA" or "Purchaser") and Nossaman, LLP ("Contractor").

RECITALS

A. The RTA desires to retain a qualified and committed professional legal firm or team of firms to provide bond counsel services for the RTA Bus Maintenance Facility Project.

B. The RTA desires to retain a qualified firm to conduct the services described above in accordance with the Scope of Services as more particularly set forth in Exhibit A to the Agreement.

C. Contractor represents to the RTA that it is a firm composed of highly trained professionals and is fully qualified to conduct the services described above and render advice to the RTA in connection with said services.

D. The parties have negotiated upon the terms pursuant to which Contractor will provide such services and have reduced such terms to writing.

AGREEMENT

NOW, THEREFORE, the RTA and Contractor agree as follows:

1. SCOPE OF SERVICES

Contractor shall provide to the RTA the services described in Exhibit A ("Scope of Services") Contractor shall provide these services at the time, place, and in the manner specified in Exhibit A. Exhibit A is attached hereto solely for the purpose of defining the manner and scope of services to be provided by Contractor and is not intended to, and shall not be construed so as to, modify or expand the terms, conditions or provisions contained in this Agreement. In the event of any conflict between the terms in Exhibit A and the Agreement, the terms of this Agreement shall control and prevail. The parties agree that any term contained in Exhibit A that adds to, varies or conflicts with the terms of this Agreement is null and void.

2. COMPENSATION

a. The RTA shall pay Contractor for services rendered pursuant to this Agreement at the rates, times and in the manner set forth in this Agreement. Contractor shall submit monthly statements to the RTA which shall itemize the services performed as of the date of the statement and set forth a progress report, including work accomplished during the period, percent of each task completed, and planned effort for the next period. Invoices shall identify personnel who have

worked on the services provided, and the percent of the total project completed, consistent with the rates and amounts set forth in this Agreement.

b. The payments prescribed herein shall constitute all compensation to Contractor for all costs of services, including, but not limited to, direct costs of labor of employees engaged by Contractor, travel expenses, telephone charges, copying and reproduction, computer time, and any and all other costs, expenses and charges of Contractor, its agents and employees. In no event shall the RTA be obligated to pay late fees or interest, whether or not such requirements are contained in Contractor's invoice.

c. Notwithstanding any other provision in this Agreement to the contrary, the total maximum compensation to be paid for the satisfactory accomplishment and completion of all services to be performed hereunder shall in no event exceed \$70,000 for TIFIA Bond Counsel, \$39,500 for Private Placement Bond Counsel, \$48,500 for Public Offering Bond Counsel, and \$35,000 for Disclosure Counsel. The RTA's Chief Financial Officer is authorized to pay all proper claims.

3. DOCUMENTATION; RETENTION OF MATERIALS

a. Contractor shall maintain adequate documentation to substantiate all charges as required under Section 2 of this Agreement.

b. Contractor shall keep and maintain full and complete documentation and accounting records concerning all extra or special services performed by it that are compensable by other than an hourly or flat rate and shall make such documents and records available to authorized representatives of the RTA for inspection at any reasonable time.

c. Contractor shall maintain the records and any other records related to the performance of this Agreement and shall allow the RTA access to such records during the performance of this Agreement and for a period of four (4) years after completion of all services hereunder.

4. INDEMNITY

Contractor shall, to the fullest extent permitted by law, indemnify, protect, defend and hold harmless the RTA, and its employees, officials and agents ("Indemnified Parties") for all claims, demands, costs or liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, interest, defense costs, and expert witness fees), that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor, its officers, employees, agents, in said performance of this Agreement, excepting only liability arising from the negligence, active negligence or intentional misconduct of the RTA.

5. INSURANCE

Contractor shall maintain in full force and effect all of the insurance coverage described in, and in accordance with, Attachment One, "Insurance Requirements." Maintenance of the insurance coverage set forth in Attachment One is a material element of this Agreement and a material part of the consideration provided by Contractor in exchange for the RTA's agreement to make the payments prescribed hereunder. Failure by Contractor to (i) maintain or renew coverage, (ii) provide the RTA notice of any changes, modifications, or reductions in coverage, or (iii) provide evidence of renewal, may be treated by the RTA as a material breach of this Agreement by Contractor, whereupon the RTA shall be entitled to all rights and remedies at law or in equity, including but not limited to immediate termination of this Agreement. Notwithstanding the foregoing, any failure by Contractor to maintain required insurance coverage shall not excuse or alleviate Contractor from any of its other duties or obligations under this Agreement. In the event Contractor, with approval of the RTA pursuant to Section 6 below, retains or utilizes any subcontractors in the provision of any services to the RTA under this Agreement, Contractor shall assure that any such subcontractor has first obtained, and shall maintain, all of the insurance coverage requirements set forth in the Insurance Requirements at Attachment One.

6. ASSIGNMENT

Contractor shall not assign any rights or duties under this Agreement to a third party without the express prior written consent of the RTA, in the RTA's sole and absolute discretion. Contractor agrees that the RTA shall have the right to approve any and all subcontractors to be used by Contractor in the performance of this Agreement before Contractor contracts with or otherwise engages any such subcontractors.

7. TERMINATION

a. This Agreement may be terminated by the RTA at any time by giving
Thirty (30) days written notice to the Contractor of its intent to terminate the Agreement.

b. Upon such termination, Contractor shall submit to the RTA an itemized statement of services performed as of the date of termination in accordance with Section 2 of this Agreement. These services may include both completed work and work in progress at the time of termination. If the AVL system has been installed, Contractor shall provide a working installation and configuration of the AVL system to the RTA within Thirty (30) days of the termination date. The RTA shall pay Contractor for any services for which compensation is owed; provided, however, the RTA shall not in any manner be liable for lost profits that might have been made by Contractor had the Agreement not been terminated or had Contractor completed the services required by this Agreement. Contractor shall promptly deliver to the RTA all

documents related to the performance of this Agreement in its possession or control. All such documents shall be the property of the RTA without additional compensation to Contractor.

8. NOTICES

Except as otherwise provided in this Agreement, any notice, submittal or communication required or permitted to be served on a party, shall be in writing and may be served by personal delivery to the person or the office of the person identified below. Service may also be made by mail, by placing first-class postage, and addressed as indicated below, and depositing in the United States mail to:

RTA Representative:

Geoff Straw
San Luis Obispo RTA
179 Cross Street, Suite A
San Luis Obispo, CA 93401
(805) 781-4465
gstraw@slorta.org

Contractor Representative:

Barney Allison
Nossaman LLP
777 South Figueroa Street, 34th Floor
Los Angeles, CA 90017
(213) 612-7847
ballison@nossaman.com

9. INDEPENDENT CONTRACTOR

The parties intend that Contractor, in performing the services specified, shall act as an independent Contractor and shall have control of its work and the manner in which it is performed. Contractor, including Contractor's employees, shall not be considered agents or employees of the RTA. Neither Contractor nor Contractor's employees shall be entitled to participate in any pension plan, medical, or dental plans, or any other benefit provided by the RTA for its employees.

10. ADDITIONAL SERVICES

Changes to the Scope of Services shall be by written amendment to this Agreement and shall be paid on an hourly basis at the rates set forth in this Agreement, or paid as otherwise agreed upon by the parties in writing prior to the provision of any such additional services.

11. SUCCESSORS AND ASSIGNS

The RTA and Contractor each binds itself, its partners, successors, legal representatives and assigns to the other party to this Agreement and to the partners, successors, legal representatives and assigns of such other party in respect of all promises and agreements contained herein.

12. TIME OF PERFORMANCE

The services described herein shall be provided during the period, or in accordance with the schedule, set forth in Exhibit A – Scope of Services.

13. MISCELLANEOUS

a. Entire Agreement. This Agreement contains the entire agreement between the parties. Any and all verbal or written agreements made prior to the date of this Agreement are superseded by this Agreement and shall have no further effect.

b. Modification. No modification or change to the terms of this Agreement will be binding on a party unless in writing and signed by an authorized representative of that party.

c. Compliance with Laws. Contractor shall perform all services described herein in compliance with all applicable federal, state and local laws, rules, regulations, and ordinances, including but not limited to, (i) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.) (“ADA”), and any regulations and guidelines issued pursuant to the ADA; and (ii) Labor Code sections 1700-1775, which require prevailing wages (in accordance with DIR schedule at www.dir.ca.gov) be paid to any employee performing work covered by Labor Code sections 1720 et seq.

d. Governing Law; Venue. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court in San Luis Obispo County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such court, and consent to service of process issued by such court.

e. Conflict of Interest. The RTA’s Conflict of Interest Code requires that individuals who qualify as “Contractors” under the Political Reform Act, California Government Code sections 87200 et seq., comply with the conflict of interest provisions of the Political Reform Act and the RTA’s Conflict of Interest Code, which generally prohibit individuals from making or participating in the making of decisions that will have a material financial effect on their economic interests. The term “Contractor” generally includes individuals who make governmental decisions or who serve in a staff capacity. In the event that the RTA determines, in its discretion, that Contractor is a “Contractor” under the Political Reform Act, Contractor shall cause the following to occur within 30 days after execution of this Agreement: (1) Identify the

individuals who will provide services or perform work under this Agreement as “Contractors,” and (2) Cause these individuals to file with the RTA’s Representative the “assuming office” statements of economic interests required by the RTA’s Conflict of Interest Code. Thereafter, throughout the term of the Agreement, Contractor shall cause these individuals to file with the RTA Representative annual statements of economic interests, and “leaving office” statements of economic interests, as required by the RTA’s Conflict of Interest Code. The above statements of economic interests are public records subject to public disclosure under the California Public Records Act. The RTA may withhold all or a portion of any payment due under this agreement until all required statements are files.

f. Waiver of Rights. Neither the RTA acceptance of, or payment for, any service or performed by Contractor, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

g. Ownership and Use of Property Rights. Unless otherwise expressly provide herein, all original works created by Contractor for the RTA hereunder shall be and remain the property of the RTA. Contractor agrees that any patentable or copyrightable property rights, to the extent created for the RTA as part of the services provided hereunder, shall be in the public domain and may be used by anyone for any lawful purpose.

h. Incorporation of attachments and exhibits. The attachments and exhibits to this Agreement are incorporated and made part of this Agreement, subject to terms and provisions herein contained.

i. Dispute resolution. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the RTA Deputy Director, who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the RTA Deputy Director shall be final and conclusive unless within ten working (10) days from the date of receipt of such copy the Contractor mails or otherwise furnishes a written appeal addressed to the RTA Executive Director. The determination of such appeal by the Executive Director shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious, arbitrary, or not supported by substantial evidence. In connection with any appeal preceding under this clause the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Agreement and in accordance with the Executive Director’s decision.

The duties and obligations imposed by the Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

j. Confidentiality. Contractor and RTA will preserve the confidentiality of all communications to prevent disclosure of such communications that may be jeopardized by disclosing the contents of our communications to third parties.

k. Not a Public Official. Contractor and RTA agree that the Contractor is not a “public official” for purposes of Government Code Sections 87200 et seq. Contractor will conduct research and arrive at conclusions with respect to our rendering of services under this agreement independent of the control and direct of the RTA or any RTA official, other than normal contract monitoring.

14. ACCESSIBILITY REQUIREMENTS

In addition to those requirements set forth in Subsection 13(C), the RTA requires that all RTA telecommunication services, websites and web-based applications and services are accessible to, and usable by, persons with disabilities. Contractor shall provide all electronic, telecommunication, and information technology products and services to be provided under this Agreement in conformance with title 28, Part 35 of the Code of Federal Regulations, 28 C.F.R. §§ 35.130, et seq., and the accessibility standards set forth in Section 508 of the Rehabilitation Act of 1973, as amended. Section 508 standards are viewable at <http://access-board.gov/sec508/standards.htm>.

15. AUTHORITY; SIGNATURES REQUIRED FOR CORPORATIONS

Contractor hereby represents and warrants to the RTA that it is (a) duly organized and validly existing formed and in good standing under the laws of the State of California, (b) has the power and authority and the legal right to conduct the business in which it is currently engaged, and c) has all requisite power and authority and the legal right to consummate the transactions contemplated in this Agreement. Contractor hereby further represents and warrants that this Agreement has been duly authorized, and when executed by the signatory or signatories listed below, shall constitute a valid agreement binding on Contractor in accordance with the terms hereof.

If this Agreement is entered into by a corporation, it shall be signed by two corporate officers, one from each of the following two groups: a) the chairman of the board, president or any vice-president; b) the secretary, any assistant secretary, chief financial officer, or any assistant treasurer. The title of the corporate officer shall be listed under the signature.

Executed as of the day and year first above stated.

CONTRACTOR:

Name of Firm: Nossaman LLP

**SAN LUIS OBISPO REGIONAL TRANSIT
AUTHORITY**

TYPE OF BUSINESS ENTITY (*check one*):

Individual/Sole Proprietor

Partnership

Corporation

Limited Liability Company

Other (please specify:

_____)

By: _____

Geoff Straw
RTA Executive Director

Signatures of Authorized Persons:

By: _____

APPROVED AS TO FORM:

Print Name: _____

RTA Counsel

Title: _____

ATTEST:

By: _____

Print Name: _____

RTA Clerk

Title: _____

Taxpayer I.D. No. _____

Attachments:

- Attachment One – Insurance Requirements for Agreements for Professional Services
- Attachment Two – Federally Required Contract Clauses
- Exhibit A – Scope of Services

**ATTACHMENT ONE
INSURANCE REQUIREMENTS FOR AGREEMENTS FOR
PROFESSIONAL SERVICES**

A. Insurance Policies: Contractor shall, at all times during the terms of this Agreement, maintain and keep in full force and effect, the following policies of insurance with minimum coverage as indicated below and issued by insurers.

Insurance	Minimum Coverage Limits	Additional Coverage Requirements
1. Commercial general liability	\$1 million per occurrence \$2 million aggregate	Coverage must be at least as broad as ISO CG 00 01 and must include completed operations coverage. If insurance applies separately to a project/location, aggregate may be equal to per occurrence amount. Coverage may be met by a combination of primary and excess insurance but excess shall provide coverage at least as broad as specified for underlying coverage. Coverage shall not exclude subsidence.
2. Business auto coverage	\$1 million	ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$ 1 million per accident for bodily injury and property damage.
3. Professional liability (E&O)	\$40 million per claim \$80 million aggregate	Contractor shall provide on a policy form appropriate to profession. If on a claims made basis, Insurance must show coverage date prior to start of work and it must be maintained for three years after completion of work.
4. Workers' compensation and employer's liability	\$1 million	As required by the State of California, with Statutory Limits and Employer's Liability Insurance with limit of no less than \$ 1 million per accident for bodily injury or disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the RTA for all work performed by the Contractor, its employees, agents and subcontractors.

B. Endorsements:

1. All policies shall provide or be endorsed to provide that coverage shall not be canceled, except after prior written notice has been provided to the RTA in accordance with the policy provisions.
2. Liability policies shall provide or be endorsed to provide the following:
 - a. For any claims related to this project, Contractor's insurance coverage shall be primary and any insurance or self-insurance maintained by the RTA shall be excess of the Contractor's insurance and shall not contribute with it; and,
 - b. The San Luis Obispo Regional Transit Authority, its officers, agents, employees and volunteers are to be covered as additional insured on the CGL policy. General liability coverage can be provided in the form of an endorsement to Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

C. Verification of Coverage and Certificates of Insurance: Contractor shall furnish the RTA with original certificates and endorsements effecting coverage required above. Certificates and endorsements shall make reference to policy numbers. All certificates and endorsements are to be received and approved by the RTA before work commences and must be in effect for the duration of the contract. The RTA reserves the right to require complete copies of all required policies and endorsements.

D. Other Insurance Provisions:

1. No policy required by this Agreement shall prohibit Contractor from waiving any right of recovery prior to loss. Contractor hereby waives such right with regard to the indemnities.
2. All insurance coverage amounts provided by Contractor and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage. Defense costs must be paid in addition to coverage amounts.
3. Self-insured retentions above \$10,000 must be approved by the RTA. At the RTA's option, Contractor may be required to provide financial guarantees.
4. Sole Proprietors must provide a representation of their Workers' Compensation Insurance exempt status.
5. The RTA reserves the right to modify these insurance requirements while this Agreement is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

ATTACHMENT TWO FEDERALLY REQUIRED CONTRACT CLAUSES

2-1 ACCESS TO RECORDS AND REPORTS

1. Record Retention. The CONTRACTOR will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
2. Retention Period. The CONTRACTOR agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The CONTRACTOR shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
3. Access to Records. The CONTRACTOR agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
4. Access to the Sites of Performance. The CONTRACTOR agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

2-2 BONDING REQUIREMENTS *(Not Applicable to This Procurement)*

2-3 BUS TESTING *(Not Applicable to This Procurement)*

2-4 BUY AMERICA REQUIREMENTS *(Not Applicable to This Procurement)*

2-5 CARGO PREFERENCE REQUIREMENTS *(Not Applicable to This Procurement)*

2-6 CHARTER SERVICE *(Not Applicable to This Procurement)*

2-7 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The CONTRACTOR agrees:

1. It will not use any violating facilities;
2. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
3. It will report violations of use of prohibited facilities to FTA; and

4. It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

2-8 CIVIL RIGHTS LAWS AND REGULATIONS

Civil Rights and Equal Opportunity

The RTA is an Equal Opportunity Employer. As such, the RTA agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the RTA agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the CONTRACTOR shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the CONTRACTOR agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against individuals on the basis of disability. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

2-9 DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The CONTRACTOR, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the RTA deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the CONTRACTOR from future bidding as non-responsible.

Further, RTAs must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the RTA makes to the prime contractor. Finally, for contracts with defined DBE contract goals, each FTA RTA must include in each prime contract a provision stating that the CONTRACTOR shall utilize the specific DBEs listed unless the CONTRACTOR obtains the RTA's written consent; and that, unless the RTA's consent is provided, the CONTRACTOR shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

As an additional resource, RTAs can draw on the following language for inclusion in their federally funded procurements.

Overview

It is the policy of the RTA and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of the RTA to:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;

6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This Contract is subject to 49 C.F.R. part 26. Therefore, the CONTRACTOR must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The RTA shall make all determinations with regard to whether or not a Bidder/Offeror is in compliance with the requirements stated herein. In assessing compliance, the RTA may consider during its review of the Bidder/Offeror's submission package, the Bidder/Offeror's documented history of non-compliance with DBE requirements on previous contracts with the RTA.

Contract Assurance

The CONTRACTOR, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONTRACTOR shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the RTA deems appropriate.

DBE Participation

For the purpose of this Contract, the RTA will accept only DBE's who are:

1. Certified, at the time of bid opening or proposal evaluation, by the California Department of Transportation; or
2. An out-of-state firm who has been certified by either a local government, state government or Federal government entity authorized to certify DBE status or an agency whose DBE certification process has received FTA approval; or
3. Certified by another agency approved by the RTA.

DBE Participation Goal

The DBE participation goal for this Contract is set at 5.1%. This goal represents those elements of work under this Contract performed by qualified Disadvantaged Business Enterprises for amounts totaling **not less than** 5.1% of the total Contract price. Failure to meet the stated goal at the time of proposal submission may render the Bidder/Offeror non-responsive.

Proposed Submission

Each Bidder/Offeror, as part of its submission, shall supply the following information:

1. A completed **DBE Utilization Form** (see below) that indicates the percentage and dollar value of the total bid/contract amount to be supplied by Disadvantaged Business Enterprises under this Contract.
2. A list of those qualified DBE's with whom the Bidder/Offeror intends to contract for the performance of portions of the work under the Contract, the agreed price to be paid to each DBE for work, the Contract items or parts to be performed by each DBE, a proposed

timetable for the performance or delivery of the Contract item, and other information as required by the **DBE Participation Schedule** (see below). No work shall be included in the Schedule that the Bidder/Offeror has reason to believe the listed DBE will subcontract, at any tier, to other than another DBE. If awarded the Contract, the Bidder/Offeror may not deviate from the DBE Participation Schedule submitted in response to the bid. Any subsequent changes and/or substitutions of DBE firms will require review and written approval by the RTA.

3. An original **DBE Letter of Intent** (see below) from each DBE listed in the **DBE Participation Schedule**.
4. An original **DBE Affidavit** (see below) from each DBE stating that there has not been any change in its status since the date of its last certification.

Good Faith Efforts

If the Bidder/Offeror is unable to meet the goal set forth above (DBE Participation Goal), the RTA will consider the Bidder/Offeror's documented good faith efforts to meet the goal in determining responsiveness. The types of actions that the RTA will consider as part of the Bidder/Offeror's good faith efforts include, but are not limited to, the following:

1. Documented communication with the RTA's DBE Coordinator (questions of IFB or RFP requirements, subcontracting opportunities, appropriate certification, will be addressed in a timely fashion);
2. Pre-bid meeting attendance. At the pre-bid meeting, the RTA generally informs potential Bidder/Offeror's of DBE subcontracting opportunities;
3. The Bidder/Offeror's own solicitations to obtain DBE involvement in general circulation media, trade association publication, minority-focus media and other reasonable and available means within sufficient time to allow DBEs to respond to the solicitation;
4. Written notification to DBE's encouraging participation in the proposed Contract; and
5. Efforts made to identify specific portions of the work that might be performed by DBE's.

The Bidder/Offeror shall provide the following details, at a minimum, of the specific efforts it made to negotiate in good faith with DBE's for elements of the Contract:

1. The names, addresses, and telephone numbers of DBE's that were contacted;
2. A description of the information provided to targeted DBE's regarding the specifications and bid proposals for portions of the work;
3. Efforts made to assist DBE's contacted in obtaining bonding or insurance required by the Bidder or the RTA.

Further, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted when a non-DBE subcontractor was selected over a DBE for work on the contract. In determining whether a Bidder has made good faith efforts, the RTA may take into account the performance of other Bidders in meeting the Contract goals. For example, if the

apparent successful Bidder failed to meet the goal, but meets or exceeds the average DBE participation obtained by other Bidders, the RTA may view this as evidence of the Bidder having made good faith efforts.

Administrative Reconsideration

Within five (5) business days of being informed by the RTA that it is not responsive or responsible because it has not documented sufficient good faith efforts, the Bidder/Offeror may request administrative reconsideration. The Bidder should make this request in writing to the RTA's Civil Rights Officer. The RTA Civil Rights Officer will forward the Bidder/Offeror's request to a reconsideration official who will not have played any role in the original determination that the Bidder/Offeror did not document sufficient good faith efforts.

As part of this reconsideration, the Bidder/Offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Bidder/Offeror will have the opportunity to meet in person with the assigned reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The RTA will send the Bidder/Offeror a written decision on its reconsideration, explaining the basis for finding that the Bidder/Offeror did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Termination of DBE Subcontractor

The CONTRACTOR shall not terminate the DBE subcontractor(s) listed in the **DBE Participation Schedule** (see below) without the RTA's prior written consent. The RTA may provide such written consent only if the CONTRACTOR has good cause to terminate the DBE firm. Before transmitting a request to terminate, the CONTRACTOR shall give notice in writing to the DBE subcontractor of its intent to terminate and the reason for the request. The CONTRACTOR shall give the DBE five days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subcontractor is terminated or fails to complete its work on the Contract for any reason, the CONTRACTOR shall make good faith efforts to find another DBE subcontractor to substitute for the original DBE and immediately notify the RTA in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement. Failure to comply with these requirements will be in accordance with Sanctions for Violations section below.

Continued Compliance

The RTA shall monitor the CONTRACTOR's DBE compliance during the life of the Contract. In the event this procurement exceeds ninety (90) days, **it will be the responsibility of the CONTRACTOR to submit quarterly written reports to the RTA that** summarize the total DBE value for this Contract. These reports shall provide the following details:

1. DBE utilization established for the Contract;
2. Total value of expenditures with DBE firms for the quarter;
3. The value of expenditures with each DBE firm for the quarter by race and gender;
4. Total value of expenditures with DBE firms from inception of the Contract; and

5. The value of expenditures with each DBE firm from the inception of the Contract by race and gender.

Reports and other correspondence must be submitted to the RTA Civil Rights Officer. Reports shall continue to be submitted quarterly until final payment is issued or until DBE participation is completed.

The successful Bidder/Offeror shall permit:

1. The RTA to have access to necessary records to examine information as the RTA deems appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records of expenditures, invoices, and contract between the successful Bidder/Offeror and other DBE parties entered into during the life of the Contract.
2. The authorized representative(s) of the RTA, the U.S. Department of Transportation, the Comptroller General of the United States, to inspect and audit all data and record of the CONTRACTOR relating to its performance under the Disadvantaged Business Enterprise Participation provision of this Contract.
3. All data/record(s) pertaining to DBE shall be maintained as stated in Section 2-1 ACCESS TO RECORDS.

Sanctions for Violations

If at any time the RTA has reason to believe that the CONTRACTOR is in violation of its obligations under this Agreement or has otherwise failed to comply with terms of this Section, the RTA may, in addition to pursuing any other available legal remedy, commence proceedings, which may include but are not limited to, the following:

1. Suspension of any payment or part due the CONTRACTOR until such time as the issues concerning the CONTRACTOR's compliance are resolved; and
2. Termination or cancellation of the Contract, in whole or in part, unless the successful CONTRACTOR is able to demonstrate within a reasonable time that it is in compliance with the DBE terms stated herein.

DBE UTILIZATION FORM

The undersigned Bidder/Offeror has satisfied the requirements of the solicitation in the following manner (please check the appropriate space):

 XX The Bidder/Offer is committed to a minimum of 5.1% DBE utilization on this contract.

 The Bidder/Offeror (if unable to meet the DBE goal of %) is committed to a minimum of % DBE utilization on this contract and submits documentation demonstrating good faith efforts.

DBE PARTICIPATION SCHEDULE

The Bidder/Offeror shall complete the following information for all DBE's participating in the contract that comprises the DBE Utilization percent stated in the DBE Utilization Form. The Bidder/Offeror shall also furnish the name and telephone number of the appropriate contact person should the RTA have any questions in relation to the information furnished herein.

