JOINT MEETING

RIVERFRONT JOINT POWERS AUTHORITY BOARD/
POLICY STEERING COMMITTEE

In accordance with the requirements of California Government Code section 54950 et seq., notice is hereby given of a joint meeting of the Board of Directors of the Riverfront Joint Powers Authority/Policy Steering Committee at the following time and location:

June 19, 2018, at 10:00 a.m.
Sacramento Area Council of Governments
Rivers Rooms
1415 L Street, Suite 300
Sacramento, CA 95814

AGENDA

ROLL CALL

JPA Directors: Councilmember Jeff Harris; Councilmember Chris Ledesma; Vice Chair Christopher Cabaldon; and Chair Steve Hansen

Policy Steering Committee Members: Mayor Christopher Cabaldon, Jack Ehnes, Mark Friedman, Vice Mayor Steve Hansen, Councilmember Jeff Harris, Denton Kelley, Councilmember Chris Ledesma, David Taylor, Supervisor Oscar Villegas

INTRODUCTIONS

ACTION ITEMS

1. Adopt May 15, 2018, Meeting Minutes

2. Approve 2018-2019 JPA Budget

3. Approve Governance Agreements

4. Approve Revised Draft Conflict of Interest Code
INFORMATION ITEMS

5. Station Workshop

6. Project Status Report

7. Other Items

PUBLIC COMMENT

Members of the public are provided the opportunity to address the Board on matters not on the agenda and within the subject matter jurisdiction of the Authority.

ADJOURNMENT

Note: The Board may take action on any matter, however listed on this Agenda, and whether or not listed on this Agenda, to the extent permitted by applicable law. Staff Reports are subject to change without prior notice.

Next Meeting Date: August 1, 2018

Accessibility: The meeting is accessible to the disabled, in compliance with the Americans with Disabilities Act and other applicable laws and regulations. A person who requires a modification or accommodation, auxiliary aids or services in order to participate in this meeting, including receiving this agenda and attachments in an alternative format, should contact Lanette Espinoza at (916) 340-6236 as soon as possible and preferably at least 48 hours prior to the meeting.
MEMORANDUM

TO: Board of Directors
   Riverfront Joint Powers Authority

FROM: Streetcar Project Management Team

RE: Staff Report, Agenda Item 1
    Adoption of May 15, 2018, Meeting Minutes

DATE: June 12, 2018

DISCUSSION:

A meeting of the Riverfront Joint Powers Authority was held on May 15, 2018. Attached are the draft minutes from the meeting.

RECOMMENDATION:

Staff recommends adoption of the attached minutes.
Draft Minutes – May 15, 2018
Joint Meeting
Riverfront Joint Powers Authority Board of Directors
Downtown/Riverfront Streetcar Project
Policy Steering Committee
SACOG Rivers Room 1415 L Street, Suite 300 Sacramento, CA 95814

Chair Hansen called the meeting to order at 10:04 a.m.

1) **Introductions** – Board members attending were: Directors Harris, Johannessen, Ledesma, and Chair Hansen.

PSC members attending were:

*City of Sacramento Appointees:*
   - Vice Mayor Steve Hansen
   - Councilmember Jeff Harris
   - David Taylor

*West Sacramento Appointees:*
   - Councilmember Chris Ledesma
   - Councilmember Mark Johannessen

*Sacramento Regional Transit District Appointee:*
   - Councilmember Jeff Harris

*Yolo County Transportation District Appointee:*
   - Supervisor Oscar Villegas

Staff attending were: John Valsecchi, SACOG Project Manager
   - Denix Anbiah, City of West Sacramento
   - Jason McCoy, City of West Sacramento
   - Fedolia “Sparky” Harris, City of Sacramento
   - Ed Scofield, Regional Transit

1) **Adoption of March 20, 2018, Minutes**

Director Harris made the motion, seconded by Director Ledesma, to approve the minutes of the March 20, 2018, Joint Streetcar JPA & Policy Steering Committee meeting as submitted. The motion passed unanimously. Alternate Johannessen abstained from voting.
2) **Appointment of Fifth Director to Joint Powers Authority Board**

Director Ledesma made the motion, seconded by Director Harris, to appoint David Taylor as the fifth member of the board. The motion passed unanimously. Mr. Taylor said that he would need to check with his legal counsel before accepting the appointment.

3) **Increase JPA Executive Signature Authority to $250,000:**

Director Harris made the motion, seconded by Director Ledesma, to delegate to the designated executive the authority to approve and execute any project-related single amendment, change order or on-call work order not to exceed $250,000, as long as the following conditions are met: (1) execution is necessary in order to advance the project; (2) delay in executing the document would impact the project schedule or budget; (3) executing the document is consistent with board-adopted schedule and budget for the project; (4) immediate notice is provided to the board of directors for amendments, change orders, or work orders exceeding $100,000; (5) the board will be informed when the authority is used. The motion passed unanimously.

4) **Approve Governance Structure:**

Director Ledesma made the motion, seconded by Director Harris, to approve the governance structure and recommend that the city councils and RT board of directors approve final documents implementing that structure. The motion passed by majority vote (Chair Hansen opposed).

8) **Project Status Report:**

John Valsecchi, Ed Scofield, and Kirk Trost provided the status report.

9) **Other Items:**

There were no other items.

**Public Comment:**
There was no public comment.

There being no further business, Chair Hansen declared the meeting adjourned at 11:25 a.m.
MEMORANDUM

TO: Board of Directors
   Joint Powers Authority

FROM: Streetcar Project Management Team

RE: Staff Report, Agenda Item 2
   Adoption of Fiscal Year 2019 Budget

DATE: June 12, 2018

DISCUSSION:

The requirement to adopt a Fiscal Year (FY) 2019 budget presents a unique challenge at this stage in the Project.

The Project is currently undergoing a Risk Review by the Federal Transit Administration (FTA) as one of the final steps in anticipation of a federal grant agreement in the next 4-8 months. At the same time, the Project’s access to local funds to maintain Project progress have become more challenging to secure. To this end, the FY 2019 Budget presented in this report contains both historical background on Project funding, as well as alternatives for consideration that allow the project to advance with differing levels of funding.

This information was previously presented to the Board for the revised FY 2018 Budget and has been updated to reflect funding considerations

Project Financial History

**Phase 1 – Preliminary Engineering**

Preliminary Engineering of the project started in May 2014. The project is currently in Final Design. In order to fund the initial design phase of the project, as well as the environmental work, $8,570,000 in funding was provided by SACOG ($5 million; CMAQ funds), the City of Sacramento ($2 million; local funds), and SacRT ($1.57 million; PTMISEA funds). FTA identifies these funds as Preliminary Engineering in their budget worksheet.

**Phase 2 – Final Design**

The project’s Final Design (known as Phase 2) is currently being led by HDR and will
be complete in the next six months. Funding for Phase 2 consists of $6 million from the cities of Sacramento and West Sacramento ($3 million each) through a cost reimbursement agreement executed in November 2016. Funds are currently being used to finish design and also to fund SacRT and SACOG labor hours. Phase 2 revenues and expenditures are detailed below.

### Phase 2 – Final Design

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
<th>Expended</th>
<th>Anticipated</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>HDR</td>
<td>$5,453,355</td>
<td>$1,752,185</td>
<td>$3,701,170</td>
<td>$-</td>
</tr>
<tr>
<td>SacRT/SACOG Labor</td>
<td>$545,335</td>
<td>$443,263</td>
<td>$102,072</td>
<td>$-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$6,000,000</td>
<td>$2,195,448</td>
<td>$3,803,242</td>
<td>$-</td>
</tr>
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</table>

#### Funding

<table>
<thead>
<tr>
<th>City</th>
<th>Value</th>
<th>Expended</th>
<th>Anticipated</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sacramento</td>
<td>$3,000,000</td>
<td>$1,097,724</td>
<td>$1,902,276</td>
<td>$-</td>
</tr>
<tr>
<td>West Sacramento</td>
<td>$3,000,000</td>
<td>$1,097,724</td>
<td>$1,902,276</td>
<td>$-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$6,000,000</td>
<td>$2,195,448</td>
<td>$3,804,552</td>
<td>$-</td>
</tr>
</tbody>
</table>

Phase 3 – Supplemental Final Design

Since a federal grant agreement was not executed, a cost reimbursement agreement for an additional $4.9 million in local funding was executed in July 2017 to continue advancing the project. Once again, each city contributed 50% of the funding ($2.45 million each). Funding is being used to partially fund the design of the vehicle maintenance facility, pay HDR for supplemental Final Design and environmental work, provide additional project support, and to pay for past and current SACOG and SacRT labor. Phase 3 revenues and expenditures are detailed below.

### Phase 3 – Supplemental Final Design

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
<th>Expended</th>
<th>Anticipated</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>HDR</td>
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<td>$649,878</td>
<td>$1,416,667</td>
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<tr>
<td>VMF Design</td>
<td>$356,141</td>
<td>-</td>
<td>$356,141</td>
<td>$-</td>
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<tr>
<td>Construction Management Support</td>
<td>$399,000</td>
<td>-</td>
<td>$399,000</td>
<td>$-</td>
</tr>
<tr>
<td>Additional Project Support</td>
<td>$627,326</td>
<td>$277,121</td>
<td>$350,205</td>
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</tr>
<tr>
<td>SacRT/SACOG Labor</td>
<td>$1,450,988</td>
<td>$1,146,250</td>
<td>$304,739</td>
<td>$-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$4,900,000</td>
<td>$2,826,751</td>
<td>$2,073,249</td>
<td>$-</td>
</tr>
</tbody>
</table>

#### Funding

<table>
<thead>
<tr>
<th>City</th>
<th>Value</th>
<th>Expended</th>
<th>Anticipated</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Sac</td>
<td>$2,450,000</td>
<td>$1,413,376</td>
<td>$1,036,624</td>
<td>$-</td>
</tr>
<tr>
<td>City of West Sac</td>
<td>$2,450,000</td>
<td>$1,413,376</td>
<td>$1,036,624</td>
<td>$-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$4,900,000</td>
<td>$2,826,751</td>
<td>$2,073,249</td>
<td>$-</td>
</tr>
</tbody>
</table>

Based on the summary of the above three phases, the project has fully spent or obligated the funds committed through previous cost reimbursement agreements. Staff expects all funding to be spent prior to the end of this fiscal year. While current consultants have been funded to date, additional consultant services will be needed in the next few months to continue advancing the project as detailed below.
FY 2018 Budget
The FY 2018 adopted Budget was based on the foregoing three project phases and projected expenditures during the period from January to June 2018.

In response to the Board direction, staff re-evaluated the expenditures and identified several budget elements that could be minimized while not jeopardizing the project budget or schedule. The result was an annual FY 2018 budget reduction of over $3 million. On March 20, 2018, the Board approved an Amended Annual Operating Budget for the FY 2018. It contained expenditures necessary to advance the project to June 30, 2018.

As noted at the time of adoption, however, the FY 2018 Budget was based on a new cost reimbursement agreement in the amount of $5.1 million between the City of Sacramento and the City of West Sacramento. Of this $5.1 million in Phase 4 funding, $484,952 in additional funds were needed to cover project staffing through June 30, 2018.

To date, an agreement has not been reached on the $5.1 million in new funding. The impact of not receiving the $5.1 million in funds has caused the project to begin to slow to a minimum beyond May 2018. Existing contracts that are fully funded will continue through completion of their assigned tasks. However, all SACOG and SacRT staff, as well as consultant technical support, are being reduced to a bare minimum.

In recent days, staff from both cities have proposed a plan to allocate $2.6 million in local funding. This funding is yet to be approved by the city councils. If approved, it would cover the FY 2018 funding shortfall and the proposedFY 2019 Budget. Also provided below are alternative budget scenarios; one to continue to advance the project aggressively and one to suspend the project.

FY 2019 Budget
The FY 2019 Budget stands at precarious position. With the lack of local funding and uncertain federal grant agreement date over the next 12 months, staff has presented alternatives for the Board to consider when adopting the FY 2019 Budget.

Proposed FY 2019 Partial Year Budget
The Proposed FY 2019 Budget is based solely on the approval of an allocation of $2.6 million of additional local funding committed in principle by the two cities. The Budget will allow minimal progress on the Project, allowing only some of the critical path activities of the Project to advance through late 2018. By late 2018, if a federal grant agreement is not obtained, the project will cease to have sufficient funding—unless additional funding sources, such as Proposition 1A or funding from the cities, are made available to the project.

The benefits of Proposed Budget:
- Additional local funding commitments by the two Cities have been minimized.
- Most critical project activities continue to advance.
- Continuity of staff.

The risks associated with Proposed Budget:
- Investment of additional local funds with no guarantee of an approved federal grant agreement.
- Will not fund the full fiscal year of Project development.
If no additional funds are committed to the Project, schedule delays will raise the Project costs.
Failure to aggressively advance the Project will reduce the chances of receiving federal funding.
Inadequate funding will impair the Project team’s ability to immediately address Project developments that could cause delays.

**FY 2019 Proposed Partial Year Budget**

<table>
<thead>
<tr>
<th>Expenditures</th>
<th>Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project Staffing</strong></td>
<td><strong>Project Staffing</strong></td>
</tr>
<tr>
<td>Salaries, Benefits, and Overhead</td>
<td>895,500</td>
</tr>
<tr>
<td>City of West Sacramento</td>
<td>447,750</td>
</tr>
<tr>
<td><strong>Consultants / Services</strong></td>
<td><strong>Consultants / Services</strong></td>
</tr>
<tr>
<td>Construction Management Consultant (QA / Testing / Surveying)</td>
<td>290,000</td>
</tr>
<tr>
<td>Legal Fees (SACOG, JPA, etc.)</td>
<td>60,000</td>
</tr>
<tr>
<td>Environmental Mitigation (noise, vibration, corrosion, etc.)</td>
<td>100,000</td>
</tr>
<tr>
<td>Project Controls Consultant</td>
<td>200,000</td>
</tr>
<tr>
<td>Vehicle Maintenance Facility design</td>
<td>1,000,000</td>
</tr>
<tr>
<td>ROW Support</td>
<td>50,000</td>
</tr>
<tr>
<td>Contingencies</td>
<td>4,500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>2,600,000</td>
<td>2,600,000</td>
</tr>
</tbody>
</table>

*Note: The proposed FY 2019 budget includes only new expenditures and revenues, and does not include expenditures and revenues from the FY 2018 budget, some of which may roll over into FY 2019. Any roll over expenditures and revenues will be included in an amended FY 2019 budget once the year-end expenditures and revenues are reconciled.