Name and Address	Contact Name and Telephone Number	Participation Percent (Of Total Contract Value)	Description Of Work To Be Performed	Race and Gender of Firm
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2-10 EMPLOYEE PROTECTIONS

The following three FTA required clauses pertain to this procurement.

Prevailing Wage and Anti-Kickback

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the CONTRACTOR shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The CONTRACTOR will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the CONTRACTOR shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the CONTRACTOR agrees to pay wages not less than once a week. The CONTRACTOR shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "CONTRACTORS and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The CONTRACTOR is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Contract Work Hours and Safety Standards

For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the CONTRACTOR shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the CONTRACTOR shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

In the event of any violation of the clause set forth herein, the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other

Federal contract with the same prime CONTRACTOR, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in this section.

The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.

Contract Work Hours and Safety Standards for Awards Not Involving Construction

The CONTRACTOR shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.

The CONTRACTOR shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

Such records maintained under this paragraph shall be made available by the CONTRACTOR for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the CONTRACTOR will permit such representatives to interview employees during working hours on the job.

The CONTRACTOR shall require the inclusion of the language of this clause within subcontracts of all tiers.

2-11 ENERGY CONSERVATION

The CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

2-12 FLY AMERICA

1. Definitions. As used in this clause—

“International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

2. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires CONTRACTORS, RTAs, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
3. If available, the CONTRACTOR, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
4. In the event that the CONTRACTOR selects a carrier other than a U.S.-flag air carrier for international air transportation, the CONTRACTOR shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. *[State reasons]:*

(End of statement)

5. The CONTRACTOR shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

2-13 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

The CONTRACTOR shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the CONTRACTOR shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

1. Debarred from participation in any federally assisted Award;

2. Suspended from participation in any federally assisted Award;
3. Proposed for debarment from participation in any federally assisted Award;
4. Declared ineligible to participate in any federally assisted Award;
5. Voluntarily excluded from participation in any federally assisted Award; or
6. Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the RTA. If it is later determined by the RTA that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the RTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

2-14 LOBBYING RESTRICTIONS – See Attachment A, which includes a submittal form.

2-15 NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Recipient and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, CONTRACTOR or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2-16 PATENT RIGHTS AND RIGHTS IN DATA (Not Applicable to This Procurement)

2-17 PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES (Not Applicable to This Procurement)

2-18 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program

Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.

The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

The CONTRACTOR agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

2-19 PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS (Not Applicable to This Procurement)

2-20 RECYCLED PRODUCTS

The CONTRACTOR agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

2-21 SAFE OPERATION OF MOTOR VEHICLES

The CONTRACTOR is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the CONTRACTOR or RTA.

The CONTRACTOR agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

2-22 SCHOOL BUS OPERATIONS (Not Applicable to This Procurement)

2-23 SEISMIC SAFETY

The CONTRACTOR agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The CONTRACTOR also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

2-24 SUBSTANCE ABUSE REQUIREMENTS (Not Applicable to This Procurement)

2-25 TERMINATION

The RTA, by written notice, may terminate this contract, in whole or in part, when it is in the RTA's interest. If this contract is terminated, the RTA shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

If the CONTRACTOR fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the CONTRACTOR fails to comply with any other provisions of this contract, the RTA may terminate this contract for default. The RTA shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the RTA.

2-26 VIOLATION AND BREACH OF CONTRACT

Rights and Remedies of the RTA

The RTA shall have the following rights in the event that the RTA deems the CONTRACTOR guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the CONTRACTOR, either directly or through other CONTRACTORS;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

Rights and Remedies of CONTRACTOR

Inasmuch as the CONTRACTOR can be adequately compensated by money damages for any breach of this Contract, which may be committed by the RTA, the CONTRACTOR expressly agrees that no default, act or omission of the RTA shall constitute a material breach of this Contract, entitling CONTRACTOR to cancel or rescind the Contract (unless the RTA directs CONTRACTOR to do so) or to suspend or abandon performance.

Remedies

Substantial failure of the CONTRACTOR to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, the RTA will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The CONTRACTOR recognizes that in the event of a breach of this Agreement by the CONTRACTOR before the RTA takes action contemplated herein, the RTA will provide the CONTRACTOR with sixty (60) days written

notice that the RTA considers that such a breach has occurred and will provide the CONTRACTOR a reasonable period of time to respond and to take necessary corrective action.

Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the RTA Executive Director. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the CONTRACTOR mails or otherwise furnishes a written appeal to the RTA Executive Director. In connection with any such appeal, the CONTRACTOR shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the RTA Executive Director shall be binding upon the CONTRACTOR and the CONTRACTOR shall abide by the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the RTA acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the RTA's direction or decisions made thereof.

Performance during Dispute

Unless otherwise directed by RTA, CONTRACTOR shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the RTA and the CONTRACTOR arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the RTA is located.

Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the RTA or CONTRACTOR shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Exhibit A

A. Pre-Transaction Legal Services

In approaching the expected borrowing and evaluating its alternatives, RTA seeks to ensure that all provisions of law and best practices are met.

1. Provide RTA staff and RTA Board of Directors guidance on borrowing authority and requirements.
2. Consult and work with RTA staff, County Counsel, the RTA Municipal Advisor, and other consultants, to assist in the formulation of the legal structure.
3. Advise on any perceived legal issues or challenges, including tax, borrowing authority, and state and federal statutes.
4. If applicable, assist with the TIFIA/RPI letter of intent process and drafting the description of security structure.

B. Bond Counsel Services

Serve as RTA's legal counsel in connection with a borrowing to finance the Project. The selected Bond Counsel firm will be required to perform the following upon request of the Authority, as appropriate:

1. Prepare all legal documents for the authorization, issuance, and sale of the bonds/certificates of participation, including closing documents and transcripts.
2. Attend working group and due diligence meeting/conference calls as necessary, or when specifically requested by RTA to attend. As requested, attend bi-monthly RTA Board of Directors meetings.
3. Participate, when requested, in activities associated with rating agency meeting/calls.
4. Provide an objective legal opinion with respect to the valid authorization and issuance of the obligations and whether the interest paid is tax-exempt under federal and/or state laws and regulations (and other opinions customary for a transaction of this nature).
5. Provide continuing advice regarding any necessary actions required of the Authority to ensure that interest will continue to be tax-exempt.
6. Provide any and all legal consultations requested by the Authority concerning the proposed offering at any time after their delivery.
7. Abide by all RTA requirements presented in the Sample Agreement (Attachment A), which specifically references the Federally required contract clauses included as Attachment Two.

C. Disclosure Counsel Services

While the Authority is hiring a Bond Counsel firm at this time, depending on the final plan of finance Disclosure Counsel services may be desired at a later date. The Authority may procure a single firm to conduct both Bond Counsel and Disclosure Counsel services to be determined when greater clarity around the financing is known. The Authority also reserves the right to conduct a separate procurement process to select a separate Disclosure Counsel firm – having two firms to serve in each role.

If applicable, the Disclosure Counsel firm will be required to perform the following upon request of RTA, as appropriate:

1. Consult and work with RTA staff, County Counsel, Municipal Advisor, Underwriter(s) and other consultants, to assist in the formulation of debt issuance disclosure. Provide RTA staff and the RTA Board of Directors guidance on issuer obligations and requirements, as requested.
2. Prepare the Preliminary Official Statement and Final Official Statement, the continuing disclosure certificate and other disclosure documents such as continuing disclosure in connection with a public offering.
3. Confer and consult with staff on all matters relating to the Preliminary Official Statement and Final Official Statement.
4. Attend working group and due diligence meeting/conference calls as necessary, or when specifically requested by the RTA to attend. As requested, attend RTA Board of Directors meetings.
5. Review and comment on any investor presentation prepared by the RTA and the underwriter, as needed.
6. Render a disclosure opinion to the RTA and to the underwriter.
7. Provide any and all disclosure consultations requested by the RTA concerning the public offering at any time after their delivery.
8. Provide advice regarding ongoing continuing disclosure and RTA's obligations.

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SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

JULY 10, 2019

STAFF REPORT

AGENDA ITEM: C-6

TOPIC: MOU with Caltrans Regarding DBE Reporting

ACTION: Approve

PRESENTED BY: Tania Arnold, Deputy Director/CFO and Disadvantaged Business Enterprise Liaison Officer

STAFF RECOMMENDATION: Authorize the Deputy Director to Execute the Caltrans MOU

BACKGROUND/DISCUSSION:

In May 2019, the Caltrans Division of Rail and Mass Transit provided the RTA with a Disadvantaged Business Enterprise (DBE) threshold questionnaire. The DBE questionnaire was used by Caltrans to determine if certain thresholds were met and information regarding direct FTA 5307 funding status.

Based on the documentation the RTA provided, Caltrans confirmed that the RTA is a direct FTA 5307 recipient and is eligible to report DBE and non-DBE contracting activities directly to the FTA. In order to formalize the DBE reporting responsibilities, Caltrans has requested the RTA complete the attached Memorandum of Understanding: Participation by Disadvantage Business Enterprise. The MOU term is from April 1, 2019 to September 30, 2022 to coincide with the Caltrans three-year DBE reporting period. The RTA Deputy Director/CFO serves as the designated DBE Liaison Officer for the RTA.

STAFF RECOMMENDATION:

Approve the attached Memorandum of Understanding, and authorize the RTA Disadvantaged Business Enterprise Liaison Officer to sign it and submit it to the Caltrans Division of Rail and Mass Transit.

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**MEMORANDUM OF UNDERSTANDING
Participation by Disadvantaged Business Enterprise (DBE)**

The California Department of Transportation (Caltrans), the Division of Rail and Mass Transportation (DRMT) is responsible for administering the Federal Transit Administration (FTA) transit grant programs authorized by sections 5310, 5311, and 5339 of Title 49 of the United States Code through delegated authority from the Governor. Caltrans responsibility includes ensuring compliance with 49 CFR Part 26 Participation by Disadvantaged Business Enterprise (DBE).

San Luis Obispo Regional Transit Authority (RTA)

The subrecipient, ^ is a direct recipient of FTA funds and has submitted a DBE Program Plan through the Transit Award Management System (TrAMS) which has been acknowledged by the FTA with the annotation "Concur."

This Memorandum of Understanding (MOU), establishes terms and conditions for reporting DBE utilization of FTA funding.

TERMS AND CONDITIONS

The term of this MOU is **April 1, 2019 through September 30, 2022** and coincides with the DRMT three-year DBE reporting period. Up to 180 days prior to the end of this MOU, the DRMT may request this MOU be reauthorized. Non-compliance with the terms and conditions of this MOU are considered a material breach which may result in the termination of the DOT 213 "Standard Agreement" between the DRMT and the Subrecipient, or other appropriate remedy.

Subrecipient and DRMT shall comply with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprise (DBE)" always.

Subrecipient hereby agrees that it

- will include FTA Section 5310, 5311 and/or 5339 funding for the term of this MOU in the Agency's DBE goal and methodology calculation.
- will report FTA funding on the DBE semi-annual report to the FTA for the term of this MOU.
- will report rollingstock purchases to the FTA in the manner prescribed by the FTA for the term of this MOU.

DRMT hereby agrees that:

- it will remain responsible for obligations other than DBE reporting for all FTA grant programs delegated from the Governor. These continued responsibilities include but are not limited to managing funding distributions and other grant oversight functions.
- the 5310, 5311, and 5339 funding for the subrecipient, RTA shall be excluded from the Caltrans triennial DBE goal and methodology calculation.
- it will not include 5310, 5311, or 5339 funding directed to the subrecipient, RTA, in the Caltrans DBE semi-annual report.

AUTHORIZATION

The undersigned, through their duly authorized representatives, have executed this MOU on the date indicated below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU.

Subrecipient:

San Luis Obispo Regional Transit Authority

SIGNATURE

Authorized Representative:

Title:

Date:

Caltrans Division of Rail and Mass Transportation

SIGNATURE

Wendy King

Chief, Office of Transit Grants and Contracts

Date:

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

JULY 10, 2019

STAFF REPORT

AGENDA ITEM: C-7

TOPIC: Financing the Bus Maintenance Facility

ACTION: Approve

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Authorize the Executive Director to Continue to Pursue a Rural TIFIA Loan and Other Financing Instruments

BACKGROUND/DISCUSSION:

As noted during the April 3, 2019 RTA Board meeting, staff is working to develop funding scenarios to address the funding shortfall for the bus maintenance facility at 253 Elks Lane. At that meeting, Melissa Shick from KNN Public Finance presented information regarding the range of options they would be working with staff to explore.

Since that time, KNN and the RTA staff has identified the Transportation Infrastructure Finance and Innovation Act (TIFIA) program as an option that would be financially beneficial to the agency. TIFIA's strategic goal is to: "to leverage limited Federal resources and stimulate capital market investment in transportation infrastructure by providing credit assistance in the form of direct loans, loan guarantees, and standby lines of credit (rather than grants) to projects of national or regional significance."

Of particular note, the RTA would qualify for the Rural Project Initiative (RPI) under TIFIA which is due to the project location (253 Elks Lane in San Luis Obispo) being located outside of an urbanized area with a population greater than 150,000 individuals as determined by the Census Bureau. There are some significant cost savings associated with the TIFIA RPI:

- TIFIA can offer fixed interest rate loans for up to 35 years.
- TIFIA can loan up to 49 percent of the project's eligible costs.
 - Note: Federal funds, including the \$6.285 million was awarded in the fall of 2018 for construction, can be used to maximize the federal interest in the project up to 80%.

- Loans are typically well below the market interest rate, which is equal to one half of the U. S. Treasury rate at the time of closing. For example, a rural loan closed in mid-October 2018 would have had an interest rate of slightly under 1.7 percent.
- TIFIA loans can pay for all the application fees, which under the urban rule amount to hundreds of thousands of dollars. These funds are limited and we can only do this while they last.
 - Note: there are currently no agencies that have been funded under this program so there is still funding available for application fees.

There is information that staff needs additional time to address but U.S. DOT urged the RTA to submit a draft letter of interest as early as possible in order to allow sufficient time for their staff to work through their process and submit to the RTA requests for additional information and keep the process moving forward as efficiently as possible. In order to explore the opportunity further, the RTA worked with KNN to draft a TIFIA letter of interest to the Department of Transportation (US DOT) on May 31, 2019 which is included in this staff report.

STAFF RECOMMENDATION:

Authorize the Executive Director to continue to pursue a rural TIFIA loan, in conjunction with exploring other financing opportunities.

**Letter of Interest for RRIF and TIFIA Credit Assistance** **Fiscal Years 2018 - 2021**

The Build America Bureau (the “Bureau”) administers the application processes for the Railroad Rehabilitation and Improvement Financing (“RRIF”) and Transportation Infrastructure Finance and Innovation Act of 1998 (“TIFIA”) credit programs. The Bureau has developed this form to be used as the letter of interest (“LOI”) to be used by persons seeking credit assistance from the Department.

Before submitting an LOI, however, a party seeking credit assistance from the Department should work with one of the Bureau’s project development leads, or “PDLs,” who will assist the party in determining project needs and the specific ways in which the Bureau can provide TIFIA and RRIF credit assistance. After a party has completed the initial consultation process with a PDL, and if the proposed project appears reasonably likely to be able to satisfy the eligibility requirements of the applicable credit program, the Department will request an LOI for the project.

A party seeking TIFIA credit assistance **must**, as required by 23 U.S.C. 602(a)(1)(A), submit an LOI to the Bureau as a prerequisite to submission of a credit application (“Application”). A party seeking RRIF credit assistance **is encouraged to** submit an LOI to the Bureau to present information about its organization and proposed project prior to submitting an Application. The Bureau may ask for additional supporting evidence, clarifying or quantifying details, or updates to previously submitted information at any time during the LOI review process.

Under the Paperwork Reduction Act of 1995, a federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The valid OMB control number for this information collection is [2105-0569]. The Department estimates that it will generally take applicants fewer than twenty (20) hours to assemble a single RRIF or TIFIA LOI. A party seeking credit assistance under both Bureau programs may submit a single completed form for both credit programs, except under certain circumstances. The party submitting this form will be referred to herein as the “Applicant.” The party proposed to enter into the credit instrument will be referred to herein as the “Borrower.”

Additional information about the application process is included as Appendix 1 to this form.

DETAILED GUIDANCE WITH RESPECT TO SPECIFIC SECTIONS OF THIS LOI FORM IS AVAILABLE IN THE BUREAU CREDIT PROGRAMS GUIDE. THE CREDIT PROGRAMS GUIDE CAN BE DOWNLOADED [HERE](#).

If you still have questions regarding how to complete this form, please contact the PDL assigned to your project or the Bureau at (202) 366-2300 or BuildAmerica@dot.gov.

Summary Information¹

Applicant Name: San Luis Obispo Regional Transit Authority (the “RTA”)

Project Name: RTA Operations and Maintenance Facility (the “Project”)

Project Location: 253 Elks Lane, San Luis Obispo, CA 93401; Latitude 35.256903, Longitude -120.673486

TIFIA **Amount Requested:** \$ 15,000,000
Estimate of Eligible Project Costs: \$ 30,500,000
Credit Instrument Requested: Secured Loan (23 U.S.C. 603)

RRIF **Amount Requested:** \$ Click or tap here to enter text.
Estimate of Eligible Project Costs: \$ Click or tap here to enter text.
Credit Instrument Requested: Click or tap here to enter text.

¹ Duplicate this box as necessary for master credit agreement requests.



Letter of Interest for RRIF and TIFIA Credit Assistance Fiscal Years 2018 - 2021

Section A: Applicant Information

Provide the following information about the Applicant.

Check this box **if the Applicant is different from the Borrower** and duplicate Section A to provide information for the Borrower, to the extent known.

1. Legal Name and Principal Business Address:

San Luis Obispo Regional Transit Authority, 179 Cross Street, San Luis Obispo, CA 93401

2. Authorized Point of Contact: Provide the name, title, and contact information of the person authorized to be the point of contact for all matters related to this LOI.

- a. Name and Title: Melissa Shick, Director, KNN Public Finance, LLC
- b. Email Address: mshick@knninc.com
- c. Telephone Number: 510-208-8226
- d. Mailing Address (if different from principal business address) – include for both U.S. mail and courier purposes (*i.e.*, no P.O. Box) address:
1300 Clay Street, Suite 1000, Oakland, CA 94612

3. Applicant Information.

- a. Chose an entity type: Other (Go to 3.b)
- b. If “Other”: Joint Powers Authority
- c. Freight railroads, please identify your revenue class: Choose a Class.
- d. Identify the date and place of incorporation or organization, legal and organizational structure, ownership structure, as applicable, and the state(s) or territory(ies) in which the Applicant does business. Provide a hyperlink to the Applicant’s web site, if available:
May 17, 1979
- e. Provide an organizational chart showing the leadership structure as Attachment A-1. List financial, legal, and other advisors for the Project, as applicable.

4. If the Applicant is different from the Borrower, explain why the Applicant is submitting this form instead of the Borrower:

Click or tap here to enter text.

TIFIA Applicants Only

5. Private entities seeking TIFIA credit assistance must provide the name, and a brief description of, the public entity sponsoring the Project for state/local planning purposes. See Section B.5 for more information.
Click or tap here to enter text.

RRIF Joint Venture Applicants Only

6. If you selected “Joint Venture” in Section 3.a, provide the following information about the Joint Venture party that is eligible to apply for a RRIF loan (referred to in this section as the “JV eligible applicant”). See the [Credit Programs Guide](#) for more information.

- a. Identify the legal name and principal business address of the JV eligible applicant:
Click or tap here to enter text.



Letter of Interest for RRIF and TIFIA Credit Assistance ***Fiscal Years 2018 - 2021***

- b. Identify the JV eligible applicant's entity type:
Choose the JV eligible entity type
- c. Identify the date and place of incorporation or organization, legal and organizational structure, ownership structure, as applicable, and the state(s) or territory(ies) in which the JV eligible applicant does business.
Click or tap here to enter text.
- d. Provide a hyperlink to the JV eligible applicant's web site, if available. Click or tap here to enter text.
- e. Provide an organizational chart showing the leadership structure of the JV eligible applicant as Attachment A-2. List financial, legal, and other advisors for the Project, as applicable.
Click or tap here to enter text.
- f. Provide the name, title, and contact information of the person authorized to be the point of contact for all matters related to this LOI.
Click or tap here to enter text.
- g. Describe the nature of the Joint Venture relationship and any documentation supporting the existence of the Joint Venture relationship.
Click or tap here to enter text.
- h. If your Joint Venture includes parties other than the Applicant and the JV eligible applicant, please describe them here.
Click or tap here to enter text.

Section B: Project Information

Check this box if requesting a **master credit agreement** and duplicate this Section B for each project to be covered under the master credit agreement. For information about master credit agreements, see the [Credit Programs Guide](#).

TIFIA State Infrastructure Bank Projects: Check this box if the Borrower will be a state infrastructure bank (SIB) seeking to capitalize or fund a rural projects fund with the proceeds of a secured TIFIA loan. See the [Credit Programs Guide](#) for more information about SIB projects. SIB Borrowers must provide the information required of this Section B for each project that the SIB anticipates offering a loan.

1. Project Name. Assign a short name to the Project, for purposes of identification.
RTA Operations and Maintenance Facility

2. Project Location.

- a. Describe the location of the Project. Wherever possible, identify: each city and/or county, Metropolitan Statistical Area (MSA), if applicable, and state in which the Project is located; the cities and/or counties and MSA that the Project will serve; any major highways, rail or transit routes intersecting the Project; and the Congressional districts impacted by the Project. If the Project will cross state lines, please provide the above information for each state impacted.

The location of the project is 253 Elks Lane, in the City of San Luis Obispo, California, in the County of San Luis Obispo. Impacted Congressional District is CA-024, Representative Salud Carbajal. The location is rural, and the county is serviced by Greyhound and an Amtrak rail station is located approximately 2.2 miles from the project site. U.S. 101, which runs in the north-south direction parallel to Elks Lane, is located to the west of the project site. The U.S. 101 northbound on-ramp from Prado Road is located at the southwest corner of the site. Beyond U.S. 101 are a variety of commercial uses zoned Commercial Retail with a Planned Development overlay (C-R-PD). The historic Sunset Drive-In Theater is located north of the project site, and a mobile home park and the San Luis Cemetery (also known as the International Order of Odd Fellows and Lawn Cemeteries) is located on the other side of the theater. This area has a General Plan designation of Community Commercial and is zoned Community-Commercial with a Special Focus overlay (C-C-SF). To the east of the project site is the recently completed Community Action Partnership of San Luis Obispo (CAPSLO) Homeless Services Center. Next to this lot is a storage yard with three existing structures. The area is zoned Office with a Special Focus overlay (O-SF). The City of San Luis Obispo's corporation yard, which includes the Water Reclamation and Resources Facility



Letter of Interest for RRIF and TIFIA Credit Assistance **Fiscal Years 2018 - 2021**

(WRRF), is located across Prado Road, directly south of the project site in a Public Facility (PF) zone. The SLO Transit (local fixed route system) bus maintenance facility is also located within the City's corporation yard. The U.S. 101 northbound off-ramp onto Prado Road extends from U.S. 101 borders the City's corporation yard property on two sides.

- b. Attach a vicinity map showing the Project's location, impacted cities and/or counties and states, and all major highways, rail or transit routes as Attachment B-1. Provide a high-level map of the Project showing major design elements as part of Attachment B-1.
Please see Attachment B-1
- c. Check this box if the Project is a surface transportation project located wholly or partially outside of an urbanized area with a population greater than 150,000 individuals, as determined by the U.S. Census Bureau. Provide information about the rural area in which the Project will be implemented and the population as determined in the latest Census.

Based on the 2010 U.S. Census data, the population of the City of San Luis Obispo was 45,119. Based on 2018 California Department of Finance data, the population of the City of San Luis Obispo is now 54,948.

3. Eligible Project Costs.

- a. Provide an estimate for each of the total Project costs and the eligible Project costs, inclusive of any project development activities, professional services, and financing costs, as applicable, and including costs incurred to date:

\$ 30,501,358 (total Project costs) / \$ 30,501,358 (assuming land purchase is included in the eligible Project costs).
\$28,988,756 (assuming land purchase is excluded from the eligible Project costs).

See the [Credit Programs Guide](#) for a discussion of eligible costs for each credit program.

- b. Provide a high-level Project budget as Attachment B-2 that identifies the eligible project cost associated with all major work activities. If you are requesting that the Department include as an eligible project cost those project development or right-of way acquisition costs incurred or anticipated to be incurred prior to submission of an Application for Bureau credit assistance, those costs, per each work activity, should be separately identified in the Project budget.

Attachment B-2 presents two total Project budgets – one inclusive of the land purchase for the bus maintenance facility and the other excludes the land purchase. In each Project budget summary Land Purchase and Environmental & Design components have been separately identified as these Project cost components have been incurred and funded to date – prior to the submittal of the application for credit assistance. All construction costs have not yet been incurred.

4. Project Description.

- a. Provide a detailed Project scope, inclusive of all major functional elements and operations and maintenance. Describe all features to be constructed. Identify the anticipated useful life of the Project, the method of Project delivery, and the name of the entity or entities responsible to implement the Project.

The RTA currently operates and maintains a 2.7 acre leased administration, operations, and bus maintenance facility, which is inadequate to efficiently support existing services -- much less any future expansion. As such, a new operations and maintenance facility is needed to adequately support existing services.

The project involves the construction of an approximately 28,650 square-foot, combined administration headquarters and bus maintenance building on the eastern portion of the approximately 6.5 acre project site. The project includes bus operations and maintenance functions, including large- and small-parts storage, and clean-room workspace (for high-tech components servicing), in addition to administration headquarters consisting of offices, conference/training rooms, and employee restrooms, showers, and lockers. The remainder of the project site would be developed for outdoor circulation, storage, servicing, and inspection. The proposed on-site parking would accommodate approximately 73 public transit buses and vans as well as 84 employee and visitor vehicles, respectively, for a total of 157 on-site parking spaces. In total the developed area proposed for the project is approximately 4.2 acres. The



Letter of Interest for RRIF and TIFIA Credit Assistance **Fiscal Years 2018 - 2021**

remaining acreage (approximately 2.3 acres) is anticipated to be used for the future Prado Road overpass and Elks Lane re-alignment.