**Alternative 1 – Maximum Project Progress**

This Alternative, which is preferable from a federal grant agreement perspective, presents the Project in a maximum progress mode. It funds all elements of the project to the fullest extent possible with the funding available. It contains sufficient funds for the Project through execution of a federal grant agreement. Possible funding sources include local funds from one or both cities or Proposition 1A funding.

The benefits of Alternative 1:
- All critical project activities continue to advance.
- No schedule impacts or related costs.
- Continuity of staff.

The risks associated with Alternative 1:
- Significant investment of additional local funds with no guarantee of an approved federal grant agreement.
- Uncertainty of funding source commitments.
FY 2019 Budget - Alternative 1

2019 Budget (July 1st to June 30th)

<table>
<thead>
<tr>
<th>Expenditures</th>
<th>Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Staffing</td>
<td>Project Staffing</td>
</tr>
<tr>
<td>Salaries, Benefits, and Overhead</td>
<td>City of Sacramento</td>
</tr>
<tr>
<td>City of West Sacramento</td>
<td>TBD</td>
</tr>
<tr>
<td>Prop 1A</td>
<td>TBD</td>
</tr>
<tr>
<td>Consultants / Services</td>
<td></td>
</tr>
<tr>
<td>Construction Management Consultant (QA / Testing / Surveying)</td>
<td>1,160,000</td>
</tr>
<tr>
<td>City of Sacramento (Design / CM / Support)</td>
<td>210,000</td>
</tr>
<tr>
<td>City of West Sacramento (Design / CM / Support)</td>
<td>210,000</td>
</tr>
<tr>
<td>Vehicle Inspection Support</td>
<td>100,000</td>
</tr>
<tr>
<td>Legal Fees (SACOG, JPA, etc.)</td>
<td>120,000</td>
</tr>
<tr>
<td>Environmental Mitigation (noise, vibration, corrosion, etc.)</td>
<td>100,000</td>
</tr>
<tr>
<td>Project Controls Consultant</td>
<td>500,000</td>
</tr>
<tr>
<td>Outreach Consultant</td>
<td>100,000</td>
</tr>
<tr>
<td>ROW Support</td>
<td>75,000</td>
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<tr>
<td>Recommended FTA contingencies (15%)</td>
<td>790,000</td>
</tr>
<tr>
<td>Total</td>
<td>6,056,000</td>
</tr>
</tbody>
</table>

*Note: The proposed FY 2019 budget includes only new expenditures and revenues, and does not include expenditures and revenues from the FY 2018 budget, some of which may roll over into FY 2019. Any roll over expenditures and revenues will be included in an amended FY 2019 budget once the year-end expenditures and revenues are reconciled.

Alternative 2 – Project Suspension
This alternative would suspend the Project. All existing staff would cease work and all existing contracts would be suspended. In this alternative there is no certainty that, for continuity purposes, the same staff or consultants will be available to restart the Project. This alternative will certainly have significant schedule impacts that will elevate the Project costs.

The benefits of Alternative 2:
- No additional local funding commitments by the two Cities.

The risks associated with Alternative 2:
- Uncertainty of the availability of additional local/state funds to restart the Project.
- Schedule delays will cause Project costs to increase.
- Lack of continuity of staff and resources will certainly constrain the project.
- FTA will likely view the suspension negatively, and potentially consider such action as an abandonment of the Project.

RECOMMENDATION:

The Project Management Team recommends that the JPA Board of Directors adopt a minimal FY 2019 annual Project budget based on $2.6 million in projected revenues from the two cities. The Project Management Team also seeks direction from the Board on additional funding that would allow the staff to build a budget to more aggressively pursue the Project and to optimize the opportunity for federal funding. In this regard, the Project Management Team recommends that the Board endorse the immediate release of Proposition 1A funds for the Project; the Sacramento Regional Transit District Board of Directors previously committed the funds to the Project but conditioned release of the funds on a federal grant agreement.
RESOLUTION NO. 2018-18

RESOLUTION OF THE BOARD OF DIRECTORS OF THE RIVERFRONT JOINT POWERS AUTHORITY ADOPTING FISCAL YEAR 2019 BUDGET

BE IT RESOLVED by the Board of Directors (“Board”) of the Riverfront Joint Powers Authority (the “Authority”) that the Fiscal Year 2019 budget for the Downtown Riverfront Project presented to the board at this meeting is hereby adopted.

This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED this 19th day of June 2018, by the following vote:

AYES:

NOES:

ABSENT:

Chairperson

ATTEST:

Secretary
MEMORANDUM

TO: Board of Directors
    Riverfront Joint Powers Authority

FROM: Streetcar Project Management Team

RE: Staff Report, Agenda Item 3
    Approve Governance Agreements

DATE: June 12, 2018

DISCUSSION:

Staff has been regularly briefing the JPA Board and Policy Steering Committee (PSC) on the development of the governance structure for the Streetcar Project. The proposed governance structure is largely unchanged from that presented to the JPA Board and PSC in March. It is the culmination of nearly two years of meetings, calls, and discussions with all interested stakeholders, including the city and Sacramento Regional Transit (RT) partners, the Project Management Team and attorney working group, representatives of the business community, and, of course, the Federal Transit Administration (FTA).

As previously reported to the Board, the Federal Transit Administration (FTA) and the Project Management Oversight Consultant (PMOC) have scheduled the Project Risk Review, a critical next step in the federal readiness review for a federal grant agreement, for June 20-22, 2018. The FTA staff and PMOC have also indicated that demonstrating final approval of the governance documents will be an important part of the Risk Review—specifically, that having approved governance documents will eliminate an issue of risk. The FTA has also made clear that the Project should be open to potential amendments to the documents if necessary to resolve issues that arise during the Risk Review or other portions of the federal readiness review. However, the FTA has also made clear, both before the May Board meeting, and in subsequent calls: (1) that the FTA’s focus is not on the details of the region’s governance documents, but on the consistency of the governance documents with our submitted project management plan; and (2) that the governance documents need to be approved and executed.

For these reasons, the Project partners are preparing to advance the governance documents for final approval to the city councils and the RT Board of Directors. The current documents have the final
support of staff and legal counsel from each agency. The City of West Sacramento is expected to approve the agreements by consent on June 13. There is not a date certain for the City of Sacramento or the Sacramento Regional Transit Board of Directors to consider the agreements.

The governance structure and agreements are summarized in Attachment A, prepared by Chris Delfino, who has facilitated the attorney working group meetings.

RECOMMENDATION:

On May 15, 2018, the Board approved the governance structure and recommend that the city councils and RT Board of Directors approve final documents implementing that structure. Staff is recommending final approval of the following agreements included as Attachment B-D:

- **SUBRECIPIENT AND INTERAGENCY AGREEMENT FOR STREETCAR FUNDING**
- **THE DESIGN, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE STREETCAR PROJECT**
- **THE OPERATIONS AND MAINTENANCE AGREEMENT FOR THE STREETCAR PROJECT**

The fourth agreement, the First Amendment to Joint Exercise of Powers Agreement for Riverfront Joint Powers Authority does not require approval by the JPA Board. (Attachment E.)
OVERVIEW OF STREETCAR PROJECT GOVERNANCE STRUCTURE

May 15, 2018

The governance structure for the Streetcar Project (“Project”) was developed based on consideration of a number of goals and interests. The following is a brief overview of the Project’s governance structure and the agreements that are necessary to implement this structure (“Governance Agreements”).

The governance structure as reflected in this overview and the Governance Agreements is the culmination of nearly two years of meetings, calls, and discussions involving the Federal Transit Administration (“FTA”), the Project Management Team, the Policy Steering Committee, representatives of the business community involved in the funding of the Project, and city and Sacramento Regional Transit (“RT”) staff, and legal counsel.

The Project is to be jointly-owned by the City of West Sacramento (“West Sacramento”) and the City of Sacramento (“Sacramento”) so ultimate authority for the Project rests with the two cities. Sacramento and West Sacramento entered into the Joint Exercise of Powers Agreement (“JEP Agreement”) creating the Riverfront Joint Powers Authority (“JPA”). The JPA was formed to own and operate the Project on behalf of the two cities with the belief that the JPA is the best vehicle for managing the Project while also mitigating each city’s risk in this new transit project.

RT, as the region’s most experienced agency in the building and operating fixed rail transit systems, plays a key role in the FTA Small Grants (“Small Starts Grant”) application process and then in the implementation of the Project. RT is the only local agency currently qualified by the FTA to receive federal transit grants for rail-oriented transit projects. As a result, RT would be the original recipient of the Small Starts Grant funding from FTA, under a Small Starts Grant Agreement, as well as state grant funds such as TIRCP and Prop 1A funds.

RT, the JPA, and the two cities are to enter into a Subrecipient Agreement so that federal and state grant funding for the Project could pass from RT to the JPA. The Subrecipient Agreement would also obligate the JPA and the two cities, as applicable, to comply with the terms of the grant funding as if it were receiving the funding as a direct grantee of FTA and the state. One major concern expressed by the FTA involves ensuring the Project’s compliance with all grant obligations and federal laws and regulations applicable to the Project (“Compliance Issues”). FTA is has requested that RT, as the original grantee under the Small Starts Grant, maintain overall control and final say over all Compliance Issues. If there is a disagreement between JPA and RT as to how a Compliance Issue should be handled, RT has the final say on such matter. However, the JPA may take such matter to the dispute settlement procedure set forth in the Subrecipient Agreement. The grant compliance provisions in the Subrecipient Agreement have been revised accordingly.
The design, procurement, and construction of the Project is to be conducted by RT on behalf of the JPA under a Design, Procurement, and Construction Agreement ("DPC Agreement"). In addition to design, procurement, and construction services, the DPC Agreement would also have RT provide grant management services in order to ensure the design, procurement, and construction services are performed consistent with Small Starts Grant obligations.

Similarly, once the Project is constructed, the operations and maintenance services for the Project will initially be performed by RT on behalf of the JPA under an Operations and Maintenance Agreement ("O&M Agreement"). In addition to operation and maintenance services, the O&M Agreement would also have RT provide grant management services in order to ensure the operation and maintenance services are performed consistent with Small Starts Grant obligations.

**FTA-Requested Amendments to Joint Exercise of Powers Agreement**

Since the JPA was formed, the FTA has provided additional comments to the governance structure and, as a result, has requested certain changes be made to the Governance Agreements, including the JEP Agreement. A copy of the draft First Amendment to the Joint Exercise of Powers Agreement for Riverfront Joint Powers Authority is attached as Attachment E.

First, the FTA wants to ensure there is close cooperation between the JPA and RT given the unique position RT will have as both the original grant recipient under the Small Starts Grant and taking the lead in managing the construction and operation of the Project. As a result, FTA has requested that at least one of the City of Sacramento representatives to the JPA Board also serve on the RT Board. FTA also requested a corresponding change be made to Section 6 so that any amendment to or termination of the DPC Agreement or the O&M Agreement must include the positive vote of the City of Sacramento board representative that is also the RT Board member.

Second, FTA also expressed concern as to what entity would provide the grant management services if RT were ever to be replaced as the contractor under the DPC Agreement or the O&M Agreement or the Subrecipient Agreement were terminated. The proposed amendments to the JEP Agreement to address this concern is a condition that, in order for the JPA to terminate the DPC Agreement, the O&M Agreement, or the Subrecipient Agreement, RT and the JPA must have first entered into a separate grant management agreement whereby RT would continue to provide the grant management services. Corresponding changes were also made to the DPC Agreement, O&M Agreement, and Subrecipient Agreement.

Third, considerable funding for the operation of the Project will be provided by the Sacramento business sector through the creation of the Community Facilities District ("CFD"). It has always been important for the business community to be involved in the management of the Project operations. The original governance plan was for the creation of a nonprofit organization (i.e. Streetcar, Inc.) to which the JPA would delegate the authority to operate and maintain the
Project. Streetcar, Inc. would, in turn, contract with RT for certain operations and maintenance services.

The FTA expressed concern over the plan for the JPA to delegate responsibility for the operations and maintenance of the Project to an entity that, as of the date the Small Starts Grant agreement, would not yet be formed or have any experience with such services. As discussed above, the JPA and RT are directly entering into the O&M Agreement in order to address this concern of the FTA.

However, the JPA remains committed to involving representatives of the business community and obtaining its input in the oversight and direction of the operations and maintenance agreement. This involvement may still take the form of a nonprofit organization or it could be in the form of an advisory body to the JPA. The JEP Agreement may be amended, as necessary, to provide this flexibility.

Finally, in the section of the JEP Agreement describing the disposition of JPA assets in the event of termination of the JPA, the FTA requested the JEP Agreement recognize that the federal government retains a federal interest in all real property, equipment, and supplies acquired or improved for use in connection with the Project until the Federal Government removes its interest. The provision is already a requirement in the Small Starts Grant and thus Subrecipient Agreement.
SUMMARY OF GOVERNANCE AGREEMENTS

Subrecipient Agreement

Parties to Agreement:

City of Sacramento
City of West Sacramento
Sacramento Regional Transit District
Riverfront Joint Powers Authority

Main Purpose of Agreement:

Allow for the transfer of federal and state grant funds from Sacramento Regional Transit District ("RT"), as the original grantee, to the Riverfront Joint Powers Authority ("Authority") on behalf of the City of Sacramento and City of West Sacramento.

Key Terms:

In accepting the transfer of grant funds, the Authority also accepts the responsibility and obligation to comply with all terms and conditions of the grants including complying with all applicable federal and state laws and regulations.

The terms and conditions of the grants are incorporated into this Agreement so a breach by the Authority of a grant term would also be a breach of this Agreement.

RT, as the original grantee under the Small Starts Grant Agreement ("SSGA"), has overall control and final say over all questions regarding compliance with grant obligations and federal laws and regulations applicable to the Project ("Compliance Issue"). If there is a disagreement between the Authority and RT as to a how a Compliance Issue should be handled, RT has the final say on such matter. However, the JPA may take such matter to the dispute settlement procedure set forth in the Agreement.

As between RT and the Authority, the Authority is responsible for furnishing all local match funds. The Agreement does not create funding obligations for RT.

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1 This summary is intended to provide an overview of some of the key terms and condition set forth in the agreements described herein. This summary is not intended as complete legal analysis of the terms of the agreement or analysis of the legal risks to the JPA in entering into any of the agreements. Further, this summary is not intended, nor should it be used, to interpret any provision of these agreement in the event of a dispute arising between the parties or any other person. The terms and conditions of the agreement shall always control over any ambiguity or discrepancy arising from this summary.
RT provides an invoice to the Authority for payment of RT services provided under the Design Agreement. RT draws down grant funds for approved invoices.

Authority will invoice RT for the Project expenses incurred by the Authority and RT will draw down from grant funds and pay to the Authority all properly invoiced expenses.