The RTA directly operates hourly service on four regional fixed routes and ADA paratransit services primarily along the US-101 and SR-1 corridors, as well as express commuter services during peak travel periods. Currently, three out of the four regional routes converge on downtown San Luis Obispo, 7 days a week. The RTA regional fixed-route service has a peak pull-out of 15 buses, and carries over 700,000 riders annually, while productivity ranges from 24 to 27 boardings/hour. The RTA also operates community-based services funded by the County in small rural areas, and with the City of Paso Robles to operate local fixed-routes and a local Dial-A-Ride program. The RTA also operates the eight-bus local fixed-route service operated in South County, which provides over 200,000 rides annually. The ADA paratransit demand had grown by nearly 40% in the past 5 years (up to 45,000 annual rides); recently, through a variety of innovative methods, its growth has become more stable and financially sustainable. All of these various services fall under the control of the RTA, including maintenance of all vehicles.

Completion of the facility is anticipated in December of 2021.

The anticipated useful life of the project is more than 40 years, with the San Luis Obispo Regional Transit Authority being the entity responsible to implement the project.

- b. Provide a link to the Project web site, if any: Not applicable
- c. Provide a high-level Project schedule, including milestones related to: planning, environmental review, design, procurement, construction, start of revenue service and anticipated receipt of any Federal financial assistance, including the credit instrument requested. Indicate the status of the Project within the schedule.

The Project schedule included as Attachment B-2b provides the timeline to complete construction. Planning and environmental review have been completed. The Project is currently in design and engineering with construction documents projected to be completed in September 2019, which will allow permitting to be completed between October and December 2019, and the project be available for construction bidding at the end of the first quarter of 2020, at which time all funding would need to be secured. Construction is anticipated to begin in May 2020. See Attachment B-2b for a project implementation schedule.

- d. Check this box if the Project is anticipated to be delivered as a **public-private partnership**. Describe the value-for-money (or comparable) analysis undertaken before deciding to advance the Project as a public-private partnership. Not applicable
- e. If you are requesting expedited processing, explain why your Application and Project are suitable candidates for expedited processing. See the [Credit Programs Guide](#) for more information.

The Project timeline targets construction bidding during the first quarter of 2020. It is the RTA's desire to secure funding at or before construction bidding. If this timeframe suggests the need for expedited processing, RTA can provide additional information and explanation as may be necessary.

- f. Identify all entities that are anticipated to contribute funding, real property, design or construction of discrete elements of Project scope, or other valuable consideration to the Project. Identify all entities currently entitled or anticipated to be entitled in the future to utilize the Project after substantial completion and the anticipated level of usage and maintenance responsibilities. Provide documentation and evidence of such contributions as Attachment B-3.

Funding associated with the project is being provided by the State of California (including State Transit Assistance and Proposition 1B funds), the Federal Transportation Administration (including 5307 and 5339), and local revenue sources, including but not limited to fare revenue, local transportation funds (LTF), and rural transit funds. The only entity entitled to utilize the project is the entity applying for TIFIA funds, the San Luis Obispo Regional Transit Authority.

- g. Provide conceptual design plans for all Project elements as Attachment B-4. See Attachment B-4.



Letter of Interest for RRIF and TIFIA Credit Assistance Fiscal Years 2018 - 2021

5. Transportation Planning and Programming Process Approvals. Indicate whether the Project has been included in the long-range transportation plan, the metropolitan transportation improvement program (TIP), and the approved statewide transportation improvement program (STIP) of each state affected by the Project. Information relating to state freight plans and state rail plans should also be discussed. Provide any supporting documentation as Attachment B-5. **Only the cover page and project page for each document should be provided.**

Included the adopted 2014 Regional Transportation Plan (Attachment B-5 Part 1) and the draft 2019 Regional Transportation Plan (Attachment B-5 Part 2). Also included in the 2018 Regional Transportation Improvement Program submitted by the San Luis Obispo Council of Governments to the California Transportation Commission (CTC) on December 15, 2017 (Attachment B-5 Part 3)

6. Environmental Review. Describe the status of the Project’s environmental review. If known, identify the lead federal agency and lead local agency responsible for the environmental review. If completed, identify the final environmental decision document for the Project and attach as Attachment B-6.

Initial Study – Mitigated Negative Declaration adopted September 6, 2017 <http://www.slorta.org/wordpress/wp-content/uploads/RTA-Bus-Maint-Facility-IS-MND-Public-Review-20-Jul-2017-1.pdf>

FTA Categorical Exclusion date September 29, 2017 <http://www.slorta.org/wordpress/wp-content/uploads/RTA-Bus-Maint-Facility-IS-MND-Public-Review-20-Jul-2017-1.pdf>

Section C: Financial Plan

Check if requesting a **master credit agreement** and modify each response accordingly to address all projects proposed to be covered under the master credit agreement.

1. Specify the type of Bureau credit assistance (RRIF, TIFIA or both), total dollar value of credit assistance, and the type of credit instrument requested.
RTA is requesting a Secured Loan (23 U.S.C. 603) under the TIFIA credit assistance program up to \$15,000,000.

2. Specify the value of Bureau credit assistance requested (or anticipated to be requested) as a percentage of the total eligible Project costs.
49% - See Attachment B-2.

3. Identify the value of other Federal financial assistance requested (*e.g.*, grants or other loans), separately identifying the non-Federal share for such assistance.
\$ Federal Assistance: Grant Funding - \$7,191,449 / TIFIA Loan: \$14,945,665
Non-Federal Assistance: State Grant Funding: \$4,698,747 / Other Borrowing/Funding Sources: \$3,665,497
See Attachment B-2.

4. Identify the total value of all anticipated Federal financial assistance, including Bureau credit assistance requested, as a percentage of the total eligible Project costs.
73% - See Attachment B-2.

5. Describe the sources and uses of funds for the Project.
Sources of Funds: Federal Grants, State Grants, TIFIA Secured Loan, Other Borrowing/Funding.
Uses of Funds: Land Purchase, Environmental & Design, Construction, Financing Costs.
a. Indicate the status of commitments (*e.g.*, approved, budgeted, appropriated, applied for, *etc.*) of each source. Discuss, as necessary, any additional approvals required to ensure availability of each source of funds for the Project.
Secured Funding: Federal Grant Funds of \$7,191,449 and State Grant Funds of \$4,698,747
Unsecured Funding: TIFIA Credit Assistance and/or other borrowing requirements. See Attachment B-2.
b. Uses should include a high-level description of major work activities included as eligible project costs (*e.g.*, right-of-way, site work, rolling stock, systems).



Letter of Interest for RRIF and TIFIA Credit Assistance Fiscal Years 2018 - 2021

In addition to Land Purchase and Environmental & Design work that has been completed, major work activities attributable to the eligible Project construction costs include:

- Sitework – Demolition, earthwork, exterior improvements, utilities.
- Building Construction – Materials, equipment, furnishings, fire suppression, plumbing, HVAC, electrical, communications, safety & securities.
- Commissioning, Project Management, and Permitting

6. If available, provide the proposed amortization schedule for the Bureau credit assistance requested.

To be determined.

7. Indicate, as applicable, whether the Bureau credit assistance requested will be under a new or existing indenture, resolution, or collateral agency agreement.

The RTA has no outstanding debt obligations under an existing indenture. The requested credit assistance will be executed under an inaugural indenture structure.

8. Identify the lien priority for the requested Bureau credit assistance. Except in certain circumstances, the Bureau credit assistance may not be subordinated to the claims of holders of Project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor. See the [Credit Programs Guide](#) for more information on non-subordination requirements.

To be determined.

9. Explain how the Bureau credit assistance requested will benefit the Project. Discuss how the Project would be impacted if the requested financial assistance were unavailable or available in lowered amounts.

Credit assistance from the Bureau under the Rural Project Initiative (RPI) provides a tremendous financial benefit to the Project. It is anticipated that the interest rate that the RTA would secure under the Rural Project Initiative would provide notable interest cost advantages as compared to what may be available in the public municipal bond market or the private market. Using interest rates, as of May 31, 2019, TIFIA credit assistance under the RPI provides interest cost savings to the RTA of approximately \$7.7 million versus a tax exempt public market bond offering. NOTE: Very preliminary structuring assumptions were made to derive an estimated interest cost savings figure under TIFIA. It is more than likely that interest cost savings would be in excess of this figure.

Section D: Creditworthiness

Check if requesting a **master credit agreement** and modify each response accordingly to address all projects proposed to be covered under the master credit agreement.

1. Provide an overview of the Borrower’s key business lines, if available. Attach cash flows for such business lines for the last five years as Attachment D-1.

The purpose of the RTA is to operate a fixed route public transportation system linking San Luis Obispo to the outlying communities of Morro Bay, Las Osas, Arroyo Grande, Paso Robles, Grover Beach, Pismo Beach, Atascadero, Cambria, San Simeon, Nipomo, Santa Maria, Templeton, Santa Margarita, and San Miguel, along with Cuesta College and California Men’s Colony. The RTA also owns, operates, and administers a countywide public demand responsive transportation system that is fully accessible for disabled riders. On August 1, 20C19, the Agency began in-house vehicle operations and maintenance. The RTA’s fiscal year audits over the last five years can be accessed at the following links:

- FY1314: <http://www.slorta.org/wordpress/wp-content/uploads/SLORTA-Audited-Financial-Statement-FY2014.pdf>
- FY1415: <http://www.slorta.org/wordpress/wp-content/uploads/SanLuis-ObispoRegionalTransAuthFS15.pdf>
- FY1516: http://www.slorta.org/wordpress/wp-content/uploads/SLORTA_FA_2016.pdf
- FY1617: <http://www.slorta.org/wordpress/wp-content/uploads/SLORTArpt1720171213075348629.pdf>
- FY1718: <http://www.slorta.org/wordpress/wp-content/uploads/SLORTA-Financials2018.pdf>



Letter of Interest for RRIF and TIFIA Credit Assistance Fiscal Years 2018 - 2021

2. Describe the source(s) pledged to repay the requested Bureau credit assistance.

To be determined. Subject to Bond Counsel procurement – effective July 2019.

3. Provide the details of any proposed flow of funds and any accompanying escrow or trust agreements that would govern the repayment of requested Bureau credit assistance.

To be determined. Subject to Bond Counsel procurement – effective July 2019.

4. Provide the most recent corporate rating for the Borrower, if available.

The RTA does not have outstanding credit ratings.

5. Identify all outstanding or anticipated obligations against the proposed source of repayment. For all such outstanding obligations, provide credit ratings, if available, as Attachment D-2.

The RTA does not currently have any outstanding debt or other obligations or outstanding credit ratings. Under the proposed credit structure, the RTA anticipates new obligations only for Project related funding.

6. **TIFIA Borrowers:** Indicate when preliminary ratings for the proposed senior Project debt (if any) and TIFIA credit assistance will be available.

The RTA expects to procure credit ratings as required by the TIFIA credit assistance process or other borrowing timeline. Ratings are likely achievable by the Fall of 2019.

7. **RRIF Borrowers:** Indicate whether the Borrower intends to provide a rating on the requested Bureau credit assistance as a basis for determining any credit risk premium. See the [Credit Programs Guide](#) for more information about the credit risk premium.

Click or tap here to enter text.

8. Describe the economic impact of the Project and any market or feasibility report, ridership/traffic study, engineering/technical report, insurance report or other study that has been or will be prepared for the Project by the Borrower or on behalf of lenders to the Project.

In Section C Item 9, we underscore the financial benefit of the TIFIA credit assistance to the RTA and the Project. The financial benefit achieved through the TIFIA Secured Loan will provide economic benefit to both the RTA and the ridership community it serves.

9. To the extent applicable, provide information concerning any physical collateral offered as security for requested Bureau credit assistance. (Add rows as needed.)

Collateral Description	Value	Basis of Evaluation	Year of Evaluation
Click or tap here to enter text.	\$ Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	\$ Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	\$ Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.



Letter of Interest for RRIF and TIFIA Credit Assistance Fiscal Years 2018 - 2021

E. General Terms and Certifications

Fees. Except in certain circumstances, the Applicant or Borrower will be responsible to pay costs incurred for services duly provided by the Department’s legal, financial or other third-party advisors involved with the evaluation of the Letter of Interest, evaluation of an Application, and negotiation of any TIFIA/RRIF credit agreement and related transactional documentation, in each case as applicable, irrespective of whether a credit agreement is executed. Please refer to the [Credit Programs Guide](#) for further information with respect to exceptions to this requirement as well time and method of payment for such services.

Lobbying. The undersigned certifies, to the best of his or her knowledge and belief, that: (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement; (2) if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions. (3) the undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. See 31 U.S.C. § 1352; 49 C.F.R. part 20; Appendix A to Part 20.

Debarment and Suspension. The Applicant shall timely make all disclosures required of 2 C.F.R. 180.335.

Default/Delinquency. The undersigned certifies that the Applicant: 1) is not currently in default or delinquent on any debt or loans provided or guaranteed by the Federal Government, and 2) does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

Reporting Subaward and Executive Compensation. The undersigned certifies that the Applicant has the necessary processes and systems in place to comply with the reporting requirements under the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282; 31 U.S.C. § 6101 note), as amended by the Government Funding and Transparency Act (Pub. L. 110-252, title VI, § 6202(a)), and the related regulations at 2 C.F.R. Part 170, should the undersigned be approved to receive credit assistance from the Department.

Signature. By signature below, the undersigned: (i) acknowledges and agrees to the general terms and conditions identified in this Section E; (ii) certifies that the facts stated and the certifications and representations made in this LOI are, to the best of the his or her knowledge and belief after due inquiry, true, and the Applicant has not omitted any material facts; and (iii) certifies that he or she is authorized by the Applicant to submit this Application, bind the Applicant to the terms and conditions acknowledged and agreed, and make the certifications made by submission of this LOI.

Legal Name of Applicant: Click or tap here to enter text.

By: _____
Name and Title: Click or tap here to enter text.
Date: Click or tap to enter a date.



Letter of Interest for RRIF and TIFIA Credit Assistance **Fiscal Years 2018 - 2021**

**APPENDIX 1
INFORMATION ABOUT THE APPLICATION PROCESS**

DETAILED GUIDANCE WITH RESPECT TO THE SPECIFIC SECTIONS OF THIS LOI FORM IS AVAILABLE IN THE BUREAU CREDIT PROGRAMS GUIDE. THE CREDIT PROGRAMS GUIDE CAN BE DOWNLOADED [HERE](#). If you still have questions regarding how to complete this form, please contact the PDL assigned to your project or the Bureau at (202) 366-2300 or BuildAmerica@dot.gov.

This Letter of Interest (“LOI”) form requires the Applicant to describe its project, describe the Borrower’s ability to meet DOT’s creditworthiness requirements, detail how applicable statutory eligibility requirements are met, and outline the proposed financial plan, including the amount and type of requested Bureau credit assistance. **Letters of Interest should not be submitted to the Bureau until the Applicant has completed the initial consultation process with a Project Development Lead, as discussed on page 1 and in the Credit Programs Guide.** Unless the Bureau directs otherwise, completed LOIs will be submitted electronically. The Bureau will provide Applicants detailed instructions on how to transmit the LOI files to the Department.

Federal Requirements. Projects receiving Federal financial assistance, including Bureau credit assistance, must comply with certain Federal requirements. Applicants should discuss applicable Federal requirements with the Bureau during the initial consultation process.

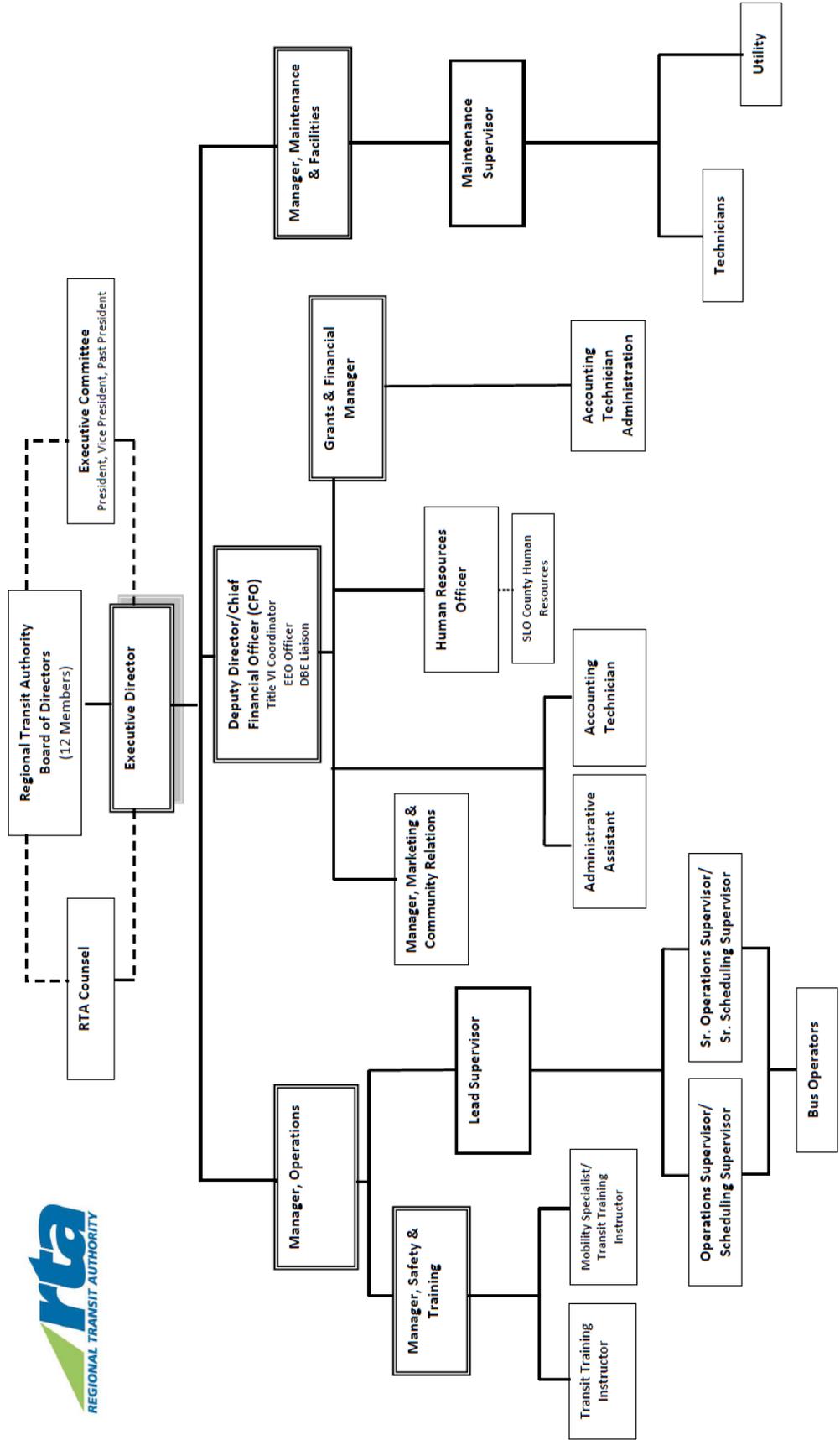
Supplemental Information. After an LOI is received and is considered complete, DOT will conduct a preliminary creditworthiness review, which involves an evaluation of the plan of finance, the financial model, the feasibility of the anticipated pledged revenue, and the sufficiency of any collateral pledged. In connection with these reviews, the Bureau may ask Applicants to provide additional materials, as necessary.

Creditworthiness. If the Department determines that the Project appears to satisfy statutory eligibility criteria, including the preliminary creditworthiness review, the Bureau will seek information necessary to proceed with the credit review process. TIFIA Applicants will be required to provide a preliminary rating opinion letter from at least one nationally recognized statistical rating organization. All Applicants for Bureau credit assistance will be asked to provide an oral presentation on their Project and plan of finance. Finally, if the Department has determined that a Project has met statutory eligibility requirements, including a full review of the creditworthiness of the Project, the Borrower will be invited to submit an Application and supporting materials. Please note that an invitation by the Department to submit an Application does not guarantee that a Project will receive Bureau credit assistance, which remains subject to a Project’s continued eligibility and final approval by the Secretary.

Requests for Information. If an Applicant or Borrower desires that any information submitted in its LOI, or any supplement thereto, not be released by the Department upon request from a member of the public or otherwise be made publicly available, the Applicant must specifically identify the information requested to be withheld and set forth any reasons why such information should not be released, including details as to any competitive harm which would potentially result from the release of such information. The Department will keep such information confidential to the extent permitted by law.

Fees. Except in certain circumstances, the Borrower will be responsible to pay costs incurred for services duly provided by the Department’s legal, financial or other third-party advisors involved with the evaluation of the LOI and Application and negotiation of any TIFIA/RRIF credit agreement and related transactional documentation, in each case as applicable, irrespective of whether a credit agreement is executed. Please refer to the [Credit Programs Guide](#) for further information with respect to exceptions to this requirement as well time and method of payment for such services.

Attachment A-1



Project Advisors

Financial Advisors:

Melissa Shick, Director
KNN Public Finance, A Limited Liability Company
1300 Clay Street, Suite 1000, Oakland, CA 94612
510-208-8226
mshick@knninc.com

David Leifer, Senior Managing Director
KNN Public Finance, A Limited Liability Company
1300 Clay Street, Suite 1000, Oakland, CA 94612
510-208-8264
dleifer@knninc.com

Legal Advisors:

County of San Luis Obispo County Counsel

Jon Ansolabehere, Chief Deputy County Counsel
County of San Luis Obispo
1055 Monterey Street, Suite D320, San Luis Obispo, CA 93408
805-781-5400
jansolabehere@co.slo.ca.us

Nina Negranti, Assistant County Counsel
County of San Luis Obispo
1055 Monterey Street, Suite D320, San Luis Obispo, CA 93408
805-781-5400
nnegranti@co.slo.ca.us

Bond Counsel

Currently under procurement. Expected appointment week of June 10. SLO RTA Board approval July 2019.

Attachment B-1

Project Location: 253 Elks Lane, San Luis Obispo, CA 93401

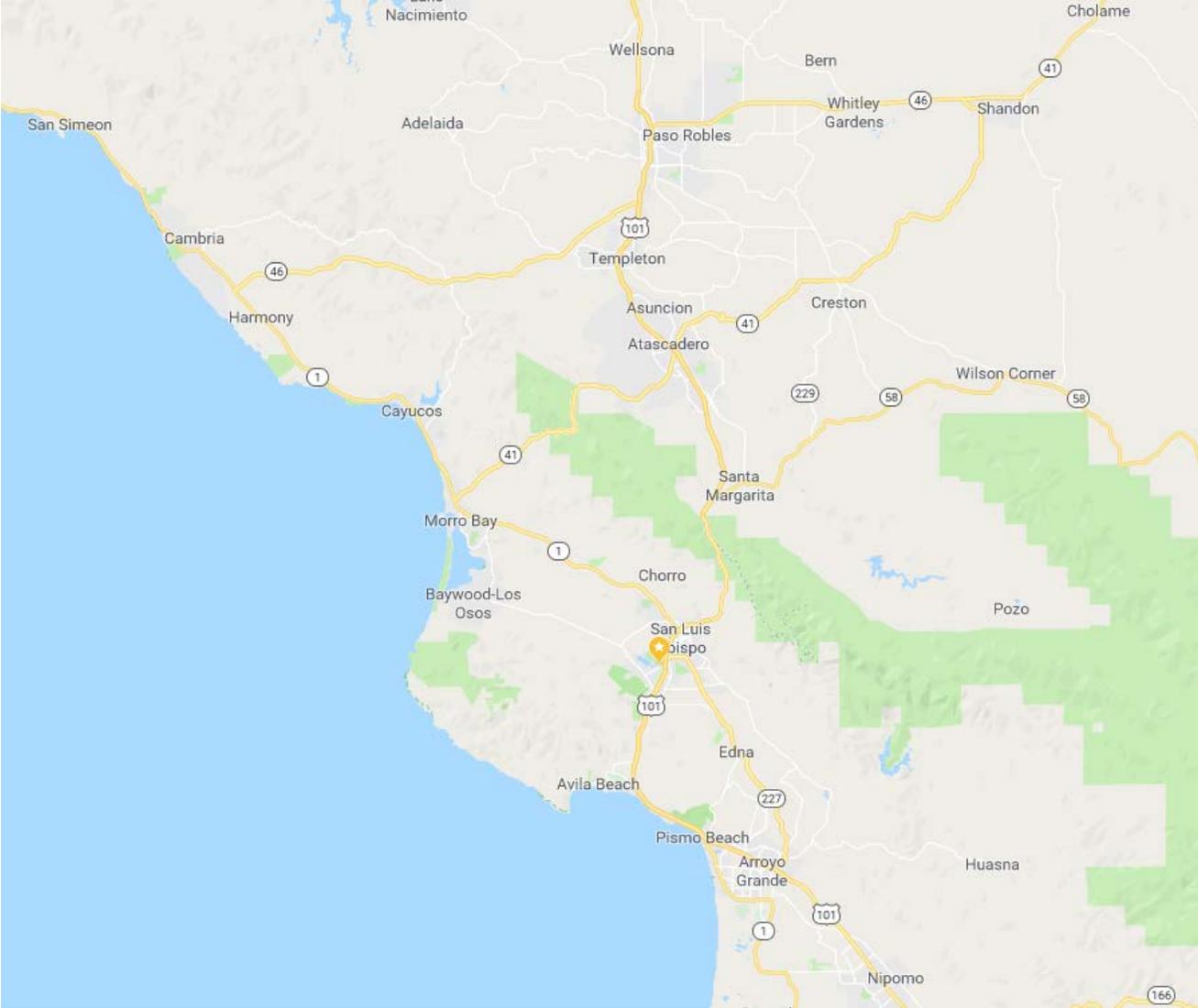
Project Mapping Coordinates:

- Latitude: 35.256903
- Longitude: -120.673486

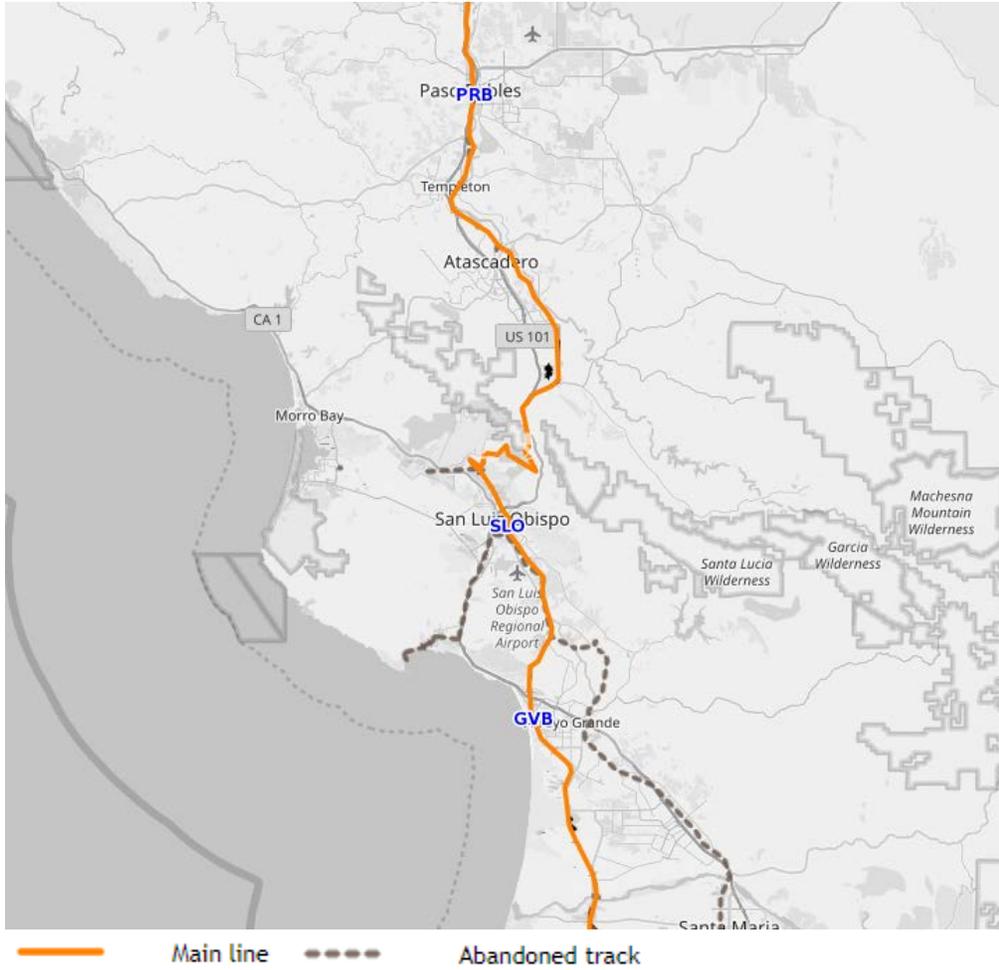
Project location relative to the County of San Luis Obispo. Impacted city is the City of San Luis Obispo, although the service area of the San Luis Obispo Regional Transit Authority expands North of Cambria along the Coast, down Highway 1 through Morro Bay and into San Luis Obispo. Along the north central portion of the County along Highway 101 from San Miguel just north of Paso Robles, down Highway 101 into Santa Maria which is in Santa Barbara County.