Each party agrees to indemnify other parties pursuant to California Government Code Section 895.4.

**Design, Procurement and Construction Agreement**

**Parties to Agreement:**

Sacramento Regional Transit District  
Riverfront Joint Powers Authority

**Purpose of Agreement:**

The Authority, as owner of the Project on behalf of the two cities, contracts with RT to provide design, procurement and construction services (“DCP Services”) for the Project.

**Key Terms:**

The DCP Services to be provided are set forth in Exhibit A to the Agreement. The schedule for providing the DCP Services is set forth in Exhibit B. The budget for the DCP Services is set forth in Exhibit C.

RT will be responsible for hiring any contractors that are necessary to provide the DCP Services. The Agreement provides for terms and conditions that must be included in these contractor agreements.

The term of the Agreement commences upon signing (“Effective Date”) and shall end the earlier of (a) RT and FTA have not entered into an SSGA within two years from Effective Date, or (b) the FTA’s closeout of the SSGA.

Parties may mutually agree to terminate the Agreement. The Authority also may terminate the Agreement upon RT’s material breach of the Agreement subject to termination procedures such as notice. Any termination of the Agreement is subject to the Authority and RT entering into a grant management agreement.

Each party agrees to indemnify other parties pursuant to California Government Code Section 895.4.
**Operations and Management Agreement**

**Parties to Agreement:**

Sacramento Regional Transit District  
Riverfront Joint Powers Authority

**Purpose of Agreement:**

The Authority, as owner of the Project on behalf of the two cities, contracts with RT for RT to provide operations and maintenance services ("O&M Services") for the Project.

**Key Terms:**

The Authority appoints RT to provide O&M Services for the Project and RT accepts the appointment. Exhibit A identifies the Authority and RT’s understanding of the O&M Services as of the date the Agreement is signed ("Effective Date.")

The Agreement establishes a process whereby the Authority and RT will jointly develop a budget for the O&M Services.

The term of Agreement commences upon signing and shall end the earlier of (a) RT and FTA have not entered into an SSGA within two years from Effective Date, or (b) the Agreement is terminated by mutual agreement, for cause based on RT’s material breach of the Agreement, or by the Authority without cause.

Any termination of the Agreement is subject to the termination procedures set forth in the Agreement which include: (1) RT, in its role as grant compliance manager, ensures a suitable replacement operator has been engaged, (2) the Authority and RT enter into a grant management agreement, and (3) proper notice of termination, depending on method of termination, is given.

Each party agrees to indemnify other parties pursuant to California Government Code Section 895.4.

__________________  
Date
SUBRECIPIENT AND INTERAGENCY AGREEMENT FOR STREETCAR FUNDING

THIS SUBRECIPIENT AND INTERAGENCY AGREEMENT FOR STREETCAR FUNDING (“Agreement”) is made and entered into on ___ , 2018 (“Effective Date”), by and between SACRAMENTO REGIONAL TRANSIT DISTRICT, a public corporation (“RT”), the CITY OF SACRAMENTO and the CITY OF WEST SACRAMENTO, municipal corporations (each a “City” and collectively, “Cities”) and the RIVERFRONT JOINT POWERS AUTHORITY, a California joint powers authority (“Authority”).

RECITALS

WHEREAS, the Cities desire to jointly acquire, plan, design, finance, construct, own, operate, and maintain a fixed-rail streetcar system that will operate within and between the two Cities as described in the FTA Grant Agreement (as that term is defined in Section 2(a)(1)) (“Project”);

WHEREAS, the Cities formed the Authority to conduct the Project activities on their behalf;

WHEREAS, RT has experience in the management of and compliance with federal and state grants for the design, in the construction of fixed-rail transportation systems and desires to assist the Cities and the Authority with the Project;

WHEREAS, the Federal Transit Administration (“FTA”) has approved capital grant funding for the development and implementation of the Project;

WHEREAS, under Streets and Highways Code Section 2704.095, RT is eligible to claim funds for capital improvements for intercity and commuter rail lines and urban rail systems that provide direct connectivity to the high-speed train system and its facilities and has been awarded $25 million in Proposition 1A funds;

WHEREAS, RT, as an eligible recipient, has been awarded $30 million for the Project under the Transit and Intercity Rail Capital Program (“TIRCP”);

WHEREAS, RT is a “Designated Recipient” in the Sacramento Metropolitan region for FTA grants;

WHEREAS, RT, the Cities and the Authority desire to enter into this Agreement to provide FTA, TIRCP, and Proposition 1A grant funds to the Authority as a subrecipient for the Project;

WHEREAS, RT is responsible, as the FTA and State grantee, for ensuring that all applicable grant requirements will be met by Authority under the FTA, TIRCP and Proposition 1A grants (collectively, “Grants”); and

WHEREAS, RT is further responsible for ensuring that FTA’s requirements will be met by the cities and the Authority, except where RT has agreed to provide grant management services as set forth herein.
NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. **PURPOSE AND SCOPE.** The purpose of this Agreement is to set out the terms and conditions applicable to RT’s transfer of grant funds to the Authority, as the subgrantee, for the development of the Project as described in grant application(s) submitted to FTA, the California State Transportation Agency (“STA”), and California Transportation Commission (“CTC”) (collectively, “Grantors”).

2. **GRANT PASS THROUGH REQUIREMENTS.**

   (a) **Designation of Authority as a Subrecipient.** RT hereby designates the Authority as the subrecipient on the federal and state grants set forth below in Section 2(a)(i) through 2(a)(iii) (each a “Subrecipient Grant” and, collectively, the “Subrecipient Grants”). As a subrecipient, the Authority must comply with all terms and conditions of the Subrecipient Grants applicable to the Authority as the subrecipient and due to its ownership and operation of the Project.

   (i) Federal Transit Administration Small Starts Grant Agreement (“FTA Grant Agreement”) (a copy of which together with the FTA Master Agreement will be attached hereto as Exhibit A upon its execution.) Exhibit A, the current FTA Master Agreement MA(23), is attached hereto as a placeholder and will be replaced with the FTA Grant Agreement and then-current Master Agreement upon execution)

   (ii) TIRCP Program Supplement for the Project (a copy of which will be attached hereto as Exhibit B upon its execution.)

   (iii) Proposition 1A Program Supplement for the Project (a copy of which will be attached hereto as Exhibit C upon execution.)

   (b) **Future Federal and State Grants.** Any future federal or state grants intended for use on the Project and where RT would be the principal grantee would require an amendment to this Agreement or a new subrecipient agreement between the parties. Notwithstanding the foregoing, the Cities and the Authority (acting jointly or individually) may apply directly for any future federal or state grant without the involvement of RT if the Cities or Authority so decide.

   (c) **Compliance with Law.** Authority must comply with all applicable Federal, State, and local laws, codes, ordinances, regulations, orders, circulars, and directives, including, without limitation, all Federal regulatory requirements associated with the funding provided to Authority under this Agreement. These regulations, orders, circulars, and directives include, without limitation, the following: FTA Master Agreement; Master Agreement State Funded Transit Projects No. 64A0038 A01; 48 CFR Part 31, Federal Acquisition Regulations System; and 2 CFR, Chapters 1 and 2, Parts 200, 215, 220, 225, and 230, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Further, Authority must require the appropriate debarment certification form from all contractors and Authority certifies that it will not knowingly enter into any transaction with a contractor, subcontractor, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State agency. If FTA, STA, or CTC any
change to a Subrecipient Grant after execution, the parties agree to amend this Agreement as needed to comply with the change(s).

(d) **Federal Lobbying Restrictions.** Authority may not use any funds received by it under this Agreement through the FTA Grant Agreement to support activities designed to influence Congress or a Member of Congress, an employee of any federal agency, an officer or employee of Congress, an employee of a Member of Congress or a State Legislature in connection with any appropriation or legislation and must comply with the provisions of the U.S. DOT’s regulations, “New Restrictions on Lobbying” at 49 C.F.R. Part 20, as modified by 31 U.S.C. Section 1352. Authority must execute the attached “Certification Regarding Lobbying” and submit a copy to RT upon execution of this Agreement.

Nothing in this Section 2 will be construed to prohibit Authority from lobbying Congress, a federal agency or the California Legislature, so long as the Authority does not use revenues received under this Agreement to do so. However, if Authority makes any contact with a federal agency, Congress, or a State Legislature with the intent to influence a decision on a federal or state action affecting RT, employing its own non-federal funds, Authority must complete the Disclosure of Lobbying Activities form, attached as Exhibit D, and submit it to RT. For the duration of this Agreement, Authority must submit the OMB Form LLL every calendar quarter in which Authority engages in lobbying activities as described in 49 C.F.R Part 20. All Disclosure forms must be forwarded from tier to tier up to RT, which will submit the forms to the FTA.

(e) **Breach of Subrecipient Grant Obligations.** Authority’s failure to properly perform its obligations as a subrecipient under the Subrecipient Grants constitutes a material breach of this Agreement. RT will promptly notify Authority of any failure to perform and permit Authority a reasonable opportunity to cure the failure. If the parties disagree as to whether there is a material breach as claimed by RT, the parties shall handle such dispute in accordance with the provisions set forth in Section 23 (Disputes) below.

(f) **FFATA Requirements.** Authority must comply with the requirements of the Federal Funding Accountability and Transparency Act (FFATA), including U.S. OMB guidance, “Reporting Subaward and Executive Compensation Information,” 2 C.F.R. Part 170, [75 Fed. Reg. 55670 – 55671, September 14, 2010]. Subrecipient’s compliance must include the reporting, record retention, and access requirements set forth in Exhibit D, attached and incorporated by this reference.

(g) **Oversight.** RT may exercise against the Authority any oversight rights that the Federal or State Governments may exercise with regards to RT pursuant to the terms of the Subrecipient Grants (for purposes of illustration only, and not limiting any such rights, oversight rights shall include rights to investigate and audit), and, in addition, may exercise against the Authority any oversight rights consistent with and required by RT’s obligations as the recipient of federal capital grant funds excluding right to terminate federal government assistance, which right rests with Federal Government as set forth in Section (h) immediately below.

(h) **Right of Federal Government to Terminate.** As more fully set forth in the Master Agreement, Section 11, the parties understand and agree that the Federal Government
may suspend, suspend then terminate, or terminate all or any part of the federal assistance for the Project in the event of failure to make reasonable progress toward implementing the Project, a determination by the Federal Government that continued federal assistance does not adequately serve the purposes of the law authorizing the assistance, or noncompliance with the terms of the FTA Grant Agreement. In the event of termination of the federal assistance for the Project, the parties understand that the Federal Government may recover the funds that it has provided for the Project from the recipient of the funds.

(i) Federal Government’s Retained Interest in Project Property. As more fully set forth in FTA Agreement, Section 19, the parties understand and agree that the Federal Government retains a federal interest in all real property, equipment and supplies acquired or improved for use in connection with the Project until the Federal Government removes its interest. In furtherance of the foregoing, the Parties are required to: (a) ensure that Project property is used continuously and without delay for its originally authorized purpose throughout its useful life or until disposition occurs; (b) ensure that associated uses of Project property are transit supportive; (c) notify FTA if the conditions contained in (a) or (b), above, are not being met; and (d) seek FTA guidance regarding the requirements of this section through FTA circulars and other writings (including FTA Circular 5010.1E and the Uniform Relocation Assistance Act). With respect to Project property, the parties acknowledge and agree that: (1) wet utilities owned and relocated by the Cities to facilitate the Project will not be considered Project property and will continue to be owned by the respective City; and (2) as a condition of RT vacating its existing encroachment area on K Street to permit use by the Project, the Project must relocate RT’s existing rail service to H Street. The relocation of service is considered a relocation obligation under the Uniform Relocation Assistance Act and, consequently, the reconstructed tracks will be owned by RT and RT must be given an equivalent encroachment permit from the City of Sacramento for the tracks on H Street. Use of the H Street tracks by the Project will be subject to execution of an acceptable Shared Use Agreement with RT prior to the commencement of operations.

(j) Certifications. To the extent there is the requirement under any of the Subrecipient Grants that FTA make any certifications regarding the Project’s compliance with State of California and local laws, rules or regulations, a precondition to RT making this certification to the grantor shall be Authority making the same certification to RT.

3. GRANT COMPLIANCE DURING TERM OF THE AGREEMENT. As of the Effective Date, RT and the Authority also will have entered into a Design, Procurement and Construction Agreement appointing RT to provide design, construction and procurement services for the Project on behalf of the Authority (“Design Agreement”) and an Operations and Maintenance Agreement appointing RT to provide operations and maintenance services for the Project on behalf of the Authority (“O&M Agreement”). The Design Agreement and the O&M Agreement include provisions providing RT will be primarily responsible for all grant compliance obligations associated with, related to or arising out of the performance of duties by RT under the Design Agreement and the O&M Agreement. During the term of this Agreement, RT will be responsible for all asset management reporting with respect to the Project including, but not limited to, submitting a compliant Transit Asset Management Plan due to FTA in 2018 pursuant to 49 CFR 625. In the event there is any disagreement between the Authority and RT as to whether a particular course of action or conduct proposed by any party is in compliance
with any federal or state grants for the Project subject to this Subrecipient Agreement, any federal laws applicable to the Project, or actions relating to the delivery of a FTA Capital Improvement Grant project or State grant requirements ("Compliance Issue"), the parties shall work in good faith to resolve the Compliance Issue. If, after reasonable good faith efforts to resolve the Compliance Issue have not been successful, the decision of RT as to the Compliance Issue shall be final provided, however, that if the Authority disagrees with RT’s determination it may, consistent with the provisions set forth in Section 23 of this Agreement (excluding the meet and confer requirements set forth in Section 23(a) which shall not be applicable to such dispute), choose to pursue any available legal means to settle the Dispute including the legal means set forth in Section 23(b). During the pendency of any legal action concerning such Dispute, the decision of RT as to the Compliance Issue shall remain in force unless a court makes some other determination during pendency of such action. The Authority, or its assignee, may not terminate (a) the Design Agreement prior to the completion of design, procurement and construction services being completed, or (b) the O&M Agreement so long as this Agreement remains in effect unless, in each case, the Authority and RT have entered into a separate grant management agreement whereby RT will provide the grant management services set forth in this Section 3, and Authority will fully cooperate with and compensate RT for its reasonable costs for the performance of such services. In the event a grant management agreement is necessary, RT agrees it will negotiate in good faith with the Authority the separate grant management agreement and to accept in the separate grant management reasonable terms and conditions.