Major highways within the County of San Luis Obispo.



Rail routes in the County of San Luis Obispo that shows the locations of Amtrak stations within the County of San Luis Obispo.

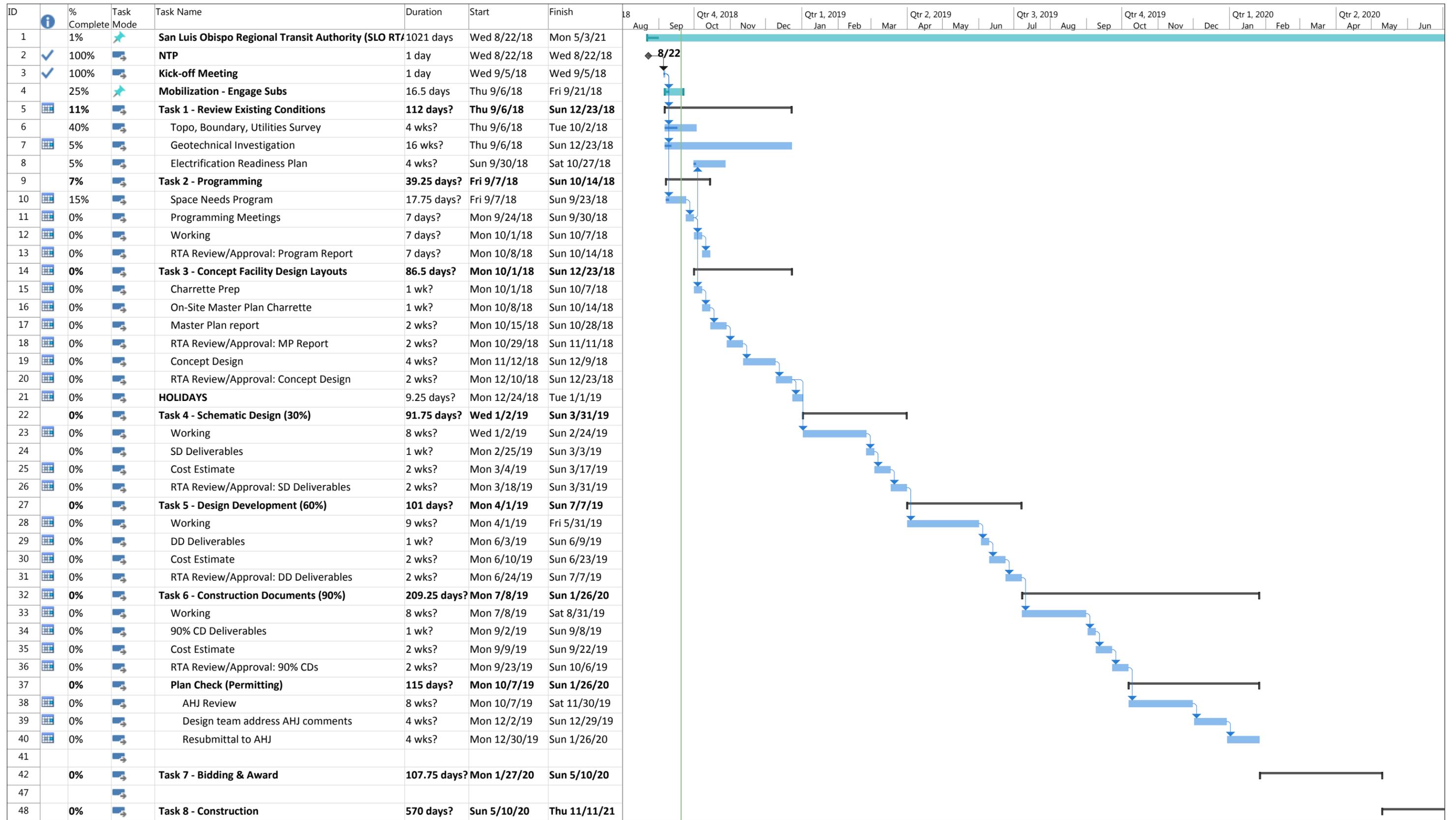


High level map of the project showing major design elements.



Attachment B-2				
Project Budget Based on Estimates as of 5/31/2019				
(Including Land Purchase as an Eligible Project Cost)				
San Luis Obispo RTA Bus Garage				
Bus Maintenance Facility				
For TIFIA LOI				
	Total	Secured Funding		
	Project Cost	Federal Amount	State/Local Amount	Funding Gap
Land Purchase	\$1,512,602	\$0	\$1,512,602	\$0
Environmental & Design	\$2,554,486	\$905,787	\$1,648,699	\$0
Construction				
Sitework	\$6,172,800			
Building Construction	8,832,900			
Contingency, Escalation & Fees	8,256,000			
Comissioning, Project Manager, permit	2,872,570			
Total Construction Cost	\$26,134,270	\$6,285,662	\$1,537,446	\$18,311,162
Financing Costs (RTA legal, advisor, trustee, and rating agency fees)	\$300,000			\$300,000
Total RTA Bus Facility Budgeted Costs	\$30,501,358	\$7,191,449	\$4,698,747	\$18,611,162
Sources of Funding				
Federal Grant Funding	\$7,191,449	24%		
State Grant Funding	\$4,698,747	15%		
TIFIA Loan Amount	\$14,945,665	49%		
Other Borrowing/Funding	\$3,665,497	12%		
Total Federal Funding		73%		
Total Other Funding		27%		

Attachment B-2				
Project Budget Based on Estimates as of 5/31/2019				
(Excluding Land Purchase as an Eligible Project Cost)				
San Luis Obispo RTA Bus Garage				
Bus Maintenance Facility				
For TIFIA LOI				
	Total	Secured Funding		
	Project Cost	Federal Amount	State/Local Amount	Funding Gap
Environmental & Design	\$2,554,486	\$905,787	\$1,648,699	\$0
Construction				
Sitework	\$6,172,800			
Building Construction	8,832,900			
Contingency, Escalation & Fees	8,256,000			
Comissioning, Project Manager, permit	2,872,570			
Total Construction Cost	\$26,134,270	\$6,285,662	\$1,537,446	\$18,311,162
Financing Costs (RTA legal, advisor, trustee, and rating agency fees)	\$300,000			\$300,000
Total RTA Bus Facility Budgeted Costs	\$28,988,756	\$7,191,449	\$3,186,145	\$18,611,162
Sources of Funding				
Federal Grant Funding	\$7,191,449	25%		
State Grant Funding	\$3,186,145	11%		
TIFIA Loan Amount	\$14,204,490	49%		
Other Borrowing/Funding	\$4,406,672	15%		
Total Federal Funding		74%		
Total Other Funding		26%		



Project: Date: Thu 9/20/18	Task		Summary		Inactive Milestone		Duration-only		Start-only		External Milestone		Manual Progress	
	Split		Project Summary		Inactive Summary		Manual Summary Rollup		Finish-only		Deadline			
	Milestone		Inactive Task		Manual Task		Manual Summary		External Tasks		Progress			

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SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

July 10, 2019

STAFF REPORT

AGENDA ITEM: C-8

TOPIC: Agreement for Bus Maintenance Facility
Commissioning Services

ACTION: Approve

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Authorize the Executive Director to Execute
Agreement with 3C Engineering

BACKGROUND/DISCUSSION:

The RTA authorized staff to solicit proposals to provide building commissioning services for the planned new Bus Maintenance Facility project at the March 2019 meeting. The objective of state-mandated commissioning is to document and confirm that a facility fulfills the functional and performance requirements as designed. The commissioning provider will be involved throughout the project from the final phase of design through the warranty phase.

Staff published the Request for Proposals on April 4, 2019, and three firms submitted proposals. A selection committee unanimously ranked one firm as non-responsive, and ranked 3C Engineering Services as the best value firm. After receiving positive reviews from references, staff decided to forego interviews and begin negotiations with 3C Engineering. The attached agreement meets all state and federal contracting requirements and identifies a not-to-exceed amount of \$35,965.00.

Staff Recommendation

Authorize the RTA Executive Director to execute the agreement with 3C Engineering for building commissioning services.

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**SAN LUIS OBIPO REGIONAL TRANSIT AUTHORITY
PROFESSIONAL SERVICES AGREEMENT
WITH 3C ENGINEERING**

AGREEMENT NUMBER 20-01

This "Agreement" is made as of this day of July 10, 2019, by and between the San Luis Obispo Regional Transit Authority ("RTA" or "Purchaser") and 3C Engineering ("Contractor").

RECITALS

A. The RTA desires to retain a qualified and committed professional firm or team of firms to provide commissioning services for the RTA Bus Maintenance Facility Project.

B. The RTA desires to retain a qualified firm to conduct the services described above in accordance with the Scope of Services as more particularly set forth in Exhibit A to the Agreement.

C. Contractor represents to the RTA that it is a firm composed of highly trained professionals and is fully qualified to conduct the services described above and render advice to the RTA in connection with said services.

D. The parties have negotiated upon the terms pursuant to which Contractor will provide such services and have reduced such terms to writing.

AGREEMENT

NOW, THEREFORE, the RTA and Contractor agree as follows:

1. SCOPE OF SERVICES

Contractor shall provide to the RTA the services described in Exhibit A ("Scope of Services") Contractor shall provide these services at the time, place, and in the manner specified in Exhibit A. Exhibit A is attached hereto solely for the purpose of defining the manner and scope of services to be provided by Contractor and is not intended to, and shall not be construed so as to, modify or expand the terms, conditions or provisions contained in this Agreement. In the event of any conflict between the terms in Exhibit A and the Agreement, the terms of this Agreement shall control and prevail. The parties agree that any term contained in Exhibit A that adds to, varies or conflicts with the terms of this Agreement is null and void.

2. COMPENSATION

a. The RTA shall pay Contractor for services rendered pursuant to this Agreement at the rates, times and in the manner set forth in this Agreement. Contractor shall submit monthly statements to the RTA which shall itemize the services performed as of the date of the statement and set forth a progress report, including work accomplished during the period, percent of each task completed, and planned

effort for the next period. Invoices shall identify personnel who have worked on the services provided, and the percent of the total project completed, consistent with the rates and amounts set forth in this Agreement.

b. The payments prescribed herein shall constitute all compensation to Contractor for all costs of services, including, but not limited to, direct costs of labor of employees engaged by Contractor, travel expenses, telephone charges, copying and reproduction, computer time, and any and all other costs, expenses and charges of Contractor, its agents and employees. In no event shall the RTA be obligated to pay late fees or interest, whether or not such requirements are contained in Contractor's invoice.

c. Notwithstanding any other provision in this Agreement to the contrary, the total maximum compensation to be paid for the satisfactory accomplishment and completion of all services to be performed hereunder shall in no event exceed the sum of \$35,965.00. The RTA's Chief Financial Officer is authorized to pay all proper claims.

3. DOCUMENTATION; RETENTION OF MATERIALS

a. Contractor shall maintain adequate documentation to substantiate all charges as required under Section 2 of this Agreement.

b. Contractor shall keep and maintain full and complete documentation and accounting records concerning all extra or special services performed by it that are compensable by other than an hourly or flat rate and shall make such documents and records available to authorized representatives of the RTA for inspection at any reasonable time.

c. Contractor shall maintain the records and any other records related to the performance of this Agreement and shall allow the RTA access to such records during the performance of this Agreement and for a period of four (4) years after completion of all services hereunder.

4. INDEMNITY

Contractor shall, to the fullest extent permitted by law, indemnify, protect, defend and hold harmless the RTA, and its employees, officials and agents ("Indemnified Parties") for all claims, demands, costs or liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, interest, defense costs, and expert witness fees), that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor, its officers, employees, agents, in said performance of this Agreement, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of the RTA.

5. INSURANCE

Contractor shall maintain in full force and effect all of the insurance coverage described in, and in accordance with, Attachment One, "Insurance Requirements." Maintenance of the insurance coverage set forth in Attachment One is a material element of this Agreement and a material part of the consideration provided by Contractor in exchange for the RTA's agreement to make the payments prescribed hereunder. Failure by Contractor to (i) maintain or renew coverage, (ii) provide the RTA notice of any changes, modifications, or reductions in coverage, or (iii) provide evidence of renewal, may be treated by the RTA as a material breach of this Agreement by Contractor, whereupon the RTA shall be entitled to all rights and remedies at law or in equity, including but not limited to immediate termination of this Agreement. Notwithstanding the foregoing, any failure by Contractor to maintain required insurance coverage shall not excuse or alleviate Contractor from any of its other duties or obligations under this Agreement. In the event Contractor, with approval of the RTA pursuant to Section 6 below, retains or utilizes any subcontractors in the provision of any services to the RTA under this Agreement, Contractor shall assure that any such subcontractor has first obtained, and shall maintain, all of the insurance coverage requirements set forth in the Insurance Requirements at Attachment One.

6. ASSIGNMENT

Contractor shall not assign any rights or duties under this Agreement to a third party without the express prior written consent of the RTA, in the RTA's sole and absolute discretion. Contractor agrees that the RTA shall have the right to approve any and all subcontractors to be used by Contractor in the performance of this Agreement before Contractor contracts with or otherwise engages any such subcontractors.

7. TERMINATION

a. This Agreement may be terminated by the RTA at any time by giving Thirty (30) days written notice to the Contractor of its intent to terminate the Agreement.

b. Upon such termination, Contractor shall submit to the RTA an itemized statement of services performed as of the date of termination in accordance with Section 2 of this Agreement. These services may include both completed work and work in progress at the time of termination. If the AVL system has been installed, Contractor shall provide a working installation and configuration of the AVL system to the RTA within Thirty (30) days of the termination date. The RTA shall pay Contractor for any services for which compensation is owed; provided, however, the RTA shall not in any manner be liable for lost profits that might have been made by Contractor had the Agreement not been terminated or had Contractor completed the services required by this Agreement. Contractor shall promptly deliver to the RTA all documents related to the performance of this Agreement in its possession or control. All such documents shall be the property of the RTA without additional compensation to Contractor.

8. NOTICES

Except as otherwise provided in this Agreement, any notice, submittal or communication required or permitted to be served on a party, shall be in writing and may be served by personal delivery to the person or the office of the person identified below. Service may also be made by mail, by placing first-class postage, and addressed as indicated below, and depositing in the United States mail to:

RTA Representative:

Geoff Straw
San Luis Obispo RTA
179 Cross Street, Suite A
San Luis Obispo, CA 93401
(805) 781-4465
gstraw@slorta.org

Contractor Representative:

Kelly Robinson
3C Engineering
1500 Palm Street
San Luis Obispo, CA 93401
(805) 540-5382
krobinson@3ceng.com

9. INDEPENDENT CONTRACTOR

The parties intend that Contractor, in performing the services specified, shall act as an independent Contractor and shall have control of its work and the manner in which it is performed. Contractor, including Contractor's employees, shall not be considered agents or employees of the RTA. Neither Contractor nor Contractor's employees shall be entitled to participate in any pension plan, medical, or dental plans, or any other benefit provided by the RTA for its employees.

10. ADDITIONAL SERVICES

Changes to the Scope of Services shall be by written amendment to this Agreement and shall be paid on an hourly basis at the rates set forth in this Agreement, or paid as otherwise agreed upon by the parties in writing prior to the provision of any such additional services.

11. SUCCESSORS AND ASSIGNS

The RTA and Contractor each binds itself, its partners, successors, legal representatives and assigns to the other party to this Agreement and to the partners, successors, legal representatives and assigns of such other party in respect of all promises and agreements contained herein.

12. TIME OF PERFORMANCE

The services described herein shall be provided during the period, or in accordance with the schedule, set forth in Exhibit A – Scope of Services.

13. MISCELLANEOUS

a. Entire Agreement. This Agreement contains the entire agreement between the parties. Any and all verbal or written agreements made prior to the date of this Agreement are superseded by this Agreement and shall have no further effect.

b. Modification. No modification or change to the terms of this Agreement will be binding on a party unless in writing and signed by an authorized representative of that party.

c. Compliance with Laws. Contractor shall perform all services described herein in compliance with all applicable federal, state and local laws, rules, regulations, and ordinances, including but not limited to, (i) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.) (“ADA”), and any regulations and guidelines issued pursuant to the ADA; and (ii) Labor Code sections 1700-1775, which require prevailing wages (in accordance with DIR schedule at www.dir.ca.gov) be paid to any employee performing work covered by Labor Code sections 1720 et seq.

d. Governing Law; Venue. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court in San Luis Obispo County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such court, and consent to service of process issued by such court.

e. Conflict of Interest. The RTA’s Conflict of Interest Code requires that individuals who qualify as “Contractors” under the Political Reform Act, California Government Code sections 87200 et seq., comply with the conflict of interest provisions of the Political Reform Act and the RTA’s Conflict of Interest Code, which generally prohibit individuals from making or participating in the making of decisions that will have a material financial effect on their economic interests. The term “Contractor” generally includes individuals who make governmental decisions or who serve in a staff capacity. In the event that the RTA determines, in its discretion, that Contractor is a “Contractor” under the Political Reform Act, Contractor shall cause the following to occur within 30 days after execution of this Agreement: (1) Identify the individuals who will provide services or perform work under this Agreement as “Contractors,” and (2) Cause these individuals to file with the RTA’s Representative the “assuming office” statements of economic interests required by the RTA’s Conflict of Interest Code. Thereafter, throughout the term of the Agreement, Contractor shall cause these individuals to file with the RTA Representative annual statements of economic interests, and “leaving office” statements of economic interests, as required by the RTA’s Conflict of Interest Code. The above statements of economic interests are public records subject to

public disclosure under the California Public Records Act. The RTA may withhold all or a portion of any payment due under this agreement until all required statements are files.

f. Waiver of Rights. Neither the RTA acceptance of, or payment for, any service or performed by Contractor, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

g. Ownership and Use of Property Rights. Unless otherwise expressly provide herein, all original works created by Contractor for the RTA hereunder shall be and remain the property of the RTA. Contractor agrees that any patentable or copyrightable property rights, to the extent created for the RTA as part of the services provided hereunder, shall be in the public domain and may be used by anyone for any lawful purpose.

h. Incorporation of attachments and exhibits. The attachments and exhibits to this Agreement are incorporated and made part of this Agreement, subject to terms and provisions herein contained.

i. Dispute resolution. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the RTA Deputy Director, who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the RTA Deputy Director shall be final and conclusive unless within ten working (10) days from the date of receipt of such copy the Contractor mails or otherwise furnishes a written appeal addressed to the RTA Executive Director. The determination of such appeal by the Executive Director shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious, arbitrary, or not supported by substantial evidence. In connection with any appeal preceding under this clause the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Agreement and in accordance with the Executive Director's decision.

The duties and obligations imposed by the Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

14. ACCESSIBILITY REQUIREMENTS

In addition to those requirements set forth in Subsection 13(C), the RTA requires that all RTA telecommunication services, websites and web-based applications and services are accessible to, and usable by, persons with disabilities. Contractor shall provide all electronic, telecommunication, and information technology products and services to be provided under this Agreement in conformance with title 28, Part 35 of the Code of Federal Regulations, 28 C.F.R. §§ 35.130, et seq., and the accessibility

standards set forth in Section 508 of the Rehabilitation Act of 1973, as amended. Section 508 standards are viewable at <http://access-board.gov/sec508/standards.htm>.

15. AUTHORITY; SIGNATURES REQUIRED FOR CORPORATIONS

Contractor hereby represents and warrants to the RTA that it is (a) duly organized and validly existing formed and in good standing under the laws of the State of California, (b) has the power and authority and the legal right to conduct the business in which it is currently engaged, and c) has all requisite power and authority and the legal right to consummate the transactions contemplated in this Agreement. Contractor hereby further represents and warrants that this Agreement has been duly authorized, and when executed by the signatory or signatories listed below, shall constitute a valid agreement binding on Contractor in accordance with the terms hereof.

If this Agreement is entered into by a corporation, it shall be signed by two corporate officers, one from each of the following two groups: a) the chairman of the board, president or any vice-president; b) the secretary, any assistant secretary, chief financial officer, or any assistant treasurer. The title of the corporate officer shall be listed under the signature.

////////////////////////////////// NOTHING FURTHER PAST THIS POINT //////////////////////////////////////

Executed as of the day and year first above stated.

CONTRACTOR:

Name of Firm: 3C Engineering

TYPE OF BUSINESS ENTITY (*check one*):

- Individual/Sole Proprietor
- Partnership
- Corporation
- Limited Liability Company
- Other (please specify: _____)

Signatures of Authorized Persons:

By: _____

Print Name: _____

Title: _____

By: _____

Print Name: _____

Title: _____

Taxpayer I.D. No. _____

**SAN LUIS OBISPO REGIONAL TRANSIT
AUTHORITY**

By: _____

Geoff Straw
RTA Executive Director

APPROVED AS TO FORM:

RTA Counsel

ATTEST:

RTA Clerk

Attachments:

- Attachment One – Insurance Requirements for Agreements for Professional Services
- Attachment Two – Federally Required Contract Clauses
- Exhibit A – Final Scope of Services
- Request for Proposals (attachments on pages 26 through 77 removed)
- RFP Addendum #1
- Contractor's Submittal (samples on pages 15 through 126 removed from technical proposal)

ATTACHMENT ONE

INSURANCE REQUIREMENTS FOR AGREEMENTS FOR PROFESSIONAL SERVICES

- A. Insurance Policies:** Contractor shall, at all times during the terms of this Agreement, maintain and keep in full force and effect, the following policies of insurance with minimum coverage as indicated below and issued by insurers with AM Best ratings of no less than A-VI or otherwise acceptable to the RTA.

Insurance	Minimum Coverage Limits	Additional Coverage Requirements
1. Commercial general liability	\$1 million per occurrence \$2 million aggregate	Coverage must be at least as broad as ISO CG 00 01 and must include completed operations coverage. If insurance applies separately to a project/location, aggregate may be equal to per occurrence amount. Coverage may be met by a combination of primary and excess insurance but excess shall provide coverage at least as broad as specified for underlying coverage. Coverage shall not exclude subsidence.
2. Business auto coverage	\$1 million	ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$ 1 million per accident for bodily injury and property damage.
3. Professional liability (E&O)	\$1 million per claim \$1 million aggregate	Contractor shall provide on a policy form appropriate to profession. If on a claims made basis, Insurance must show coverage date prior to start of work and it must be maintained for three years after completion of work.
4. Workers' compensation and employer's liability	\$1 million	As required by the State of California, with Statutory Limits and Employer's Liability Insurance with limit of no less than \$ 1 million per accident for bodily injury or disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the RTA for all work performed by the Contractor, its employees, agents and subcontractors.