4. LOCAL MATCH. Authority is responsible for furnishing all local match funds (for purposes of this Agreement local match funds are funds from the City of West Sacramento, funds from the City of Sacramento and funds from the County of Sacramento at the time of this Agreement are those amounts set forth in Exhibit E). All expenditures of local match funds shall be subject to federal expenditure rules and regulations. Project costs funded by local match funds or credit for in-kind services may be considered federally funded activities for purposes of compliance with FTA requirements as set forth in the FTA Grant Agreement. In the event of a shortfall of funding for local match requirements for planning and construction of the Project, the Authority or the Cities will be solely responsible for providing the required match.

5. NO RT FUNDING OBLIGATION. This Agreement does not create any obligation for RT to be responsible for providing any separate funding for the planning, construction, rail vehicle or rolling stock acquisition, maintenance or operation of the Project other than the pass through of the Grants and previously approved agreements. Except with respect to construction or operating cost shortfalls or cost overruns that are the result of an RT default under either the Design Agreement or the O&M Agreement, the Authority and Cities are solely liable for supplying all funds to construct the Project and maintain the operations of the Project in compliance with FTA and State requirements. This obligation will lie first with the Authority and, if not satisfied by the Authority and, if not satisfied by the Authority, shall be the responsibility of the Cities jointly.

6. TERM. This Agreement shall remain in effect so long as there remain outstanding obligations by RT to the Grantors under the Grants.

7. TOTAL CONSIDERATION AND PAYMENT.
(a) **RT Direct Draw Down of Grant Funds.** During the pendency of the Design Agreement, the terms and conditions of this Section 7(a) shall apply to the draw-down of Subrecipient Grants funds. RT will directly draw down the Subrecipient Grants funds from the sources identified in this Agreement for costs incurred (including third-party invoices received and not yet paid) under the Design Agreement. Prior to the draw-down of any funds, RT will provide invoices to Authority for costs incurred under the Design Agreement. Authority must respond within 15 working days after receipt, by: (1) approving or disapproving the items on the invoice; and (2) notifying RT, using a form provided by RT, what portion of the invoice may be paid by drawing down the Subrecipient Grants funds and what portion, if any, will be paid with local match funds. RT may draw down funds made available under this Agreement in accordance with the form submitted by Authority to RT and any remaining undisputed amount of the invoice must be paid by Authority with local funds within 30 days after receipt of the invoice. If a dispute arises concerning the amount of any invoice issued under the Design Agreement, RT will reimburse itself under the Grants covered by this Agreement only for the undisputed portion of the invoice. The provisions of Section 1.3 of the Design Agreement shall govern handling of disputed invoice amounts. RT will reimburse itself for the disputed portion of an invoice only after the dispute has been resolved and in accordance with the resolution of that dispute.

(b) **Expense Reimbursement.** Reimbursement of Authority’s expenses for the Project under any federal grant provided under this Agreement will be subject to the cost principles set forth in OMB Super Circular, 2 CFR Part 200, “Uniform Administrative Requirements, Costs Principles, And Audit Requirements For Federal Awards” as well as the applicable provisions of the grant. RT will reimburse Authority for its expenditures consistent with Subrecipient Grant requirements.

(i) **Payment of Authority Invoices.** Upon receipt of Authority’s properly-documented invoice and the required Progress and Financial Status Reports, RT will draw down the Subrecipient Grants funds and pay Authority the applicable federal share of the invoice within 30 days from the date of receipt. Authority’s invoice must include, at a minimum, evidence or a statement that Authority has incurred the costs set out in its invoice and has paid its local share contribution. RT reserves the right to require Authority to submit payroll records and invoices from Authority’s contractor to verify that Authority has incurred the costs set out in its invoice and that the amount of the invoice does not exceed the applicable federal share of Authority’s allocation of the Subrecipient Grants funds under the applicable grant. Authority may not invoice RT more frequently than once per calendar month. Unless otherwise agreed, payment against invoice must be delivered by first class mail through the facilities of the US Post Office, postage prepaid, addressed to the applicable party in the manner set forth in Article 16, below.

(ii) **Disputed Invoice.** If RT disputes any items on an invoice for a reasonable cause, RT may deduct that disputed item from the payment, but may not delay payment for the undisputed portions. The amounts and reasons for such deductions will be documented to Authority.

(c) **Expanded Scope of Project.** Any costs associated with expansion of the Project will be borne exclusively by the Cities and Authority.
(d) **Responsibility for Cost Overruns.** Except as may otherwise be provided in the Design Agreement or the O&M Agreement, responsibility for cost overruns will lie exclusively with first the Authority and, if not satisfied by the Authority, shall be the responsibility of the Cities jointly.

8. **MAINTENANCE OF RECORDS/AUDITS.** Authority must maintain books, records, documents, and other evidence directly pertinent to work under this Agreement in accordance with generally accepted accounting principles and practices. Authority must also maintain for a period of three years from the date of each grant close-out the financial information and data used by Authority in the preparation or support of the proposed or actual costs submitted for reimbursement under this Agreement. Authority agrees to permit RT, FTA, the U.S. DOT Secretary and the U.S. Comptroller General, or their duly authorized representative, to inspect all work, materials, payrolls, and other data and records and to conduct performance and/or financial audits of Authority books, records and accounts pertaining to grant expenditures.

In addition, Authority will be responsible for meeting the audit requirements of the “Single Audit Act Amendments of 1996,” 31 U.S.C. §§ 7501 et seq., in accordance with OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” and OMB A-133 Compliance Supplement provisions for the Department of Transportation, April 1999, and any further revision or supplement thereto. Upon RT’s request, Authority must submit a copy of its audit, completed in accordance with the above-described requirements, within 30 days after completion of the audit, but no later than one year after the end of the audit period.

9. **THIRD PARTY OBLIGATIONS.** Authority is solely liable to third parties with whom it enters into contracts to effectuate the purposes of the Grants. Authority must pay directly such parties for all amounts due under said arrangements. Authority must ensure that all subcontracts entered into for the Project comply with the requirements of this Agreement (including FTA Circular 4220.1F, as may be amended) and that each subcontract incorporates those requirements as applicable to each tier.

10. **CONTRACTS USING GRANT OR MATCHING FUNDS.** Any contract or subcontract to be funded in whole or in part using funds provided under this Agreement will require the contractor and its subcontractors, if any, to do the following:

   (a) Comply with applicable State and Federal law requirements that pertain to, among other things, labor standards, Non-Discrimination, the Americans with Disabilities Act, Equal Employment Opportunity, the Drug-Free Workplace Act, and “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR, Part 200.

   (b) Maintain at least the minimum State-required Workers’ Compensation Insurance for those employees who will perform the work or any part of it.

   (c) Maintain unemployment insurance and disability insurance as required by law, along with liability insurance in an amount that is reasonable to compensate any person, firm, or corporation who may be injured or damaged Authority or any subcontractor in performing work associated with this Agreement or any part of it.
(d) Retain all books, records, accounts, documentation, and all other materials relevant to this Agreement for a period of three (3) years from the date of termination of this Agreement, or three years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement and any amendments, whichever is later.

(e) Permit RT and its representatives, upon reasonable notice, unrestricted access to any or all books, records, accounts, documentation, and all other materials relevant to this Agreement for the purpose of monitoring, auditing, or otherwise examining said materials.

(f) Comply with all applicable requirements of Title 49, Part 26 of the Code of Federal Regulations.