B. Endorsements:

1. All policies shall provide or be endorsed to provide that coverage shall not be canceled, except after prior written notice has been provided to the RTA in accordance with the policy provisions.
2. Liability policies shall provide or be endorsed to provide the following:
 - a. For any claims related to this project, Contractor's insurance coverage shall be primary and any insurance or self-insurance maintained by the RTA shall be excess of the Contractor's insurance and shall not contribute with it; and,
 - b. The San Luis Obispo Regional Transit Authority, its officers, agents, employees and volunteers are to be covered as additional insured on the CGL policy. General liability coverage can be provided in the form of an endorsement to Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

C. Verification of Coverage and Certificates of Insurance: Contractor shall furnish the RTA with original certificates and endorsements effecting coverage required above. Certificates and endorsements shall make reference to policy numbers. All certificates and endorsements are to be received and approved by the RTA before work commences and must be in effect for the duration of the contract. The RTA reserves the right to require complete copies of all required policies and endorsements.

D. Other Insurance Provisions:

1. No policy required by this Agreement shall prohibit Contractor from waiving any right of recovery prior to loss. Contractor hereby waives such right with regard to the indemnities.
2. All insurance coverage amounts provided by Contractor and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage. Defense costs must be paid in addition to coverage amounts.
3. Self-insured retentions above \$10,000 must be approved by the RTA. At the RTA's option, Contractor may be required to provide financial guarantees.
4. Sole Proprietors must provide a representation of their Workers' Compensation Insurance exempt status.
5. The RTA reserves the right to modify these insurance requirements while this Agreement is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**ATTACHMENT TWO
FEDERALLY REQUIRED CONTRACT CLAUSES**

2-1 ACCESS TO RECORDS AND REPORTS

1. Record Retention. The CONTRACTOR will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
2. Retention Period. The CONTRACTOR agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The CONTRACTOR shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
3. Access to Records. The CONTRACTOR agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
4. Access to the Sites of Performance. The CONTRACTOR agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

2-2 BONDING REQUIREMENTS *(Not Applicable to This Procurement)*

2-3 BUS TESTING *(Not Applicable to This Procurement)*

2-4 BUY AMERICA REQUIREMENTS *(Not Applicable to This Procurement)*

2-5 CARGO PREFERENCE REQUIREMENTS *(Not Applicable to This Procurement)*

2-6 CHARTER SERVICE *(Not Applicable to This Procurement)*

2-7 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The CONTRACTOR agrees:

1. It will not use any violating facilities;
2. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
3. It will report violations of use of prohibited facilities to FTA; and
4. It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

2-8 CIVIL RIGHTS LAWS AND REGULATIONS

Civil Rights and Equal Opportunity

The RTA is an Equal Opportunity Employer. As such, the RTA agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the RTA agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the CONTRACTOR shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the CONTRACTOR agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees

that it will not discriminate against individuals on the basis of disability. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

2-9 DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The CONTRACTOR, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the RTA deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the CONTRACTOR from future bidding as non-responsible.

Further, RTAs must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the RTA makes to the prime contractor. Finally, for contracts with defined DBE contract goals, each FTA RTA must include in each prime contract a provision stating that the CONTRACTOR shall utilize the specific DBEs listed unless the CONTRACTOR obtains the RTA's written consent; and that, unless the RTA's consent is provided, the CONTRACTOR shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

As an additional resource, RTAs can draw on the following language for inclusion in their federally funded procurements.

Overview

It is the policy of the RTA and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of the RTA to:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and

7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This Contract is subject to 49 C.F.R. part 26. Therefore, the CONTRACTOR must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The RTA shall make all determinations with regard to whether or not a Bidder/Offeror is in compliance with the requirements stated herein. In assessing compliance, the RTA may consider during its review of the Bidder/Offeror's submission package, the Bidder/Offeror's documented history of non-compliance with DBE requirements on previous contracts with the RTA.

Contract Assurance

The CONTRACTOR, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONTRACTOR shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the RTA deems appropriate.

DBE Participation

For the purpose of this Contract, the RTA will accept only DBE's who are:

1. Certified, at the time of bid opening or proposal evaluation, by the California Department of Transportation; or
2. An out-of-state firm who has been certified by either a local government, state government or Federal government entity authorized to certify DBE status or an agency whose DBE certification process has received FTA approval; or
3. Certified by another agency approved by the RTA.

DBE Participation Goal

The DBE participation goal for this Contract is set at 5.1%. This goal represents those elements of work under this Contract performed by qualified Disadvantaged Business Enterprises for amounts totaling **not less than** 5.1% of the total Contract price. Failure to meet the stated goal at the time of proposal submission may render the Bidder/Offeror non-responsive.

Proposed Submission

Each Bidder/Offeror, as part of its submission, shall supply the following information:

1. A completed **DBE Utilization Form** that indicates the percentage and dollar value of the total bid/contract amount to be supplied by Disadvantaged Business Enterprises under this Contract.
2. A list of those qualified DBE's with whom the Bidder/Offeror intends to contract for the performance of portions of the work under the Contract, the agreed price to be paid to each DBE for work, the Contract items or parts to be performed by each DBE, a proposed timetable for the performance or delivery of the Contract item, and other information as required by the **DBE Participation Schedule** (see below). No work shall be included in the Schedule that the Bidder/Offeror has reason to believe the listed DBE will subcontract, at any tier, to other than another DBE. If awarded the Contract, the

Bidder/Offeror may not deviate from the DBE Participation Schedule submitted in response to the bid. Any subsequent changes and/or substitutions of DBE firms will require review and written approval by the RTA.

3. An original **DBE Letter of Intent** (see below) from each DBE listed in the **DBE Participation Schedule**.
4. An original **DBE Affidavit** (see below) from each DBE stating that there has not been any change in its status since the date of its last certification.

Good Faith Efforts

If the Bidder/Offeror is unable to meet the goal set forth above (DBE Participation Goal), the RTA will consider the Bidder/Offeror's documented good faith efforts to meet the goal in determining responsiveness. The types of actions that the RTA will consider as part of the Bidder/Offeror's good faith efforts include, but are not limited to, the following:

1. Documented communication with the RTA's DBE Coordinator (questions of IFB or RFP requirements, subcontracting opportunities, appropriate certification, will be addressed in a timely fashion);
2. Pre-bid meeting attendance. At the pre-bid meeting, the RTA generally informs potential Bidder/Offeror's of DBE subcontracting opportunities;
3. The Bidder/Offeror's own solicitations to obtain DBE involvement in general circulation media, trade association publication, minority-focus media and other reasonable and available means within sufficient time to allow DBEs to respond to the solicitation;
4. Written notification to DBE's encouraging participation in the proposed Contract; and
5. Efforts made to identify specific portions of the work that might be performed by DBE's.

The Bidder/Offeror shall provide the following details, at a minimum, of the specific efforts it made to negotiate in good faith with DBE's for elements of the Contract:

1. The names, addresses, and telephone numbers of DBE's that were contacted;
2. A description of the information provided to targeted DBE's regarding the specifications and bid proposals for portions of the work;
3. Efforts made to assist DBE's contacted in obtaining bonding or insurance required by the Bidder or the RTA.

Further, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted when a non-DBE subcontractor was selected over a DBE for work on the contract. In determining whether a Bidder has made good faith efforts, the RTA may take into account the performance of other Bidders in meeting the Contract goals. For example, if the apparent successful Bidder failed to meet the goal, but meets or exceeds the average DBE participation obtained by other Bidders, the RTA may view this as evidence of the Bidder having made good faith efforts.

Administrative Reconsideration

Within five (5) business days of being informed by the RTA that it is not responsive or responsible because it has not documented sufficient good faith efforts, the Bidder/Offeror may request administrative reconsideration. The Bidder should make this request in writing to the RTA's Civil Rights Officer. The RTA Civil Rights Officer will forward the Bidder/Offeror's request to a reconsideration official who will not have played any role in the original determination that the Bidder/Offeror did not document sufficient good faith efforts.

As part of this reconsideration, the Bidder/Offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Bidder/Offeror will have the opportunity to meet in person with the assigned reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The RTA will send the Bidder/Offeror a written decision on its reconsideration, explaining the basis for finding that the Bidder/Offeror did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Termination of DBE Subcontractor

The CONTRACTOR shall not terminate the DBE subcontractor(s) listed in the **DBE Participation Schedule** (see below) without the RTA's prior written consent. The RTA may provide such written consent only if the CONTRACTOR has good cause to terminate the DBE firm. Before transmitting a request to terminate, the CONTRACTOR shall give notice in writing to the DBE subcontractor of its intent to terminate and the reason for the request. The CONTRACTOR shall give the DBE five days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subcontractor is terminated or fails to complete its work on the Contract for any reason, the CONTRACTOR shall make good faith efforts to find another DBE subcontractor to substitute for the original DBE and immediately notify the RTA in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement. Failure to comply with these requirements will be in accordance with Sanctions for Violations section below.

Continued Compliance

The RTA shall monitor the CONTRACTOR's DBE compliance during the life of the Contract. In the event this procurement exceeds ninety (90) days, **it will be the responsibility of the CONTRACTOR to submit quarterly written reports to the RTA that** summarize the total DBE value for this Contract. These reports shall provide the following details:

1. DBE utilization established for the Contract;
2. Total value of expenditures with DBE firms for the quarter;
3. The value of expenditures with each DBE firm for the quarter by race and gender;
4. Total value of expenditures with DBE firms from inception of the Contract; and
5. The value of expenditures with each DBE firm from the inception of the Contract by race and gender.

Reports and other correspondence must be submitted to the RTA Civil Rights Officer. Reports shall continue to be submitted quarterly until final payment is issued or until DBE participation is completed.

The successful Bidder/Offeror shall permit:

1. The RTA to have access to necessary records to examine information as the RTA deems appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records of expenditures, invoices, and contract between the successful Bidder/Offeror and other DBE parties entered into during the life of the Contract.
2. The authorized representative(s) of the RTA, the U.S. Department of Transportation, the Comptroller General of the United States, to inspect and audit all data and record of the CONTRACTOR relating to its performance under the Disadvantaged Business Enterprise Participation provision of this Contract.
3. All data/record(s) pertaining to DBE shall be maintained as stated in Section 2-1 ACCESS TO RECORDS.

Sanctions for Violations

If at any time the RTA has reason to believe that the CONTRACTOR is in violation of its obligations under this Agreement or has otherwise failed to comply with terms of this Section, the RTA may, in addition to pursuing any other available legal remedy, commence proceedings, which may include but are not limited to, the following:

1. Suspension of any payment or part due the CONTRACTOR until such time as the issues concerning the CONTRACTOR's compliance are resolved; and
2. Termination or cancellation of the Contract, in whole or in part, unless the successful CONTRACTOR is able to demonstrate within a reasonable time that it is in compliance with the DBE terms stated herein.

2-10 EMPLOYEE PROTECTIONS

The following three FTA required clauses pertain to this procurement.

Prevailing Wage and Anti-Kickback

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the CONTRACTOR shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The CONTRACTOR will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the CONTRACTOR shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the CONTRACTOR agrees to pay wages not less than once a week. The CONTRACTOR shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "CONTRACTORS and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The

CONTRACTOR is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Contract Work Hours and Safety Standards

For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the CONTRACTOR shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the CONTRACTOR shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

In the event of any violation of the clause set forth herein, the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime CONTRACTOR, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in this section.

The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.

Contract Work Hours and Safety Standards for Awards Not Involving Construction

The CONTRACTOR shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.

The CONTRACTOR shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

Such records maintained under this paragraph shall be made available by the CONTRACTOR for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the CONTRACTOR will permit such representatives to interview employees during working hours on the job.

The CONTRACTOR shall require the inclusion of the language of this clause within subcontracts of all tiers.

2-11 ENERGY CONSERVATION

The CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

2-12 FLY AMERICA

1. Definitions. As used in this clause—

“International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

2. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires CONTRACTORS, RTAs, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
3. If available, the CONTRACTOR, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

4. In the event that the CONTRACTOR selects a carrier other than a U.S.-flag air carrier for international air transportation, the CONTRACTOR shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403.
[State reasons]:

(End of statement)

5. The CONTRACTOR shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

2-13 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

The CONTRACTOR shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the CONTRACTOR shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

1. Debarred from participation in any federally assisted Award;
2. Suspended from participation in any federally assisted Award;
3. Proposed for debarment from participation in any federally assisted Award;
4. Declared ineligible to participate in any federally assisted Award;
5. Voluntarily excluded from participation in any federally assisted Award; or
6. Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the RTA. If it is later determined by the RTA that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the RTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

2-14 LOBBYING RESTRICTIONS – See Attachment A, which includes a submittal form.

2-15 NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Recipient and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, CONTRACTOR or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2-16 PATENT RIGHTS AND RIGHTS IN DATA (*Not Applicable to This Procurement*)

2-17 PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES (*Not Applicable to This Procurement*)

2-18 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.

The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

The CONTRACTOR agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

2-19 PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS (*Not Applicable to This Procurement*)

2-20 RECYCLED PRODUCTS

The CONTRACTOR agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with

and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

2-21 SAFE OPERATION OF MOTOR VEHICLES

The CONTRACTOR is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the CONTRACTOR or RTA.

The CONTRACTOR agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

2-22 SCHOOL BUS OPERATIONS *(Not Applicable to This Procurement)*

2-23 SEISMIC SAFETY

The CONTRACTOR agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The CONTRACTOR also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

2-24 SUBSTANCE ABUSE REQUIREMENTS *(Not Applicable to This Procurement)*

2-25 TERMINATION

The RTA, by written notice, may terminate this contract, in whole or in part, when it is in the RTA's interest. If this contract is terminated, the RTA shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

If the CONTRACTOR fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the CONTRACTOR fails to comply with any other provisions of this contract, the RTA may terminate this contract for default. The RTA shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the RTA.

2-26 VIOLATION AND BREACH OF CONTRACT

Rights and Remedies of the RTA

The RTA shall have the following rights in the event that the RTA deems the CONTRACTOR guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the CONTRACTOR, either directly or through other CONTRACTORS;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

Rights and Remedies of CONTRACTOR

Inasmuch as the CONTRACTOR can be adequately compensated by money damages for any breach of this Contract, which may be committed by the RTA, the CONTRACTOR expressly agrees that no default, act or omission of the RTA shall constitute a material breach of this Contract, entitling CONTRACTOR to cancel or rescind the Contract (unless the RTA directs CONTRACTOR to do so) or to suspend or abandon performance.

Remedies

Substantial failure of the CONTRACTOR to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, the RTA will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The CONTRACTOR recognizes that in the event of a breach of this Agreement by the CONTRACTOR before the RTA takes action contemplated herein, the RTA will provide the CONTRACTOR with sixty (60) days written notice that the RTA considers that such a breach has occurred and will provide the CONTRACTOR a reasonable period of time to respond and to take necessary corrective action.

Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the RTA Executive Director. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the CONTRACTOR mails or otherwise furnishes a written appeal to the RTA Executive Director. In connection with any such appeal, the CONTRACTOR shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the RTA Executive Director shall be binding upon the CONTRACTOR and the CONTRACTOR shall abide by the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the RTA acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the RTA's direction or decisions made thereof.

Performance during Dispute

Unless otherwise directed by RTA, CONTRACTOR shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the RTA and the CONTRACTOR arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the RTA is located.

Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the RTA or CONTRACTOR shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

EXHIBIT A – SCOPE OF SERVICES

Design Phase

1. Assemble commissioning team, hold a scoping meeting and identify responsibilities. This effort includes:
 - a. Conduct a Design Review Kickoff meeting
 - b. Complete Design Review Kickoff Certificates of Compliance and
 - c. Complete all applicable Construction Document Design Review Checklist Certificates of Compliance per 2016 California Energy Code Requirements
2. Review the Design Intent documentation for clarity and completeness, including language on the following building envelope features: mechanical, electrical, plumbing, lighting, energy consumption, commissioning, and indoor environmental quality. This will be accomplished by the Commissioning Provider by:
 - a. Extracting salient concepts from the RTA's existing programming report and/or conducting a focus group,
 - b. Conducting up to five interviews with the RTA's stakeholders.
 - c. The RTA's design intent requirements will be general in nature.
3. Coordinate the commissioning work during design.
4. Develop or update the design phase commissioning plan.
5. Perform focused reviews of the design, drawings and specifications at various stages of development (during schematic design, design development and contract document phases), as described in Exhibit 1.
6. Assist and review the development and updating of the Design Record documentation by design team members (Design Intent, Design Narrative, Design Basis).
7. Develop a draft construction phase commissioning plan using an RTA-approved outline.
8. Develop full commissioning specifications for all commissioned equipment. Coordinate this with the architect and engineers, and integrate the commissioning specifications into the overall project specification package.

The commissioning specification will include a detailed description of the responsibilities of all parties, details of the commissioning process; reporting and documentation requirements, including formats; alerts to coordination issues, deficiency resolution; construction checklist and startup requirements; the functional testing process; specific functional test requirements, including testing conditions and acceptance criteria for each piece of equipment being commissioned.

9. Coordinate a controls integration meeting where the electrical and mechanical engineers, RTA's representative, and the Commissioning Provider discuss integration issues between equipment, systems and disciplines to ensure that integration issues and responsibilities are clearly described in the specifications.

Bid Phase

1. Attend pre-bid meeting to answer commissioning related questions.

Construction Phase

1. Coordinate and direct the commissioning activities in a logical, sequential and efficient manner using consistent protocols and forms, centralized documentation, clear and regular communications and consultations with all necessary parties, frequently updated timelines and schedules and technical expertise.
2. Coordinate the commissioning work with the contractor and construction manager, to ensure that commissioning activities are being incorporated into the master schedule.
3. Revise, as necessary, the construction phase commissioning plan developed during design, including scope and schedule.
4. Plan and conduct commissioning meetings as needed and distribute minutes.
5. Request and review additional information required to perform commissioning tasks, including O&M materials, contractor start-up and checkout procedures. Before startup, gather and review the current control sequences and interlocks and work with contractors and design engineers until sufficient clarity has been obtained, in writing, to be able to write detailed testing procedures.
6. Review normal Contractor submittals applicable to systems being commissioned for compliance with commissioning needs, concurrent with the architect and engineer reviews.
7. Review requests for information and change orders for impact on commissioning and the RTA's objectives.

8. Review coordination drawings to ensure that trades are making a reasonable effort to coordinate.
9. Write and distribute construction checklists for commissioned equipment.
10. Develop an enhanced start-up and initial systems checkout plan with contractors for selected equipment.
11. Perform site visits, as necessary, to observe component and system installations. Attend selected planning and job-site meetings to obtain information on construction progress. Review construction meeting minutes for revisions/substitutions relating to the commissioning process. Assist in resolving any discrepancies.
12. Perform the following pre-functional tasks:
 - a. Witness HVAC piping pressure test and flushing, sufficient to be confident that proper procedures were followed. Include testing documentation in the Commissioning Record.
 - b. Witness any ductwork testing and cleaning sufficient to be confident that proper procedures were followed. Include documentation in the Commissioning Record.
 - c. Document construction checklist completion by reviewing completed construction checklists and by selected site observation.
 - d. Document systems startup by reviewing start-up reports and by selected site observation.
 - e. Approve air and water systems balancing by spot testing and by reviewing completed reports and by selected site observation.
13. With necessary assistance and review from installing contractors, write the functional performance test procedures for equipment and systems. This will include manual functional testing, energy management control system trending and may include stand-alone data logger monitoring.
14. Coordinate, witness and document manual functional performance tests performed by installing contractors. Coordinate retesting as necessary until satisfactory performance is achieved. The functional testing shall include operating the system and components through each of the written sequences of operation, and other significant modes and sequences, including startup, shutdown, unoccupied mode, manual mode, staging, miscellaneous alarms, power failure, security alarm when impacted and interlocks with other systems or equipment. Sensors and actuators shall be calibrated during construction check listing by the installing contractors, and spot-checked by the commissioning provider

during functional testing. Analyze functional performance trend logs and monitoring data to verify performance.

15. Tests on respective HVAC equipment shall be executed, if possible, during both the heating and cooling season. However, some overwriting of control values to simulate conditions shall be allowed. Functional testing shall be done using conventional manual methods, control system trend logs, and read-outs or stand-alone data loggers, to provide a high level of confidence in proper system function, as deemed appropriate by the commissioning provider and the RTA.
16. Prepare test plans for, assist with execution of, and document tests of commissioned equipment overseen by regulatory authorities and ensure that such tests meet the testing rigor desired by the RTA.
17. Maintain a master issues log and a separate record of functional testing. Report all issues as they occur directly to the RTA's Representative. Provide directly to the RTA's Representative written progress reports and test results with recommended actions.
18. Review equipment warranties to ensure that the RTA's responsibilities are clearly defined.
19. Oversee and review the training of the RTA's operating personnel.
 - a. Oversee the videotaping of this training.
 - b. Review the creation of a classroom "owner's manual" that is to be kept in the classroom.
 - c. Review the preparation of the O&M manuals for commissioned equipment.
20. Compile a Commissioning Record, which shall include:
 - a. A brief summary report that includes a list of participants and roles, brief building description, overview of commissioning and testing scope, and a general description of testing and verification methods. For each piece of commissioned equipment, the report should contain the disposition of the commissioning provider regarding the adequacy of the equipment, documentation and training meeting the contract documents in the following areas:
 - i. Equipment meeting the equipment specifications,
 - ii. Equipment installation,
 - iii. Functional performance and efficiency,
 - iv. Equipment documentation, and
 - v. Operator training.

- b. All outstanding non-compliance items shall be specifically listed. Recommendations for improvement to equipment or operations, future actions, commissioning process changes, etc. shall also be listed. Each non-compliance issue shall be referenced to the specific functional test, inspection, trend log, etc. where the deficiency is documented.
 - c. Also included in the Commissioning Record shall be the issues log, commissioning plan, progress reports, submittal and O&M manual reviews, training record, test schedules, construction checklists, start-up reports, functional tests, and trend log analysis.
21. Compile a Systems Manual that consists of the following: RTA's Project Requirements (to be developed by Contractor in coordination with the RTA); Design Narrative and Basis of Design (by designer); Performance Metrics developed during design; space and use descriptions, single line drawings and schematics for major systems (by designer); control drawings, sequences of control (by contractor); and a table of all set points and implications when changing them, schedules, instructions for operation of each piece of equipment for emergencies, seasonal adjustment, startup and shutdown, instructions for energy savings operations and descriptions of the energy savings strategies in the facility, recommendations for recommissioning frequency by equipment type, energy tracking recommendations, and recommended standard trend logs with a brief description of what to look for in them (all by commissioning provider).

Warranty Period

1. Coordinate and supervise required opposite season or deferred testing and deficiency corrections and provide the final testing documentation for the Commissioning Record and O&M manuals.
2. Return to the site at 10 months into the 12-month warranty period and review with facility staff the current building operation and the condition of outstanding issues related to the original and seasonal commissioning. Also, interview facility staff and identify problems or concerns they have with operating the building as originally intended. Make suggestions for improvements and for recording these changes in the O&M manuals. Identify areas that may come under warranty or under the original construction contract. Assist facility staff in developing reports and documents and requests for services to remedy outstanding problems.

Systems to Be Commissioned

The following systems and assemblies will be commissioned:

1. Central building automation system
2. All equipment of the heating, ventilating and air conditioning systems
3. Scheduled or occupancy sensor lighting controls, and lighting and lighting control systems
4. Daylight dimming controls
5. Uninterruptible power supply systems
6. Irrigation.
7. Domestic hot water system.
8. Process piping, compressed air, and vehicle exhaust systems.

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

July 10, 2019

STAFF REPORT

AGENDA ITEM: C-9

TOPIC: Agreement for Use of Demonstration BYD Battery-Electric Bus

ACTION: Approve

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Authorize Executive Director to Execute Agreement with BYD Motors

BACKGROUND/DISCUSSION:

The California Air Resources Board adopted the Innovative Clean Transit fleet rule in December 2018. The ICT will essentially phase-out internal combustion engines used in transit buses by 2040, with interim purchasing requirements of zero-emission buses beginning in our county in 2026. In preparation for this transition, the RTA Board adopted the *RTA Policy and Procedures for the Purchase of Low- and Zero-Emission Vehicles* at its March 2019 meeting. The Policy includes procedure for determining if technologies available at each milestone year meet the RTA's challenging operating profile (long-distance routes at highway speeds on hilly terrain). As such, staff has requested that vendors provide demonstration vehicles to help us better understand how the technology can be incorporated in our operating environment.

Attached is a no-cost, temporary use agreement with BYD Motors, which exclusively manufactures battery-electric buses. Based in China, BYD's sole plant in the United States is located in Lancaster, CA. The subject bus is slightly smaller than RTA's typical buses (35-feet long vs. 40-feet), but it will give us experience operating the bus in sustained service between July 15th and July 19th. Since the vehicle does not have a suitable validating electronic farebox, we will market the service as fare-free on the routes it operates. We expect to operate it on two RTA Route 9 roundtrips the mornings of July 17th and 18th, and on a series of South County Transit hour-long routes on July 19th. We will also experiment with operating it on Paso Express hour-long fixed-routes as the schedule permits.

Staff Recommendation

Authorize the RTA Executive Director to execute the attached no-cost agreement with BYD Motors for temporary use of a demonstration battery-electric bus.

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www.byd.com

DEMONSTRATION AGREEMENT

April 24, 2019

Vendor:

BYD Motors Inc.

1800 S Figueroa Street

Los Angeles, California 90015

Contact: Justin Scalzi, Director of Business Development

E-mail: justin.scalzi@byd.com

Phone: (949) 220-6491

Geoff Straw:

San Luis Obispo RTA

179 Cross Street

San Luis Obispo, CA 93401

Contact: Geoff Straw, Executive Director

E-mail: gstraw@slorta.org

Phone: (805) 458-8216

This Equipment Demonstration Agreement (“Agreement”), dated as of January 2019, between BYD Motors Inc., (hereinafter “Vendor” or “BYD”) and the evaluator named above (hereinafter “San Luis Obispo RTA”).

WHEREAS, Evaluator is considering purchasing Vendor’s product(s) (hereinafter “Equipment”); and,

WHEREAS, Evaluator desires to evaluate and test the Equipment.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings contained herein, the parties hereto agree as follows:

1. **EQUIPMENT.** BYD agrees to provide the Evaluator and Evaluator agrees to evaluate the Equipment described in **Schedule A** of this Agreement (hereinafter “Schedule” or “Schedules”). The Equipment will be provided to Evaluator, free of charge for a duration and (and with termination clauses) specifically described in **Schedule B** of this Agreement.

2. **EVALUATOR OBLIGATIONS.** Evaluator acknowledges and agrees that: (i) it will not disassemble, reverse engineer, or otherwise infringe upon the Vendor’s intellectual property and proprietary knowledge contained within the Equipment; (ii) it will return the Equipment in substantially the same condition as received at the start of the Evaluation and if it cannot do so it

will, at its own expense, restore the Equipment to such condition; (iii) it will be solely responsible for any penalties, fees, or fines — including but not limited to traffic fines, parking tickets, and toll fees — assessed on the Equipment during the Evaluation; (iv) it will only operate, maintain, repair, charge and discharge the Equipment using devices and techniques expressly approved by Vendor or expressly prescribed in the owner’s manual; (v) it will install proper and valid license plate on the Equipment; (vi) it will keep proper and valid proof of insurance in the vehicle at all times; and (vii) it will operate the Equipment in conformity with all applicable laws and regulations.

3. **OWNERSHIP.** Evaluator acknowledges and agrees that Vendor will retain full title and rights of ownership to the Equipment at all times during the term of this Agreement. Evaluator agrees not to pledge, loan, mortgage, sublease or part with possession of the Equipment or suffer any liens or legal process to be incurred or levied on the Equipment.

4. **EQUIPMENT WARRANTY.** BYD, TO THE EXTENT PERMITTED BY LAW, (1) MAKES NO WARRANTIES OR REPRESENTATIONS, EITHER EXPRESSED OR IMPLIED, AS TO THE EQUIPMENT OR ANY OF ITS PARTS OR ACCESSORIES AND (2) MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR PURPOSE. THE EQUIPMENT IS BEING PROVIDED FROM BYD ON AN “AS-IS” BASIS.

5. **INSURANCE.** Evaluator agrees to provide and keep in force at all times during the term of this Agreement insurance policies conforming to the following requirements:

Comprehensive and Collision Insurance

Minimum Limits: Limit (Each Accident)	Auto Liability	\$5,000,000 Combined Single
	Physical Damage	\$1,000,000 Per Accident
		-or-
	Bodily Injury	\$5,000,000 Per Accident
	Property	\$5,000,000 Per Accident
	Physical Damage	\$1,000,000 Per Accident

Commercial General Liability Insurance

Commercial General Liability Insurance with minimum coverages of \$1,000,000 per occurrence limit/\$2,000,000 in the aggregate for all risks.

Umbrella/Excess CGL Insurance with a combined total for Commercial General Liability and Excess Liability limits of \$10,000,000.

Additionally, all insurance shall (i) be in companies and on forms reasonably acceptable to BYD, (ii) provide that the coverage thereunder may not be reduced or canceled unless thirty (30) days unrestricted prior written notice thereof is furnished to BYD, (iii) be primary and not contributory, and (iv) be on an occurrence basis. Certificates of Insurance (or copies of policies, if required by BYD) shall be furnished to BYD upon the execution of this Agreement naming BYD as the additional insured and loss payee.

6. **STANDARD OF CARE.** Evaluator agrees to use best efforts to prevent the loss, theft, damage or destruction of the Equipment while the Equipment is in Evaluator's possession.

7. **ENTIRE AGREEMENT; WAIVER.** This Agreement and the Schedule(s) referred to herein constitute the entire agreement of the parties hereto. No waiver or modification of this Agreement or any Schedule shall be effective unless in writing and signed by both parties. No waiver by BYD of any obligation of Evaluator under this Agreement shall be deemed a waiver of BYD's right to subsequent or other full and timely performance.

8. **BINDING ON SUCCESSORS AND PERMITTED ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of any successors and permitted assigns of the parties hereto.

9. **NOTICES.** All notices and payments shall be mailed to the respective parties at the addresses set forth above, or such other address as a party may provide to the other party in writing.

10. **GOVERNING LAW; JURISDICTION.** This Agreement shall be deemed to have been made in the State of California, and shall be interpreted, and the rights and liabilities of the parties determined, by the laws and courts of that State, to the exclusion of the courts of any other state or country.

11. **BOTH PARTIES WAIVES ANY AND ALL RIGHT TO A JURY TRIAL REGARDING ANY DISPUTE ARISING HEREUNDER.**

12. **HEADINGS.** Headings at the beginning of each section are solely for the convenience of the parties and shall not be considered when interpreting this Agreement.

13. **SEVERABILITY.** If any of the provisions of this Agreement are prohibited by or held invalid under applicable laws or regulations of any jurisdiction in which this Agreement is sought to be enforced, then that provision shall be considered inapplicable and omitted but shall not invalidate the remaining provisions.

14. **OTHER TERMS.** Waiver. BYD may waive or delay enforcement of BYD's rights under this Agreement without affecting BYD's rights on future defaults. Joint Liability. If

more than one Evaluator signs this Agreement, each Evaluator shall be jointly and severally liable for all obligations under this Agreement. Entire Agreement. This Agreement describes all agreements between Evaluator and BYD with respect to the Agreement of the Equipment. All prior agreements, whether oral or in writing, are superseded.

(Signature Page Follows)

BY SIGNING BELOW, BOTH PARTIES HERETO ACCEPTS THE TERMS AND
CONDITIONS OF THIS AGREEMENT.

Geoff Straw

San Luis Obispo RTA

By: _____
(Signature)

Name: _____

Title: _____

Date: _____

BYD:

BYD MOTORS INC.

By: _____
(Signature)

Name: _____

Title: _____

Date: _____

SCHEDULE A

LIST OF DEMONSTRATION EQUIPMENT

- 1. BYD K9S 35' Transit Coach VIN# 4BKALA64G2038040**

SCHEDULE B

DURATION OF DEMONSTRATION, TERMINATION AND EQUIPMENT RETURN PROVISIONS

DURATION: [Monday, July 15, 2019] - [Friday, July 19, 2019]

TERMINATION: This Agreement may be terminated by either Party at any time and for any reason or for no reason what so ever.

RETURN OF EQUIPMENT: At the end and/or termination of the Agreement, Evaluator shall return the Equipment at San Luis Obispo RTA. Evaluator shall also provide written notice to BYD, at least ten (10) business days in advance of the Equipment return date, which shall specifically identify the location and date of return of the Equipment, and Evaluator shall provide reasonable support to BYD to facilitate the return of the Equipment.

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SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

July 10, 2019

STAFF REPORT

AGENDA ITEM: C-10

TOPIC: Amendment to Agreement with Stantec for Environmental Planning Services

ACTION: Approve

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Authorize Executive Director to Execute Amendment to Agreement with Stantec

BACKGROUND/DISCUSSION:

The RTA executed an agreement with RNL/Stantec Architecture at its August 1, 2018 Board meeting for design and engineering services needed to complete the planned new Bus Maintenance Facility (BMF) project. The agreement identifies a not-to-exceed amount of \$2,351,478.76, which includes all design and engineering services, as well as support services during construction. An innovative part of the scope of services included an RTA-required Transportation Electrification Study to ensure the new facility can accommodate zero-emission buses in the future.

There are two pieces of the attached amendment. The first piece is to recognize a net no-cost change in scope. Because RTA staff had already begun the battery-electric bus information gathering process, the subconsultant who conducted the Transportation Electrification Study completed it almost \$9,400 under budget. That allowed us to redirect those funds toward additional electrical engineering work to position the RTA to better compete for electrification infrastructure grants.

The second piece of the amendment is to evaluate and document changes to the overall construction scope of the BMF as it relates to environmental review. As mentioned in Agenda Item B-1, we have reduced the scope of the BMF to both reduce construction costs and to more appropriately plan for our refined long-term needs. As such, the City of San Luis Obispo is requiring that we amend the original *Initial Study / Mitigated Negative Declaration* report. The \$12,090 identified in the attached amendment document includes both the subcontractor's (Rincon Environmental Services) costs and a slight increase in Stantec staff hours, and it is necessary to keep the project moving forward. This amount can be funded using capital reserve funds.

Staff Recommendation

Authorize the RTA Executive Director to execute the attached amendment to the agreement with Stantec.



June 25, 2019
File: 2270449601.01.200.201.01ASR

Attention: Mr. Geoff Straw, Executive Director
San Luis Obispo Regional Transit Authority
179 Cross Street
San Luis Obispo, CA 93401

Dear Mr. Straw,

**Reference: San Luis Obispo Regional Transit Authority (RTA) Professional Services
Additional Services Request – Preparation of Addendum for the RTA Maintenance
Facility Initial Study – Mitigated Negative Declaration**

Stantec is pleased to include Rincon Consultants, Inc. (Rincon) to provide service to prepare Addendum for the RTA Maintenance Facility Initial Study Mitigated Negative Declaration. Stantec would like to add Rincon as the environmental consultant to provide the services rendered in the attached detailed proposal. Please refer to the attachment for the details.

Stantec is also requesting reallocation of contracted fee between two consultants, Fuel solutions Inc. and Gray Electrical Consulting and Engineering. The total contracted fee is not changed with these re-allocations. Proposed reallocation is as follows:

Tasks	Gray Electrical Fee	Fuel Solutions Fee
Task 1 – Review Existing Conditions	\$ 7,939.50	\$ 5,790.56
Task 2 - Programming	\$ 1,423.50	\$ 7,985.52
Task 3 – Concept Design	\$ 6,190.00	\$ 9,271.28
Task 4 – Schematic Design (35%)	\$ 6,206.00	\$ 6,458.20
Task 5 – Design Development (65%)	\$ 57,981.75	\$ -
Task 6 – Final Design (95%, 100%)	\$ 36,702.25	\$ 10,817.00
Task 7 – Bidding & Award	\$ 2,957.50	\$ 616.00
Task 8 – Construction & Close Out	\$ 39,651.00	\$ 3,346.12
Total	\$159,051.50	\$44,284.68
	Increased by \$ 9,396.00	Decreased by \$ 9,396.00

Reference: San Luis Obispo Regional Transit Authority (RTA) Professional Services Additional Services Request – Preparation of Addendum for the RTA Maintenance Facility Initial Study – Mitigated Negative Declaration

Should you have any questions, please do not hesitate to contact Amy Chang or Will Todd at (213) 955-9775.

Regards,

Stantec Architecture Inc.



Patrick M. McKelvey
Senior Principal
Phone: 213 955 3530
Fax: 866 390 2616
pat.mckelvey@stantec.com



Amy H. Chang
Senior Associate
Phone: 213 955 3506
Fax: 866 390 2616
amy.chang@stantec.com

If SLO RTA agrees with this proposal, SLO RTA shall authorize Stantec to perform the work by signing and returning a copy of the attached Professional Services Agreement.

Attachment: Attachment A – Fee Summary
Attachment B – ASR 01 Fee
Attachment C – Fee Proposal by Rincon
Attachment D – Fee Re-allocation Request from Fuel Solutions
Attachment E – Fee Re-allocation Request from Gray Electrical Consulting

c. Will Todd, Stantec

ATTACHMENT A - FEE SUMMARY

San Luis Obispo RTA
 Bus Maintenance Facility
 San Luis Obispo, California
 Additional Services Requist (ASR) 01
 Total Fee
 Summary
 Date: 25 June 2019

Company: **Stantec Team**
 Discipline: All Services

LABOR TASKS	RNL/Stantec Proj Mgmt/Arch/ Interiors		Stantec Civil		Miyamoto Structural		Stantec Mech/Plumb/ICT/ Security		Gray Electrical Electrical		Stantec Landscape		Stantec Industrial Engineering		Fuel Solutions Fueling Systems		Avila & Assoc Hydrology		Earth Systems Geotech		Jacobus & Yuang Cost Estimating		Current Contracted Fee		ASR 01		OPTIONAL Stantec LEED																								
	Hours	Fee	Hours	Fee	Hours	Fee	Hours	Fee	Hours	Fee	Hours	Fee	Hours	Fee	Hours	Fee	Hours	Fee	Hours	Fee	Hours	Fee	Hours	Fee	Hours	Fee	Hours	Fee																							
Task 1 Review Existing Conditions	188	\$ 25,320.00	116	\$ 22,892.00	12	\$ 2,633.40	106	\$ 17,716.00	50	\$ 7,939.50	8	\$ 1,232.00	24	\$ 4,056.00	36	\$ 5,790.56	54	\$ 7,157.70	111	\$ 15,980.00	0	\$ -	705	\$ 110,717.16																											
Task 2 Programming	256	\$ 36,780.00	8	\$ 1,628.00	8	\$ 1,755.60	102	\$ 17,416.00	9	\$ 1,423.50	4	\$ 676.00	228	\$ 36,028.00	48	\$ 7,985.52	0	\$ -	0	\$ -	0	\$ -	663	\$ 103,692.62																											
Task 3 Concept Design	764	\$ 106,860.00	46	\$ 7,184.00	40	\$ 7,147.20	174	\$ 27,736.00	40	\$ 6,190.00	28	\$ 3,788.00	162	\$ 24,592.00	68	\$ 9,271.28	0	\$ -	0	\$ -	0	\$ -	1322	\$ 192,768.48					16	\$ 3,200.00																					
Task 4 Schematic Design (35%)	1228	\$ 162,740.00	102	\$ 16,024.00	280	\$ 35,728.08	308	\$ 48,150.00	46	\$ 6,206.00	40	\$ 5,696.00	88	\$ 13,310.00	46	\$ 6,458.20	0	\$ -	15	\$ 2,350.00	127	\$ 15,662.00	2280	\$ 312,324.28					32	\$ 6,400.00																					
Task 5 Design Development (60%)	1408	\$ 181,840.00	234	\$ 34,980.00	464	\$ 58,182.08	546	\$ 80,548.00	434	\$ 57,981.75	40	\$ 5,696.00	248	\$ 37,248.00	46	\$ -	0	\$ -	13	\$ 2,060.00	268	\$ 33,048.00	3701	\$ 491,583.83					48	\$ 9,600.00																					
Task 6 Final Design (95%, 100%)	1232	\$ 156,340.00	274	\$ 40,380.00	612	\$ 73,157.72	806	\$ 123,074.00	219	\$ 36,702.25	48	\$ 6,696.00	132	\$ 20,260.00	50	\$ 10,817.00	0	\$ -	13	\$ 2,060.00	211	\$ 26,010.80	3597	\$ 495,497.77					120	\$ 24,000.00																					
Task 7 Bidding & Award	168	\$ 23,520.00	14	\$ 2,528.00	24	\$ 2,955.60	116	\$ 19,724.00	16	\$ 2,957.50	8	\$ 1,232.00	20	\$ 3,428.00	10	\$ 616.00	0	\$ -	0	\$ -	0	\$ -	376	\$ 56,961.10					40	\$ 8,000.00																					
Task 8 Construction & Close Out	2180	\$ 304,700.00	30	\$ 5,440.00	316	\$ 43,671.80	484	\$ 78,000.00	265	\$ 39,651.00	32	\$ 4,520.00	198	\$ 29,638.00	72	\$ 3,346.12	0	\$ -	0	\$ -	0	\$ -	3577	\$ 508,966.92					200	\$ 40,000.00																					
Totals	7424	\$998,100.00	824	\$131,056.00	1756	\$225,231.48	2642	\$412,364.00	1079	\$159,051.50	208	\$29,536.00	1100	\$168,560.00	376	\$44,284.68	54	\$7,157.70	152	\$22,450.00	606	\$74,720.80	16221	\$ 2,272,512.16																											
EXPENSES																																																			
Other-Define		\$ -																																																	
Mileage		\$ 17,588.60	DBE/SBE Participation		9.58%				Increased by \$ 9,396.00		6.76%				Decreased by \$ 9,396.00		1.88%		0.30%		3.18%																														
Airfare		\$ 8,800.00																																																	
Per Diem		\$ 20,855.00																																																	
Car Rental		\$ 1,020.00																																																	
Parking		\$ 520.00																																																	
Printing		\$ 19,962.00																																																	
Postage		\$ 10,181.00																																																	
Total		\$ 78,926.60																																																	
Total Fee + Expenses																						\$ 2,351,438.76		ASR 01 Total: \$ 13,655.00		GRAND TOTAL: \$ 2,365,093.76																									

San Luis Obispo RTA
 Bus Maintenance Facility
 San Luis Obispo, California
 Additional Services Request (ASR) 01
 Fee

Summary - Additional Services Request - Including Environmental Scope

Date: 25-Jun-19

Company: Stantec
 Discipline: Project Management/Architecture/Interiors/Lighting

LABOR	McKelvey Principal	Todd Proj Manager/PA	Hung Proj Designer	Architect	CADD/Tech	Specs/QA/QC	Sustainability / Lighting	Chang Asst PM (Inv)	Total Hours/Professional Fee	
	Rate: \$250.00	Rate: \$ 160.00	Rate: \$175.00	Rate: \$ 125.00	Rate: \$ 100.00	Rate: \$150.00	Rate: \$ 125.00	Rate: \$195.00	Hours	Fee
TASKS	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Fee
Task 1 - Review Existing Conditions										
Task 1.1 - Prepare Addendum for RTA MF Initial Study								7	7	\$ 1,365.00
									0	\$ -
									0	\$ -
									0	\$ -
									0	\$ -
									0	\$ -
									0	\$ -
									0	\$ -
Totals	0	0	0	0	0	0	0	7	7	\$ 1,365.00
EXPENSES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,365		\$ 1,365.00
Other-Define	\$ -									
Mileage	\$ -									
Airfare	\$ -									
Per Diem	\$ -									
Car Rental	\$ -									
Parking	\$ -									
Printing	\$ 100.00									
Postage	\$ 100.00									
Total	\$ 200.00									

\$ 1,565.00

ATTACHMENT C - FEE PROPOSAL BY RINCON



Rincon Consultants, Inc.

1530 Monterey Street, Suite D
San Luis Obispo, California 93401

805 547 0900 OFFICE AND FAX

info@rinconconsultants.com
www.rinconconsultants.com

May 24, 2019
Project No: 16-02448

Mr. Geoff Straw, Executive Director
San Luis Obispo Regional Transit Authority
179 Cross Street, Ste. A
San Luis Obispo, CA 93401
Via email: Geoff Straw gstraw@slorta.org

**Subject: Proposal to Prepare Addendum for the RTA Maintenance Facility Initial Study-
Mitigated Negative Declaration**

Dear Mr. Straw:

Rincon Consultants, Inc. (Rincon) is pleased to submit this proposal to assist the Regional Transit Authority with the preparation of an Addendum to the Maintenance Facility Project Initial Study-Mitigated Negative Declaration (IS-MND), dated September, 2017. This proposal outlines our approach to major work tasks and our proposed cost and schedule to prepare the addendum.

Project Understanding

The RTA is the property owner and public agency undertaking the project. As such, the RTA is the Lead Agency as defined in the California Environmental Quality Act (CEQA), with responsibility for the project approval and preparation of the environmental document required by CEQA. The RTA prepared a draft IS-MND, circulated it for public and agency review in 2017, and adopted the final IS-MND at its Board of Directors meeting on September 6, 2017.

The City of San Luis Obispo, is a Responsible Agency with zoning and review authority over aspects of the project design, and will review and use the IS-MND as part of its responsibility under CEQA to evaluate and consider environmental effects.

The IS-MND evaluated the construction of an approximately 45,000 square-foot, two-story combined administration headquarters and bus maintenance building on the eastern portion of the approximately 6.5 acre project site. The proposed on-site parking would accommodate approximately 67 public transit buses and vans as well as 120 employee and visitor vehicles, respectively, for a total of 187 on-site parking spaces. In total the developed area proposed for the project is approximately 4.2 acres.

As described in the IS-MND, the site is currently occupied by a small U-Haul facility, which was the location of a former automobile service station, in the southwest corner of the site. The remainder of the property is vacant with scattered ruderal vegetation and was most recently used as a leased employee parking/carpool/vanpool center for a distant multi-year construction project.

Since adoption of the IS-MND and the decision to proceed with the project by the RTA Board of Directors on September 6, 2017, several minor changes to the project design have occurred, and additional information regarding the material remaining at the site of the existing U-Haul building has been identified. These changes in the project include a reduction in overall size to approximately 34,800 square feet, reduction of the building height to a single-story with an interior mezzanine, and deletion of



a separate building for bus washing. Environmental site assessment work has documented that underground fuel storage and waste oil tanks associated with the former service station have been removed, but underground hydraulic lifts and associated equipment remain in place, and the existing building on the site may include asbestos containing materials. These components must be removed prior to the City of San Luis Obispo issuing a grading permit or other construction clearance.

The purpose of the work described in this proposal is to document this updated project description and information in response to a request from the City of San Luis Obispo, so that the IS-MND with the most recent project information may be used by the City for purposes of its CEQA review.

Based on a review of the current project information, and for the purposes of this proposal, it is assumed that the analysis will conclude that none of the conditions identified in Section 15162 of the CEQA Guidelines that trigger the need to prepare a Subsequent Negative Declaration are likely to occur. Thus, an Addendum to the IS-MND will be the appropriate level of CEQA documentation for the proposed project (Section 15164). As outlined below, an Addendum to the IS-MND will be used to provide this additional information and verify that the project would not result in new or more severe environmental impacts compared to those disclosed in the IS-MND.

Rincon Consultants will be responsible for preparation of the IS-MND Addendum, which will be overseen by Richard Daulton, MURP, Principal and Vice President, and managed by John Larson, Senior Project Manager.

Scope of Work

The following scope of work presents a detailed description of the work tasks and approach to the assignment.

Task 1: Administrative Draft IS-MND Addendum

Rincon will prepare an Administrative Draft IS-MND Addendum for review by RTA and/or staff. The Administrative Draft IS-MND Addendum will retain the format and discussions of the original document, and will include the following content:

- Introduction, explaining the reason and approach used in the addendum
- Revisions to the Project Description to reflect the current project features.
- Revisions to other sections as appropriate. These will primarily involve Section 8, Hazards and Hazardous Materials. Information from the completed *Phase I Environmental Site Assessment Report* (Partner Engineering and Science, 2013) and *Results of Soil Sampling and Analysis* (Earth Systems Pacific, 2014) will be included. Recommendations from the City Fire Department will also be referenced and addressed, along with a discussion of applicable regulations that apply to remediating any potential hazards at the project site. There are also minor revisions to Section 18, Utilities and Service Systems, to incorporate updated information provided by the City of San Luis Obispo.

Deliverables: Rincon will provide a digital copy of the Administrative Draft IS-MND Addendum in Adobe Acrobat (PDF) and Microsoft Word formats.



TASK 2: FINAL IS-MND ADDENDUM

Rincon will address RTA and/or City comments on the Administrative Draft IS-MND Addendum and prepare the Final IS-MND Addendum. We assume that there will be no public review of the document, and that the RTA and City will incorporate its results within staff reports for their respective approving bodies. Noticing for hearings will be handled by the RTA and City, and may reference the IS-MND and its addendum.

Deliverables: Rincon will provide one digital copy of the Final IS-MND Addendum in Adobe Acrobat (PDF) and Microsoft Word formats.

TASK 4: ATTENDANCE AT MEETINGS AND HEARINGS

Rincon staff will attend project team meetings during preparation of the IS-MND Addendum two meetings assumed), and attend one public hearing to provide information and answer questions about the IS-MND and addendum.

Schedule

Rincon will complete the environmental review process based on the following schedule:

- **Administrative Draft IS-MND Addendum** – Rincon will submit the Administrative Draft IS-MND Addendum within four weeks of authorization to proceed.
- **Final IS-MND Addendum** – Rincon will submit the Final IS-MND Addendum within two weeks of receipt of all comments on the Administrative Draft IS-MND Addendum.

Cost and Agreement

Our budget for the above work program is **\$12,090**. The table on the following page shows a breakdown of costs by task. This cost estimate includes the preparation of an Administrative Draft IS-MND Addendum and Final IS-MND Addendum, and electronic delivery of the administrative draft and final document, and attendance at meetings and one public hearing.

All work would be performed in accordance with the insurance requirements and other terms set forth in mutually acceptable agreement.

Sincerely,
Rincon Consultants, Inc.

Handwritten signature of John Larson in black ink.

John Larson
Senior Project Manager

Handwritten signature of Joe Power in black ink.

Joe Power, AICP, CEP
Principal



RINCON CONSULTANTS, INC.

RTA Bus Maintenance Facility IS-MND Addendum

Cost Estimate

Tasks	Rincon Labor Classification →			Principal II / Director II	Supervisor I	Professional III	Technical Editor	Clerical/Administrative Assistant I
	Labor Cost	Direct Expense	Hours	\$235	\$190	\$125	\$110	\$75
Task 1: Administrative Draft IS-MND Addendum	\$5,365	\$400	35	1	16	12	4	2
Task 2: Final IS-MND Addendum	\$2,585	\$400	19	1	4	8	4	2
Task 3: Meetings and Public Hearings	\$2,490		14	2	8	4		
Project Management and Coordination	\$470		2	2				
SUBTOTAL COST	\$ 11,290	\$ 800	72	\$ 1,410	\$ 5,700	\$ 3,000	\$ 880	\$ 300

Direct Cost Summary

Vehicle Costs	\$ -
Boat (27 ft. Wilson or Similar)	\$ -
Large Seine	\$ -
Drone (UAS)	\$ -
Boat (20 ft. Boston Whaler or Similar)	\$ -
Bat Ultrasound Detector/Recorder	\$ -
Remote Field Equipment	\$ -
L&H Dive Insurance	\$ -
Side Scan or Single Beam Sonar	\$ -
Reproduction Reports	\$ 800
General and Administrative	\$ -
Subtotal Additional Costs:	\$ 800

Summary

Professional Fees Subtotal	\$ 11,290
Direct Costs Subtotal	\$ 800
TOTAL PROJECT BUDGET	\$ 12,090



P R O P O S A L M E M O R A N D U M

TO: William Todd, AIA, Stantec Architecture

FROM: Reb Guthrie

DATE: June 22, 2019

SUBJECT: Proposal to revise design-consulting fee for San Luis Obispo RTA maintenance-facility project – provide BEB-charging design

Background & Scope

Fuel Solutions, Inc. (FS) is contracted to Stantec to provide design engineering for a petroleum fueling facility for the subject SLO RTA project. In April, the RTA elected to cancel the remainder of the petrol facility design (post 30% SD) due to capital-budget constraints. Additionally, the original project scope does not include design of the BEB charger infrastructure (only selected upstream make-ready provisions for chargers).

As discussed with Stantec and SLO RTA-team electrical engineer Heather Grey at GECE, FS has agreed to re-allocate the FS fee remaining from the cancelled petrol-facility design for use in designing the BEB-charging infrastructure.

The work that Fuel Solutions will provide in relation to designing the BEB-charging infrastructure for the SLO RTA project is per the scope outlined below:

- Verification / Pre-Design of Charging Infrastructure
- Determine Charger-System Configuration
- Charger-System Design
 - Plans for chargers & dispensers
 - Installation details
 - Functional & software requirements
 - Equipment-specification section
- Coordinate Charger-Power Design (led by GECE)
- Bid & Award
- Construction & Close-out

William Todd, AIA

June 22, 2019

Page 2

Revised Fee Structure

The total fee amount from tasks 6-8 that will remain in FS's contract is \$14,779.12, and will be allocated as follows:

- Task 6: FS fee is revised to \$10,817.00
- Task 7: FS fee is revised to \$616.00
- Task 8: FS fee is revised to \$3,346.12

Direct costs for travel to the site are not included. FS understands that the remaining amount from the original contract will be reallocated to GECE for related work.

###



June 25, 2019

Transmitted via e-mail: will.todd@stantec.com

Stantec
523 West 6th Street, Suite 1200
Los Angeles, CA 90014-1218

Attention: Will Todd, AIA, LEED AP BD+C

RE: Additional Professional Electrical Engineering Services Agreement for **RTA Bus Maintenance Facility** (the "Project"), **CO#1, r1**

Dear Will:

Thank you for the opportunity to provide you with additional services for the above referenced project. Gray Electrical Consulting + Engineering, CORP ("GECE") proposed scope of services for Stantec Architecture Inc. ("Architect"). If you agree to the provisions set forth below in this proposal, please sign where indicated, and return your signature to us. This contract amendment is subject to all terms and conditions agreed upon in our initial contract (Subconsultant Agreement, Effective Date: 09-06-2019).

Section 1 Fee for Services

Fixed fee additional services as summarized below.

- Task 6 Additional Services for Final Design: \$6,992.00
- Task 7 Additional Services for Bidding & Award: \$601.00
- Task 8 Additional Services for Construction and Close Out: \$1,803.00

Section 2 Scope of Services

2.1.1 Bus Electrification Expanded Services.

Electrical engineering services to prepare the electrical design for electrification requirements established for the RTA Bus Maintenance Facility, including electrical distribution for Phase 1 and Phase 2 pursuant to the electrification readiness plan (Fuel Solutions, April 4, 2019). Electrical design services provided will be performed concurrent with the electrical design and permitting of the Maintenance Facility building. Preparation of electrical plans developed for bus electrification will be integrated into the Maintenance Facility building electrical plan set.



GRAY ELECTRICAL CONSULTING + ENGINEERING, CORP

A signed and dated copy of this agreement is required prior to the start of work.

Feel free to contact our office should you have any questions.

Kind Regards,

Heather A. Gray, P.E.
President, Principal Electrical Engineer
Gray Electrical Consulting + Engineering, CORP

UNDERSTOOD AND AGREED by STANTEC ARCHITECTURE INC:

Signature – Will Todd, AIA

Printed Name

Date



June 25, 2019
File: 2270449601.01.200.201.01ASR

Attention: Mr. Geoff Straw, Executive Director
San Luis Obispo Regional Transit Authority
179 Cross Street
San Luis Obispo, CA 93401

Dear Mr. Straw,

**Reference: San Luis Obispo Regional Transit Authority (RTA) Professional Services
Additional Services Request – Preparation of Addendum for the RTA Maintenance
Facility Initial Study – Mitigated Negative Declaration**

Stantec is pleased to include Rincon Consultants, Inc. (Rincon) to provide service to prepare Addendum for the RTA Maintenance Facility Initial Study Mitigated Negative Declaration. Stantec would like to add Rincon as the environmental consultant to provide the services rendered in the attached detailed proposal. Please refer to the attachment for the details.

Stantec is also requesting reallocation of contracted fee between two consultants, Fuel solutions Inc. and Gray Electrical Consulting and Engineering. The total contracted fee is not changed with these re-allocations. Proposed reallocation is as follows:

Tasks	Gray Electrical Fee	Fuel Solutions Fee
Task 1 – Review Existing Conditions	\$ 7,939.50	\$ 5,790.56
Task 2 - Programming	\$ 1,423.50	\$ 7,985.52
Task 3 – Concept Design	\$ 6,190.00	\$ 9,271.28
Task 4 – Schematic Design (35%)	\$ 6,206.00	\$ 6,458.20
Task 5 – Design Development (65%)	\$ 57,981.75	\$ -
Task 6 – Final Design (95%, 100%)	\$ 36,702.25	\$ 10,817.00
Task 7 – Bidding & Award	\$ 2,957.50	\$ 616.00
Task 8 – Construction & Close Out	\$ 39,651.00	\$ 3,346.12
Total	\$159,051.50	\$44,284.68
	Increased by \$ 9,396.00	Decreased by \$ 9,396.00

Reference: San Luis Obispo Regional Transit Authority (RTA) Professional Services Additional Services Request – Preparation of Addendum for the RTA Maintenance Facility Initial Study – Mitigated Negative Declaration

Should you have any questions, please do not hesitate to contact Amy Chang or Will Todd at (213) 955-9775.

Regards,

Stantec Architecture Inc.

Patrick M. McKelvey
Senior Principal
Phone: 213 955 3530
Fax: 866 390 2616
pat.mckelvey@stantec.com

Amy H. Chang
Senior Associate
Phone: 213 955 3506
Fax: 866 390 2616
amy.chang@stantec.com

If SLO RTA agrees with this proposal, SLO RTA shall authorize Stantec to perform the work by signing and returning a copy of the attached Professional Services Agreement.

Attachment: Attachment A – Fee Summary
Attachment B – ASR 01 Fee
Attachment C – Fee Proposal by Rincon
Attachment D – Fee Re-allocation Request from Fuel Solutions
Attachment E – Fee Re-allocation Request from Gray Electrical Consulting

c. Will Todd, Stantec

ATTACHMENT B - ASR 01 FEE

**San Luis Obispo RTA
 Bus Maintenance Facility
 San Luis Obispo, California
 Additional Services Request (ASR) 01
 Total Fee**

Summary - Additional Services Request - Including Environmental Scope

Date: 25-Jun-19

Company: Stantec Team
Discipline: All Services

LABOR	RNL/Stantec Proj Mgmt/Arch		Rincon		Total Hours/Professional Fee	
	Hours	Fee	Hours	Fee	Hours	Fee
	TASKS					
Task 1 - Review Existing Conditions						
Task 1.1 - Prepare Addendum for RTA MF Initial Study	7	\$ 1,365.00	0	\$ 11,290.00	7	\$ 12,655.00
	0	\$ -	0	\$ -	0	\$ 0.00
	0	\$ -	0	\$ -	0	\$ 0.00
	0	\$ -	0	\$ -	0	\$ 0.00
	0	\$ -	0	\$ -	0	\$ 0.00
	0	\$ -	0	\$ -	0	\$ 0.00
	0	\$ -	0	\$ -	0	\$ 0.00
	0	\$ -	0	\$ -	0	\$ 0.00
	0	\$ -	0	\$ -	0	\$ 0.00
	0	\$ -	0	\$ -	0	\$ 0.00
Totals	7	\$ 1,365.00	0	\$ 11,290.00	7	\$ 12,655.00

EXPENSES			
Other-Define	\$	-	
Mileage	\$	-	
Airfare	\$	-	
Per Diem	\$	-	
Car Rental	\$	-	
Parking	\$	-	
Printing	\$	900.00	
Postage	\$	100.00	
Total	\$	1,000.00	

Total Fee + Expenses **\$ 13,655.00**

San Luis Obispo RTA
 Bus Maintenance Facility
 San Luis Obispo, California
 Additional Services Request (ASR) 01
 Fee

Summary - Additional Services Request - Including Environmental Scope

Date: 25-Jun-19

Company: Stantec
 Discipline: Project Management/Architecture/Interiors/Lighting

LABOR	McKelvey Principal	Todd Proj Manager/PA	Hung Proj Designer	Architect	CADD/Tech	Specs/QA/QC	Sustainability / Lighting	Chang Asst PM (Inv)	Total Hours/Professional Fee	
	Rate: \$250.00	Rate: \$ 160.00	Rate: \$175.00	Rate: \$ 125.00	Rate: \$ 100.00	Rate: \$150.00	Rate: \$ 125.00	Rate: \$195.00	Hours	Fee
TASKS	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Fee
Task 1 - Review Existing Conditions										
Task 1.1 - Prepare Addendum for RTA MF Initial Study								7	7	\$ 1,365.00
									0	\$ -
									0	\$ -
									0	\$ -
									0	\$ -
									0	\$ -
									0	\$ -
									0	\$ -
Totals	0	0	0	0	0	0	0	7	7	\$ 1,365.00
EXPENSES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,365	\$ 1,365.00
Other-Define	\$ -									
Mileage	\$ -									
Airfare	\$ -									
Per Diem	\$ -									
Car Rental	\$ -									
Parking	\$ -									
Printing	\$ 100.00									
Postage	\$ 100.00									
Total	\$ 200.00									

\$ 1,565.00

ATTACHMENT C - FEE PROPOSAL BY RINCON



Rincon Consultants, Inc.

1530 Monterey Street, Suite D
San Luis Obispo, California 93401

805 547 0900 OFFICE AND FAX

info@rinconconsultants.com
www.rinconconsultants.com

May 24, 2019
Project No: 16-02448

Mr. Geoff Straw, Executive Director
San Luis Obispo Regional Transit Authority
179 Cross Street, Ste. A
San Luis Obispo, CA 93401
Via email: Geoff Straw gstraw@slorta.org

Subject: Proposal to Prepare Addendum for the RTA Maintenance Facility Initial Study-Mitigated Negative Declaration

Dear Mr. Straw:

Rincon Consultants, Inc. (Rincon) is pleased to submit this proposal to assist the Regional Transit Authority with the preparation of an Addendum to the Maintenance Facility Project Initial Study-Mitigated Negative Declaration (IS-MND), dated September, 2017. This proposal outlines our approach to major work tasks and our proposed cost and schedule to prepare the addendum.

Project Understanding

The RTA is the property owner and public agency undertaking the project. As such, the RTA is the Lead Agency as defined in the California Environmental Quality Act (CEQA), with responsibility for the project approval and preparation of the environmental document required by CEQA. The RTA prepared a draft IS-MND, circulated it for public and agency review in 2017, and adopted the final IS-MND at its Board of Directors meeting on September 6, 2017.

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The IS-MND evaluated the construction of an approximately 45,000 square-foot, two-story combined administration headquarters and bus maintenance building on the eastern portion of the approximately 6.5 acre project site. The proposed on-site parking would accommodate approximately 67 public transit buses and vans as well as 120 employee and visitor vehicles, respectively, for a total of 187 on-site parking spaces. In total the developed area proposed for the project is approximately 4.2 acres.

As described in the IS-MND, the site is currently occupied by a small U-Haul facility, which was the location of a former automobile service station, in the southwest corner of the site. The remainder of the property is vacant with scattered ruderal vegetation and was most recently used as a leased employee parking/carpool/vanpool center for a distant multi-year construction project.

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a separate building for bus washing. Environmental site assessment work has documented that underground fuel storage and waste oil tanks associated with the former service station have been removed, but underground hydraulic lifts and associated equipment remain in place, and the existing building on the site may include asbestos containing materials. These components must be removed prior to the City of San Luis Obispo issuing a grading permit or other construction clearance.

The purpose of the work described in this proposal is to document this updated project description and information in response to a request from the City of San Luis Obispo, so that the IS-MND with the most recent project information may be used by the City for purposes of its CEQA review.

Based on a review of the current project information, and for the purposes of this proposal, it is assumed that the analysis will conclude that none of the conditions identified in Section 15162 of the CEQA Guidelines that trigger the need to prepare a Subsequent Negative Declaration are likely to occur. Thus, an Addendum to the IS-MND will be the appropriate level of CEQA documentation for the proposed project (Section 15164). As outlined below, an Addendum to the IS-MND will be used to provide this additional information and verify that the project would not result in new or more severe environmental impacts compared to those disclosed in the IS-MND.

Rincon Consultants will be responsible for preparation of the IS-MND Addendum, which will be overseen by Richard Daulton, MURP, Principal and Vice President, and managed by John Larson, Senior Project Manager.

Scope of Work

The following scope of work presents a detailed description of the work tasks and approach to the assignment.

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Rincon will prepare an Administrative Draft IS-MND Addendum for review by RTA and/or staff. The Administrative Draft IS-MND Addendum will retain the format and discussions of the original document, and will include the following content:

- Introduction, explaining the reason and approach used in the addendum
- Revisions to the Project Description to reflect the current project features.
- Revisions to other sections as appropriate. These will primarily involve Section 8, Hazards and Hazardous Materials. Information from the completed *Phase I Environmental Site Assessment Report* (Partner Engineering and Science, 2013) and *Results of Soil Sampling and Analysis* (Earth Systems Pacific, 2014) will be included. Recommendations from the City Fire Department will also be referenced and addressed, along with a discussion of applicable regulations that apply to remediating any potential hazards at the project site. There are also minor revisions to Section 18, Utilities and Service Systems, to incorporate updated information provided by the City of San Luis Obispo.

Deliverables: Rincon will provide a digital copy of the Administrative Draft IS-MND Addendum in Adobe Acrobat (PDF) and Microsoft Word formats.



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Rincon staff will attend project team meetings during preparation of the IS-MND Addendum two meetings assumed), and attend one public hearing to provide information and answer questions about the IS-MND and addendum.

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Rincon will complete the environmental review process based on the following schedule:

- **Administrative Draft IS-MND Addendum** – Rincon will submit the Administrative Draft IS-MND Addendum within four weeks of authorization to proceed.
- **Final IS-MND Addendum** – Rincon will submit the Final IS-MND Addendum within two weeks of receipt of all comments on the Administrative Draft IS-MND Addendum.

Cost and Agreement

Our budget for the above work program is **\$12,090**. The table on the following page shows a breakdown of costs by task. This cost estimate includes the preparation of an Administrative Draft IS-MND Addendum and Final IS-MND Addendum, and electronic delivery of the administrative draft and final document, and attendance at meetings and one public hearing.

All work would be performed in accordance with the insurance requirements and other terms set forth in mutually acceptable agreement.

Sincerely,
Rincon Consultants, Inc.

Handwritten signature of John Larson in black ink.

John Larson
Senior Project Manager

Handwritten signature of Joe Power in black ink.

Joe Power, AICP, CEP
Principal



RINCON CONSULTANTS, INC.

RTA Bus Maintenance Facility IS-MND Addendum

Cost Estimate

Tasks	Rincon Labor Classification →			Principal II / Director II	Supervisor I	Professional III	Technical Editor	Clerical/Administrative Assistant I
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Project Management and Coordination	\$470		2	2				
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Remote Field Equipment	\$ -
L&H Dive Insurance	\$ -
Side Scan or Single Beam Sonar	\$ -
Reproduction Reports	\$ 800
General and Administrative	\$ -
Subtotal Additional Costs:	\$ 800

Summary

Professional Fees Subtotal	\$ 11,290
Direct Costs Subtotal	\$ 800
TOTAL PROJECT BUDGET	\$ 12,090



P R O P O S A L M E M O R A N D U M

TO: William Todd, AIA, Stantec Architecture

FROM: Reb Guthrie

DATE: June 22, 2019

SUBJECT: Proposal to revise design-consulting fee for San Luis Obispo RTA maintenance-facility project – provide BEB-charging design

Background & Scope

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- Determine Charger-System Configuration
- Charger-System Design
 - Plans for chargers & dispensers
 - Installation details
 - Functional & software requirements
 - Equipment-specification section
- Coordinate Charger-Power Design (led by GECE)
- Bid & Award
- Construction & Close-out

William Todd, AIA

June 22, 2019

Page 2

Revised Fee Structure

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- Task 7: FS fee is revised to \$616.00
- Task 8: FS fee is revised to \$3,346.12

Direct costs for travel to the site are not included. FS understands that the remaining amount from the original contract will be reallocated to GECE for related work.

###



June 25, 2019

Transmitted via e-mail: will.todd@stantec.com

Stantec
523 West 6th Street, Suite 1200
Los Angeles, CA 90014-1218

Attention: Will Todd, AIA, LEED AP BD+C

RE: Additional Professional Electrical Engineering Services Agreement for **RTA Bus Maintenance Facility** (the "Project"), **CO#1, r1**

Dear Will:

Thank you for the opportunity to provide you with additional services for the above referenced project. Gray Electrical Consulting + Engineering, CORP ("GECE") proposed scope of services for Stantec Architecture Inc. ("Architect"). If you agree to the provisions set forth below in this proposal, please sign where indicated, and return your signature to us. This contract amendment is subject to all terms and conditions agreed upon in our initial contract (Subconsultant Agreement, Effective Date: 09-06-2019).

Section 1 Fee for Services

Fixed fee additional services as summarized below.

- Task 6 Additional Services for Final Design: \$6,992.00
- Task 7 Additional Services for Bidding & Award: \$601.00
- Task 8 Additional Services for Construction and Close Out: \$1,803.00

Section 2 Scope of Services

2.1.1 Bus Electrification Expanded Services.

Electrical engineering services to prepare the electrical design for electrification requirements established for the RTA Bus Maintenance Facility, including electrical distribution for Phase 1 and Phase 2 pursuant to the electrification readiness plan (Fuel Solutions, April 4, 2019). Electrical design services provided will be performed concurrent with the electrical design and permitting of the Maintenance Facility building. Preparation of electrical plans developed for bus electrification will be integrated into the Maintenance Facility building electrical plan set.



GRAY ELECTRICAL CONSULTING + ENGINEERING, CORP

A signed and dated copy of this agreement is required prior to the start of work.

Feel free to contact our office should you have any questions.

Kind Regards,

Heather A. Gray, P.E.
President, Principal Electrical Engineer
Gray Electrical Consulting + Engineering, CORP

UNDERSTOOD AND AGREED by STANTEC ARCHITECTURE INC:

Signature – Will Todd, AIA

Printed Name

Date

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

July 10, 2019

STAFF REPORT

AGENDA ITEM: C-11

TOPIC: Paso Robles Bus Parking Yard Mitigations Monitoring Report

ACTION: Receive

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Accept Annual Mitigations Monitoring Report for the Paso Robles Bus Parking Yard

BACKGROUND/DISCUSSION:

The RTA Board of Directors certified a Mitigated Negative Declaration (MND) report for the *RTA Use of County Yard for Bus Parking Facility in Paso Robles* project on September 14, 2016. The MND identified 19 mitigations that were required to minimize to less-than-significant or completely avoid on-going/long-term environmental impacts that would occur as a result of the project. This report provides the second of five required annual status of mitigations.

Construction of the Bus Parking Facility in Paso Robles project was completed in May 2018, and all North County transit operations were transitioned to the new facility on May 20, 2018. As reported to the RTA Board in July 2018, construction-related mitigations were fully implemented. The sole on-going monitoring issue is provided below:

Mitigation Measure: BIO-7 – Operations-Related Erosion Control Measures.
Erosion control measures shall be implemented to prevent runoff to the Salinas River corridor and associated tributaries. Silt fencing, in conjunction with other methods, shall be used to prevent erosion and avoid and/or minimize silts and sediments from entering adjacent waterways.

Staff herein certifies that all erosion control measures were appropriately implemented over the past year. We continue to work with our landscaping contractor to help us monitor and document our efforts. In addition, if any major maintenance or repair efforts require changes that could impact one of the construction-related mitigation categories, that action would be monitored and reported to the RTA Board.

The RTA *Policy and Procedures for Environmental Evaluation of RTA Projects* adopted in May 2016 requires staff to report compliance annually to the RTA Board for a period of five years.

Staff Recommendation

Accept and file this Mitigations Monitoring Report as an information item.

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

JULY 10, 2019

STAFF REPORT

AGENDA ITEM: C-12

TOPIC: Disadvantaged Business Enterprise Program Update

ACTION: Approve

PRESENTED BY: Tania Arnold, Deputy Director/CFO

STAFF RECOMMENDATION: Authorize the Executive Director to Approve the Updated DBE Plan

BACKGROUND/DISCUSSION:

In September 2010, the RTA's initial Disadvantaged Business Enterprise Program was adopted. This program is required of all FTA recipients awarded greater than \$250,000 in USDOT-funded contracts pursuant to Section 1101(b) of the Transportation Equity Act for the 21st Century and 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs."

In order to maintain compliance with current FTA regulations, there are various revisions and updates that are needed, including adding a policy statement that is signed and dated by the Executive Director, steps to foster small business participation, steps the agency will take if the DBE goal is not met in a given year, and that appeals be sent to the US DOT within ninety (90) days of the decision being issued.

STAFF RECOMMENDATION:

Authorize the Executive Director to approve the updated DBE plan as presented.

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San Luis Obispo Regional Transit Authority
Disadvantaged Business Enterprise Program

Objectives/Policy Statement

The San Luis Obispo Regional Transit Authority (RTA) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The RTA has received Federal financial assistance from the DOT and as a condition of receiving this assistance, the RTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the RTA to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the RTA's policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms so that they can compete successfully in the marketplace outside the DBE program.

The Executive Director has designated Deputy Director/CFO as the DBE Liaison Officer. In that capacity, the DBE Liaison Officer is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the RTA in its financial assistance agreements with the DOT.

The RTA has disseminated this policy to the Board of the RTA and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts

Geoff Straw
Executive Director

Date

SUBPART A – GENERAL REQUIREMENTS

Objectives

The objectives are found in the policy statement on the first page of this Program.

Applicability

The San Luis Obispo Regional Transit Authority (RTA) is the recipient of Federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405; and Fixing America's Surface Transportation Act (FAST Act), Pub. L. No. 114-94, 129 Stat. 1312 .

Definitions

The RTA will adopt the definitions contained in 49 CFR Part 26.5.

Non-discrimination Requirements

The RTA will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the RTA will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Record Keeping Requirements

The RTA will report DBE participation to the relevant operating administration, FTA using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation.

The RTA will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders' list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

We will collect bidder's list information through the use of California's Uniform Certification

Program certification information and also a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.

Assurances

The RTA has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Federal Financial Assistance Agreement Assurance:

The RTA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the RTA of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance:

We will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

SUBPART B – ADMINISTRATIVE REQUIREMENTS

DBE Program Updates

The RTA will continue to carry out this program until all funds from DOT financial assistance have been expended. The RTA will provide DOT updates representing significant changes in the program as they occur. The RTA understands that all changes must be approved prior to implementation.

DBE Liaison Officer

The RTA has designated the following individual as its DBE Liaison Officer

(DBELO):

Deputy Director/Chief Financial Officer
San Luis Obispo Regional Transit Authority
179 Cross Street
San Luis Obispo, CA 93401

Phone: (805) 781-4397

FAX: (805) 781-1291

Email: tarnold@slorta.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the RTA complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director concerning DBE program matters. The DBELO devotes a portion of their time to the DBE Program. The DBELO is also responsible for all procurements and contracting activities utilizing Federal funds. An organization chart displaying the DBELO's position in the organization is found in Attachment A to this Program.

The DBELO is responsible for developing, implementing and monitoring the DBE Program, in coordination with other appropriate officials. Duties and responsibilities of the DBELO include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to determine projected Annual Anticipated DBE Participation Level.
4. Ensures that bid notices and requests for proposals are made available to DBEs in a timely manner.
5. Analyzes DBE participation and identifies ways to encourage participation through race-neutral means.
6. Participates in pre-bid meetings.

7. Advises the Executive Director and Board on DBE matters and DBE race- neutral issues.
8. Provides DBEs with information and recommends sources to assist in preparing bids, obtaining bonding and insurance.
9. Plans and participates in DBE training seminars.
10. Provides outreach to DBEs and community organization to fully advise them of contracting opportunities.

DBE Financial Institutions

It is the policy of the RTA to investigate services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT- assisted contracts to make use of these institutions. A list of financial institutions can be obtained from the State of California, Department of General Services, Office of Small Business Certification and Resources, and the website for the Federal Reserve Board www.federalreserve.gov/releases/mob to identify minority-owned banks derived from the Consolidated Reports of Condition and income filed quarterly by banks (FFIEC 031 through 041). The DBELO will continue to use these sources to continue to solicit minority-owned banks to participate in the RTA's DBE Program. To date, the DBELO has identified the following minority-owned financial institutions, which offer services in California: BORREGO SPRINGS Bank NA, EASTERN INTL Bank, COMMUNITY CMRC Bank, and OMNI Bank NA.

The RTA shall also encourage its prime contractors to use the services of DBE financial institutions.

Prompt Payment Mechanism

Prompt Payment:

The RTA will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from receipt of each payment the prime contract receives from the RTA. Any delay or postponement of the payment from the above referenced time frame may occur only for good cause following written approval of the RTA. This clause applies to both DBE and non-DBE subcontracts.

Directory

The RTA maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firms has been certified to perform as DBE. We will revise the directory in accordance with UCP database changes. The directory may be found at:

http://www.dot.ca.gov/hq/bep/find_certified.htm.

Overconcentration

If the DBELO determines that DBE participation is so over-concentrated in certain types of work or contracting opportunities that it unduly burdens the participation of non-DBEs in that type of work, the DBELO will develop appropriate measures to address the over-concentration. The DBELO will seek approval of such measures from FTA and, at that time, the measures will become a part of this Program. Currently, the RTA is unaware of any types of work that have a burdensome over-concentration of DBE participation.

Business Development Programs

The RTA does not operate a business development or mentor-protégé program at the present time. If the RTA implements such a program in the future, the RTA will describe the rationale for having the program element, the specific provisions of the element (e.g. who is eligible to participate, how the program element works, and how interested persons would obtain information about the program element). At the time of a decision to implement a business development or mentor- protégé program, the DBELO will seek approval of such program from FTA and, at that time, the program will become part of the overall DBE program.

Monitoring and Enforcement Mechanisms

The RTA will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g. referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment C lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. We will also provide monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by DBEs. This will be accomplished by regular visits to jobsites and interviews of the personnel performing work.
4. We will keep a running tally of actual payment to DBE firms for work committed to them at the time of contract award.

Small Business Participation

The RTA will implement a Small Business Element to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors in direct response to regulatory requirements, 49 CFR Part 26.39.

While the RTA has historically utilized race and general neutral strategies to promote and advance Small Business participation efforts as a part of the RTA's DBE Program implementation efforts, this element of the program serves to unify in a singular location these important efforts.

The RTA will implement the following mechanisms to ensure compliance with 49 CFR Part 26.

1. On prime contracts not having contract goals, we will require the prime contractor to provide subcontracting opportunities that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
2. In multi-year design build contracts or other large contracts we will require bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small business, including DBEs, can reasonably perform.
3. To meet the portion of our overall goal we project to meet through race-neutral measures, we will ensure that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.
4. We will identify alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint venture consisting of small businesses, including DBEs, to compete for and perform prime contracts.

For the purposes of capturing Small Business utilization, the RTA adheres to the U.S. Department of Transportation's Small Business definition for what constitutes a Small Business Enterprise.

This Small Business Element will include, but is not limited to the following assertive, active and effective strategies:

- A. The RTA will continue to conduct regular reviews of procurements, to assess opportunities for unbundling (breaking out scopes of work/services to facilitate small business prime contracting opportunities). The RTA believes that including the participation of procurement staff in scheduled reviews will increase accountability of the RTA's procurement options and decisions and in doing so will ultimately improve contracting opportunities for Small Business Enterprises at the prime level.
- B. The RTA will notify and as part of its pre-proposal and pre-bid meetings process prior

to submission of bids and proposals, a recommendation stating that prime contractors shall create subcontract opportunities when no DBE goal has been set for that procurement. The DBELO shall participate in all pre-bid and pre-proposal meetings to assure this information is made a part of the procurement process to encourage and establish small business concerns.

- C. The RTA will establish a small business set aside to be incorporated within FTA funded procurements under competitive conditions under \$100,000. Under the definition of a small business concern this would mean, with respect to firms seeking to participate as DBE's in DOT-assisted contracts, a small business concern as defined pursuant to Section of the Small Business Act and Small Business Administration regulations implementing it (13 CFR, Part 121) that also does not exceed the cap on average annual gross receipts specified in 26.65(b).

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or Quotas

The RTA does not use quotas in any way in the administration of this DBE program.

Overall Goals

In accordance with Section 26.45(f) the RTA will submit its triennial overall DBE goal to the Federal Transit Administration on August 1 of the year specified by FTA. The DBE goal is calculated using the two-step process described in the “Tips for Goal Setting” guidance provided by USDOT. Please see the RTA Goal Setting Methodology for additional information.

The RTA will also request use of project-specific DBE goals as appropriate, and/or will establish project specific DBE goals as directed by FTA. Before establishing the three year overall goal, the RTA obtains information concerning the availability for disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs and the RTA’s efforts to establish a level playing field for the participation of DBEs.

The RTA will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at our office for 30 days following the date of the notice, and informing the public that the RTA will accept comments on the goals for 45 days from the date of notice. This notice will be published in the Tribune or the New Times. Normally, we will issue this notice by June 1 of the year of goal submission. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to DOT will include: the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during this public participation process and our responses; and proof of publication of the goal in media outlets listed above.

We will begin using our three-year goal on October 1 of the calendar year following the August 1 submission to FTA, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

If the awards and commitments shown on the RTA Uniform Report at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the RTA will:

- A. Analyze in detail the reasons for the difference between the overall goal and awards and commitments in that fiscal year;
- B. Establish specific steps and milestones to correct the problems identified in the analysis and to enable the RTA to fully meet the goal for the new fiscal year;

The RTA will retain the analysis and corrective actions for three years and make it available to FTA on request for their review.

Transit Vehicle Manufacturers Goals

The RTA will require each Transit Vehicle Manufacturer (TVM), as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, the RTA may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of this program. The RTA will submit within 30 days of making an award, the name of the successful bidder, and the total dollar value of the contract in the manner prescribed in the grant agreement.

Overall Goals/Contract Goals

The RTA will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, the RTA will:

- Encourage participation of DBEs in pre-bid conferences;
- Outreach to DBE trade associations to provide information on the RTA contracting opportunities;
- Solicit support of DBE trade associations to distribute bid announcements including bid specifications;
- Encourage DBEs to discuss their capabilities with prime contractors at pre-bid conferences.

The RTA will use contract goals to meet any portion of the overall goal the RTA does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

The RTA will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g. type and location of work, availability of DBEs to perform the particular type of work.)

The RTA will express our contract goals as a percentage of total amounts of DOT-assisted contracts.

As a transit agency operating in California and covered by the decision of the U.S. Court of Appeals for the Ninth Circuit in the case of *Western Sates Paving Co., Inc. v. Washington State DOT*, the RTA will not adopt race-conscious measures of DBE participation prior to the implementation of a disparity study.

In order to ensure that the RTA's DBE Program will be narrowly tailored to overcome the effects of discrimination, the RTA will adjust the estimated breakout of race neutral and race conscious participation as needed to reflect actual DBE participation (see Part 26.51(f)) and we will track and report race neutral and race conscious participation separately. For reporting purposes, race neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

Data will be maintained separately on DBE achievements in those contracts with and without contract goals, respectively.

Good Faith Efforts Procedure

Award of Contracts with a DBE Contract Goal

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, the RTA will not award the contract to a bidder who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

Evaluation of Good Faith Efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

We will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be Submitted

The RTA treats bidder/offeror's compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors

to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative Reconsideration

Within two business days of being informed by the RTA that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Geoff Straw, Executive Director
179 Cross Street
San Luis Obispo, CA 93401
(805) 781-4465

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The RTA will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts When a DBE is Terminated/Replaced on a Contract with Contract Goals

The RTA requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without the RTA's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to the RTA its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to the RTA prior

to consideration of the request to terminate. The DBE will then have five days to respond and advise the RTA of why it objects to the proposed termination.

In those instances where “good cause” exists to terminate a DBE’s contract, the RTA will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The RTA will require the prime contractor to notify the DBELO immediately of the DBE’s inability or unwillingness to perform and provide reasonable documentation.

In this situation, the prime contractor will be required to obtain the RTA’s prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, the RTA’s contracting office will issue an order stopping all or part of the payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification

The requirement of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the San Luis Obispo Regional Transit Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of _____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the bidder/offeror’s commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

Counting DBE Participation

The RTA will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

SUBPARTS D & E – CERTIFICATION

Certification Process

The RTA will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:

Olivia Fonseca
Deputy Director
1823 14 Street
Sacramento, CA 95811
(916) 324-1700
Toll-Free (866) 810-6346
smallbusinessadvocate@dot.ca.gov

Certification application forms and documentation requirements are found at:
<http://www.dot.ca.gov/hq/bep/>

Unified Certification Programs

The RTA is a member of the Unified Certification Program (UCP) administered by California Department of Transportation (Caltrans). The UPC will meet all of the requirements of this section. The following is a description of the UCP:

The California Unified Certification Program (CUCP) provides “one-stop shopping” certification services to small, minority and women businesses seeking to participate in the United States Department of Transportation (USDOT) Disadvantaged Business Enterprise (DBE) Program. Certification services are offered to businesses seeking to obtain either DBE or airport concessionaire disadvantaged business enterprise (ACDBE) status.

As mandated by USDOT in the DBE Program, Final Rule 49 Code of Federal Regulations (CFR), Part 26, all public agencies that receive USDOT federal financial assistance must participate in a statewide unified certification program. These public agencies, commonly referred to as “recipients” of USDOT funds, include municipalities, counties, special districts, airports, transit agencies, and the State Department of Transportation (Caltrans).

The California Unified Certification Program (CUCP) went into effect on January 1, 2002. It is a “One-Stop Shopping” certification program that eliminates the need for a DBE or ACDBE firm to

obtain certifications from multiple agencies within the State. A business certified as a DBE or ACDBE through the CUCP is automatically accepted by all USDOT recipients in California.

The CUCP is charged with the responsibility of overseeing the certification activities performed by various certifying agencies, and compiling and maintaining a single Statewide database of certified DBEs. The Database is intended to expand the use of DBE and ACDBE firms by maintaining complete and current information on those businesses and the projects and services they can provide to all USDOT recipients in California. Select the "Directory" link on the stop to access the Statewide database.

The CUCP certifying agencies are responsible for certifying DBE firms. You only need to apply for DBE certification at one agency. If your firm meets the General Criteria for DBE certification as provided on the Application Package, submit your completed application, along with the requested documentation, to one of the Certifying Agencies serving the geographical area where your firm has its principal place of business.

Procedures for Certification Decisions

Any firm or complainant may appeal a Caltrans UCP's decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Ave. SE
West Building, 7th Floor
Washington, D.C. 20590

We will promptly implement any DOT certification appeal decision affecting the eligibility of DBEs for our DOT-assisted contracting (e.g. certify a firm if DOT has determined that our denial of its application was erroneous).

Those wishing to file an appeal must send a letter to the Department within 90 days of the date of the recipient's final decision, including information and setting forth a full and specific statement as to why the decision is erroneous, what significant fact that the recipient failed to consider, or what provisions of this Part the recipient did not properly apply. The Department may accept an appeal filed later than 90 days after the date of the decision if the Department determines that there was good cause for the late filing of the appeal or in the interest of justice.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, Cooperation

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state and local law as applicable in the State of California.

The statement below is included in all Requests for Proposals (RFPs):

The Proposals received become the exclusive property of the San Luis Obispo Regional Transit Authority (RTA). At such time as a contract award is made by the RTA, all Proposals submitted in response to this RFP shall become a matter of public record and shall be regarded as public records, with the exception of those elements of each Proposal which are trade secrets as the term is defined in California Government Code 6254.7 and which are so marked as "TRADE SECRET," "CONFIDENTIAL" or "PROPRIETARY." The RTA shall not in any way be liable or responsible for the disclosure of any such records or portions thereof, including, without limitation, those so marked if disclosure is deemed required by law or by an order of a court. Proposals that indiscriminately identify all or most of the Proposal as exempt from disclosure without justification may be found technically unacceptable.

The statement below is included in all Invitations for Bids (IFBs):

The Bids received become the exclusive property of the San Luis Obispo Regional Transit Authority (RTA). At such time the RTA publishes its Board agenda containing a recommended action concerning a contract award, all Bids submitted in response to this IFB shall become a matter of public record and shall be regarded as public records, with the exception of those elements of each Bid which are trade secrets as that term is defined in California Government Code 6254.7 and which are so marked as "TRADE SECRET", "CONFIDENTIAL" or "PROPRIETARY." The RTA shall not in any way be liable or responsible for the disclosure of any such records or portions thereof, including, without limitation, those so marked if disclosure is deemed required by law or by an order of a court. Bids that indiscriminately identify all or most of the Bid as exempt from disclosure without justification may be found technically unacceptable.

Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the RTA or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

ATTACHMENTS

Attachment A Organizational Chart

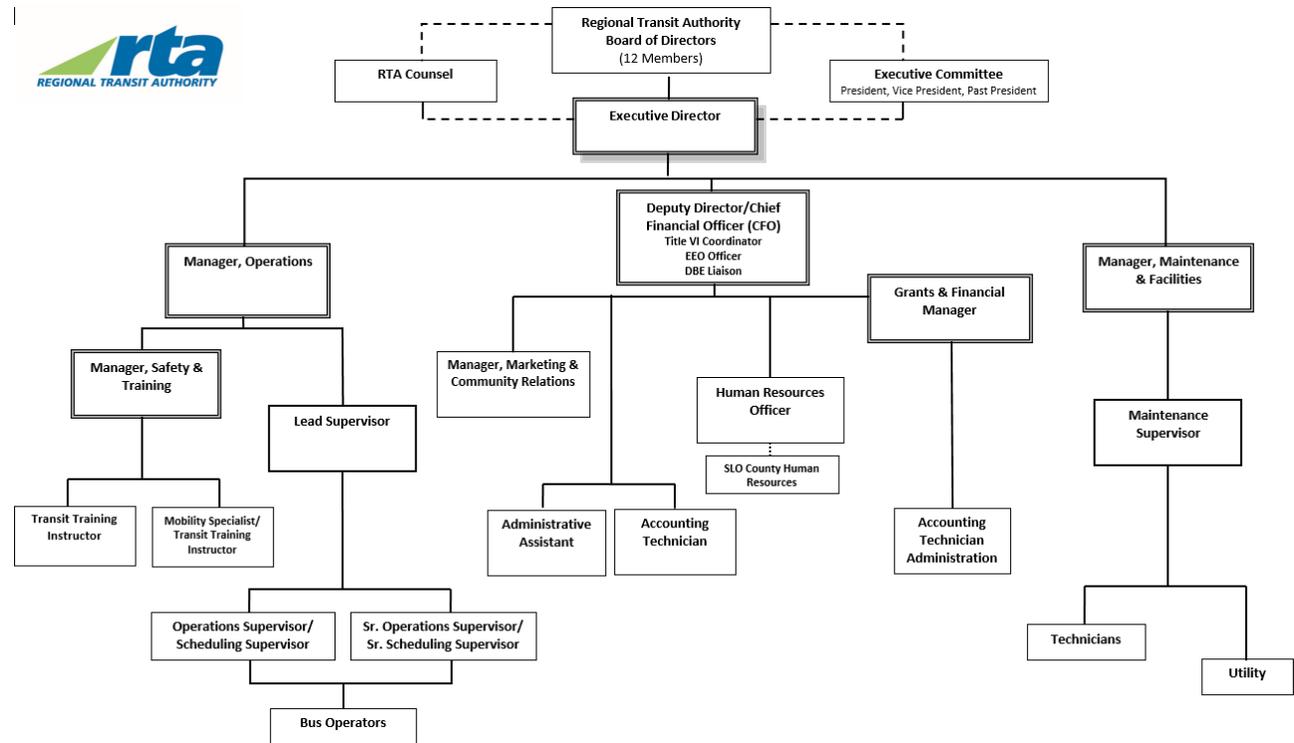
Attachment B DBE Directory

Attachment C Monitoring and Enforcement Mechanisms

Attachment D Breakout of Estimated

ATTACHMENT A

DBE ORGANIZATION CHART



The RTA does not maintain additional staff to support the DBE Liaison Officer (DBELO) activities. Various divisions report their project information and provide annual updates to the DBELO for reporting annually to FTA.

ATTACHMENT B

DBE Directory

Please reference the California Department of Transportation DBE Database:

http://www.dot.ca.gov/hq/bep/find_certified.htm

ATTACHMENT C

Monitoring and Enforcement Mechanisms

The RTA will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

The following regulations, provisions, and contract remedies are available to the RTA in the event of non-compliance with the DBE regulations by a contractor in its procurement activities:

1. DBE
 - A. The RTA has established a DBE Program pursuant to 49 CFR Part 26. The requirements and procedures of the RTA's DBE Program are hereby incorporated by reference into this Contract. Failure by any Party to carry out the RTA's DBE Program procedures and requirements or applicable requirements of 49 CFR Part 26 shall be considered a material breach of this Agreement, and may be grounds for termination of this Agreement, or other such appropriate administrative remedy. Each Party shall ensure that compliance with the RTA's DBE Program shall be included in any and all sub-agreements entered into which arise out of or are related to this Agreement.
 - B. The Contractor agrees that it will take necessary and reasonable steps to ensure that DBEs as defined in 49 CFR Part 26 have a fair opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Contract. Neither the Contractor nor any of its sub-contractors shall discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FTA-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in termination of this Contract or such other remedy as the RTA deems appropriate. The Contractor agrees that it will adapt and use the race-neutral means identified in 49 CFR Part 26.51(b) as appropriate for application to services under this Contract and will, to the maximum extent feasible, undertake these means of encouraging race neutral participation in the performance of its work. Each subcontract the Contractor signs with a sub-contractor will include the above statement.
 - C. The Contractor will be required to demonstrate that it has undertaken "good faith efforts" to achieve DBE participation as that term is defined in Section 26.5 of Title 49 of the Code of Federal Regulations and in accordance with the guidance provided in Appendix A to Part 26 of Title 49. The Contractor's failure to make good faith efforts shall be considered a material breach of the Agreement, and may give rise to certain administrative penalties and proceedings, including, but not limited to, those set forth in 49 CFR Part 26.107.

2. Prompt Payment

- A. Within thirty (30) calendar days from receipt by the RTA of an invoice for each payment described in this Section and upon notification to the Contractor by the RTA that Contractor has performed the professional services necessary for payment, the RTA will pay Contractor the amount due. Neither payment of amounts due by the RTA nor acceptance of any such payment by the Contractor shall constitute a waiver of any claim for errors or omission in invoices or payments.
- B. No later than thirty (30) days after receiving payment from the RTA for work satisfactorily performed by any of its sub-contractors for series rendered arising out of or related to this Agreement, the Contractor shall make full payment to its sub-contractors of all compensation due and owing under the relevant subcontract agreement, unless executed by the RTA for good cause pursuant to provisions set out below.
- C. The Contractor may only delay or postpone any payment obligation to any of its sub-contractors for services rendered arising out of or related to this Agreement where, in the RTA's sole estimation, good cause exists for such a delay or postponement. All such determinations on the RTA's part that good cause exists for the delay or postponement of the Contractor's payment obligation to its sub-contractors must be made in writing prior to the time when payment to the sub-contractor's would have been otherwise due by the Contractor.

3. Performance Requirement

- A. The Contractor shall, at all times during the term of the Contract, perform all of its professional services in accordance with appropriate prevailing professional practice standards; and shall furnish all labor, supervision, material and supplies necessary therefor. Notwithstanding the provisions of any drawings, technical specifications or other data by the RTA, the Contractor shall have the responsibility of supplying all items and details to perform the professional services specified in this Contract.
- B. The Contractor shall perform all of its professional services in its own name and as an independent Contractor, and not in the name of, or as an agent for, the RTA. Under the terms of the Contract, the Contractor is an independent contractor and has and retains full control and supervision of the services performed by and full control over the employment and direct compensation and discharge of all persons, other than the RTA representatives, assisting in the performance of its services. The Contractor agrees to be solely responsible for all matters relating to wages, hours of work, and working conditions and payment of employees, including compliance with social security, all payroll taxes and withholdings, unemployment compensation, and all other requirements relating to such matters. The Contractor agrees to be

responsible for its own acts and those of its subordinates, employees, and any and all sub-contractors during the term of the Contract.

- C. The Contractor shall prepare, complete, and submit to the RTA the necessary reports, plans, specifications and the supporting data required to complete the Scope of Work set forth in this Contract.

4. Indemnification

The Contractor agrees to indemnify, defend, indemnify and hold harmless the RTA against any claims, losses, costs, liability or damages in any way related to a claim that the RTA is violating Federal, state, or local laws, or any contractual provisions, relating to copyrights, trade names, licenses, franchises, patents or other means of protecting interests in products or inventions. The Contractor shall bear all costs arising from the use if patented, copyrighted, trade secret or trademarked materials, equipment, devices or processes used on or incorporated in the services provided and works produced under this Agreement. In case such materials, equipment, devices or processes are held to constitute an infringement and their use is enjoined, the Contractor, at its expense, shall (a) secure for the RTA's right to continue using the materials, equipment, devices or processes by suspension of any injunction or by procuring a license or licenses for the RTA; or (b) modify the materials, equipment, devices, or processes so that they become non-fringing. This covenant shall survive the termination of this Agreement.

5. Disputes

- A. Any dispute between the Contractor and the RTA relating to the implementation or administration of the Contract shall be resolved in accordance with this Section.
- B. The Parties shall first attempt to resolve the dispute informally in meetings or communications between the Contractor and the RTA's representative. If the dispute remains unresolved 15 days after it first arises, the Contractor may request that the RTA's representative issue a recommended decision on the matter in dispute. The RTA's representative shall issue the recommended decision in writing and provide a copy to the Contractor.
- C. The recommended decision of the RTA's representative will become final unless, within 15 days of receipt of such recommended decision, the Contractor submits a written request for review to the RTA Executive Director. In connection with any such review, the Contractor and the RTA's representative shall be afforded an opportunity to be heard and to offer evidence on the issues presented. If the dispute remains unresolved after review by the Director of Transit Services, either party may seek resolution through referral to non-binding mediation. If such mediation is unsuccessful, either party may seek judicial resolution of the

dispute in an appropriate Court of the State of California. Any party seeking resolution through the Courts of the State of California must, as a condition precedent to the commencement of litigation, demonstrate that it has made a good faith effort to resolve the dispute through the use of non-binding mediation.

- D. Pending final resolution of a dispute under this Section, the Contractor shall proceed diligently with performance in accordance with the Contract and the recommended decision of the RTA's representative.

6. Subcontracting

- A. The Contractor will not enter into any subcontract except with the prior review and written approval of the RTA. The Contractor shall be fully responsible for all work performed by any sub-contractor.
- B. Any approval of a subcontract shall not be construed as making the RTA a party to such subcontract, giving the sub-contractor privity of contract with the RTA, or subjecting the RTA to liability of any kind to any sub-contractor.
- C. All subcontracts will incorporate in full all appropriate conditions and terms as set forth in this Contract.

7. Compliance with Laws and Permits

In any of the following cases, the RTA shall have the right to cancel the Contract without expense to the RTA: (1) the Contractor is guilty of misrepresentation; (2) the Contract is obtained by fraud, collusion, conspiracy, or other unlawful means; or (3) the Contract conflicts with any statutory or constitutional provision of the State of California or the United States. This Section shall not be construed to limit the RTA's right to terminate the Contract for convenience or default.

8. Cancellation of Contract

In any of the following cases, the RTA shall have the right to cancel the Contract without expense to the RTA: (1) the Contractor is guilty of misrepresentation; (2) the Contract is obtained by fraud, collusion, conspiracy, or other unlawful means; or (3) the Contract conflicts with any statutory or constitutional provision of the State of California or the United States. This Section shall not be construed to limit the RTA's right to terminate the Contract for convenience or default.

9. Termination for Default

- A. Subject to the provisions of subsection C of this Section, the RTA may terminate

the whole or party of the Contract in any one of the following circumstances:

- If the Contractor fails to provide the services in the manner required by the Contract;
- If the Contractor fails to perform any of the provisions of the Contract in accordance with its terms; or
- If the Contractor fails to make progress in the prosecution of the work under the Contract so as to endanger such performance.

B. In the event that the RTA terminates the Contract in whole or in part as provided in Subsection A of this Section, the RTA may procure, upon such terms and in such manner as the RTA may deem appropriate, supplies or services similar to those so terminated. The Contractor shall be liable to the RTA for costs associated with the termination of the Contract, the procurement of replacement services by the RTA, any excess costs of such similar supplies or services, and any increase in the total Contract cost as result of the reprocurement of services from the date of termination to the expiration date of the original Contract. The Contractor shall continue the performance of the Contract to the extent not terminated under the provisions of this Section. Any disputes arising under this Section that cannot be resolved by the Contractor and the RTA are subject to resolution pursuant to Section 11.

C. If the RTA determines that an event of default under this Section has occurred, it shall immediately notify the Contractor in writing and provide the Contractor with thirty (30) days in which to provide a plan to cure such default including a timetable for accomplishing the cure. The RTA must approve the plan and the timetable, which approval shall not be unreasonably withheld. If the Contractor fails to cure in accordance with its plan and timetable, the RTA may declare the Contractor to be in default and terminate the Contract in whole or in part.

D. Except as otherwise provided, settlement of claims by the Contractor under this termination Section shall be in accordance with the provisions set forth in 48CFR Part 49, as amended from time to time.

10. False or Fraudulent Statement and Claims

By executing this Contract the Contractor acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose penalties under the program Fraud Civil Remedies Act of 1986, as amended (31 U.S.C. 3801 *et seq.*), and implementing Department of Transportation regulations set forth at 49 CFR Part 31.

ATTACHMENT D

Breakout of Estimated

Race Neutral & Race Conscious Participation

The San Luis Obispo Regional Transit Authority (RTA) will meet the maximum feasible portion of its overall goal by using race neutral means of facilitating DBE participation. The RTA uses the following race neutral means to increase DBE participation:

- Encourage participation of DBE's in pre-bid conferences
- Outreach to DBE trade associations to provide information on the RTA contracting opportunities
- Solicit support of DBE trade associations to distribute bid announcements including bid specifications
- Encourage DBE's to discuss their capabilities with prime contractors at pre-bid conferences

As a transit agency operating in California and covered by the decision of the U.S. Court of Appeals for the Ninth Circuit in the case of *Western States Paving Co., Inc. v. Washington State DOT*, the RTA will not adopt race conscious measures of DBE participation prior to the implementation of a disparity study.

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

The RTA will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.