11. INDEMNITY.

(a) Mutual Indemnity. Pursuant to California Government Code Section 895.4:

(i) each party as “Indemnitor,” must defend, hold harmless and indemnify the other party, as “Indemnitee,” against any claim, obligation, loss, penalty, fine, demand, damage, cost, expense or liability, including attorneys’ fees, demand for return of all or a portion of the FTA Grant funds or any withholding from or denial of any future FTA Grant funds (hereafter collectively referred to as “Claim(s)” caused by (i) the breach by Indemnitor of any term or condition of this Agreement; and (ii) the negligent or wrongful act or omission of the Indemnitor (including, without limitation, Indemnitor’s officers, agents or employees) arising out of or resulting from Indemnitor’s performance of this Agreement. For any Claim related to any FTA action on future grant funds, the burden shall be on the Indemnitee to demonstrate, through written evidence from an authorized representative of FTA, that any damage or portion of damage was directly attributable to the Indemnitor’s breach, or negligent or wrongful act or omission; and

(ii) if a party is held liable upon any judgment for damages caused by any action giving rise to an indemnification obligation as set forth under Section 11(a)(i) and that party pays in excess of its share as determined through application of principles of comparative fault, that party is entitled to a contribution from the other party to the extent of the other party’s comparative fault.

Nothing in this Agreement shall constitute or be construed as a creation of a partnership, corporation, association for profit, or principal-agent, bailor-bailee, lessor-lessee, franchisor-franchisee, joint venture, or employer-employee relationship between the Parties to the Agreement, or any other relationship among any of the Parties, such that any one Party is liable in any manner for the obligations of any other Party. In all instances, none of RT’s directors, officers, employees, sub-contractors, agents or representatives shall be considered employees of the Authority or either City. Furthermore, none of the Authority’s or Cities’ officers, employees, subcontractors, agents, or representatives shall be considered employees of RT. RT is fully responsible for all claims, wages, commissions, compensation, losses, liabilities, benefits, taxes and withholding due, and all fees, costs, penalties and other amounts in connection with, related to, or asserted by, any of the officers, employees, sub-contractors, agents or representatives of RT.
(b) **Duty to Defend.** Indemnitor must, upon Indemnitee’s request, defend at its sole cost any suit asserting a Claim covered by this indemnity. The parties must cooperate in the defense of such actions brought by others with respect to the matters covered in this indemnity. In addition, Indemnitor must reimburse Indemnitee for all costs, including reasonable attorney’s fees, associated with efforts to enforce this indemnification provision. In the event of a Claim where it is determined that there exists comparative fault, each party will bear its own costs, including reasonable attorney’s fees.

(c) **Non-Exclusivity/Standard of Care.** The foregoing right to indemnity is in addition to, and not exclusive of, any other legal, equitable or statutory right(s) of indemnification or insurance to which a party may be entitled. Nothing set forth in this Agreement establishes a standard of care for, or create any legal rights in, any person not a party to this Agreement.

12. **JOINT AND SEVERAL LIABILITY OF THE CITIES.** Notwithstanding anything to the contrary in the Joint Exercise of Powers Agreement for the Authority, the Cities agree that they will be jointly and severally liable to RT for the duties and obligations of the Authority under this Agreement and that the dissolution of the Authority will not affect the continuing obligations of the parties to perform the Authority’s obligations under this Agreement.

13. **NOTICES.** All notices and other communications under this Agreement must be in writing and will be deemed to have been duly given (A) on the date of delivery, if delivered personally to the party to whom notice is given, or if made by telecopy directed to the party to whom notice is to be given at the telecopy number listed below, or (B) at the earlier of actual receipt or the second business day following deposit in the United States mail, postage prepaid. Notices and other communications must be directed to the parties at the addresses shown below. A party may change its person designated to receive notice, its telecopy number, or its address from time to time by giving notice to the other party in accordance with the procedures set forth in this Article.

**RT:**
Sacramento Regional Transit District  
Attn: Grants Manager  
P.O. Box 2110  
Sacramento CA 95812-2110
Phone:  
Fax:

**Authority:**
Riverfront Joint Powers Authority  
Phone: ()  
Fax: ()

**West Sacramento:**
City of West Sacramento  
1110 West Capitol Avenue  
West Sacramento, CA 95691  
Phone: (916) 617-4500  
Fax: (916) 372-9765

{(00091104.20)}
Sacramento:

Phone: ()
Fax: ()

14. INDEPENDENT CONTRACTOR. RT, Authority and the Cities are not responsible for providing workers’ compensation insurance or any other protective insurance coverage based upon the relationship of employer and employee to any employee or independent contractor of any other party. Authority will act as an independent contractor. In accordance with that relationship, each party assumes all responsibility for federal and state income tax withholding, FICA, SDI, and any other deductions from income that each is properly required to make with respect to its own employees. Each party assumes all responsibility for payment of wages to its employees and for federal and state income tax withholding.


16. RELATIONSHIP BETWEEN THE PARTIES. Nothing in this Agreement is intended to create, and nothing herein will be considered as creating, any partnership, joint venture, or agency relationship between RT and Authority.

17. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and the benefits and obligations inures to the successors of the parties hereto. This Agreement may not be assigned by either party. The references herein to the Federal Transit Administration or FTA include any successor agency or department of the United States Government.

18. MODIFICATION. No waiver, alteration, modification, or termination of this Agreement is valid unless made in writing and signed by the authorized parties hereof.

19. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute but one and the same instrument.

20. CAPTIONS. The headings or captions to the Articles of this Agreement are not a part of the Agreement and have no effect upon the construction or interpretation of any part thereof.

21. SEVERABILITY. If any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, the remainder of the Agreement will remain in effect.
22. **NONWAIVER.** Waiver of any breach or default hereunder will not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.

23. **DISPUTES.**

   a) **Meet and Confer.** In the event of any dispute, controversy, claim, or disagreement arising out of or related to this Agreement or the acts or omissions of the parties with respect to this Agreement (each, a “Dispute”), the parties shall, as soon as reasonably practicable after one party gives written notice of a Dispute to the other party (“Dispute Notice”), meet and confer in good faith regarding such Dispute at such time and place as mutually agreed upon by the parties. If any Dispute is not resolved to the mutual satisfaction of the parties within thirty (30) days after delivery of the Dispute Notice (or such other period as may be mutually agreed upon by the parties in writing), the parties shall settle such Dispute as otherwise set forth in this Section 23.

   b) **Other Proceedings.** In the event a Dispute is not resolved by the meet and confer provisions under Section 23(a) above, the parties may choose any other available legal means to settle the Dispute. Each party agrees that a violation or threatened violation of this Agreement may cause irreparable injury to the other party, entitling the other party to seek injunctive relief in addition to all legal remedies.

   c) **Forum for Legal Action.** Any and all legal action that is initiated to enforce any provision of this Agreement or arising out of or related to this Agreement must be brought or filed in either the state or federal court located in Sacramento County.

   d) **Reimbursement during Pendency of a Dispute.** Where a dispute concerns the eligibility of Authority submitted costs for payment (“Disputed Costs”), RT will have no obligation to make payments on the Disputed Costs during the pendency of the dispute. RT shall continue to make payments on all non-disputed costs during the pendency of the dispute of Disputed Costs.

24. **GOVERNING LAW.** The interpretation and enforcement of the Agreement is governed by the laws of the State of California, the state in which the Agreement is signed. The parties agree to submit any disputes arising under the Agreement to a court of competent jurisdiction located in Sacramento, California.

25. **AUTHORITY.** Each of the signatories to this Agreement represent that he or she is authorized to sign the Agreement on behalf of such party and that all approvals, resolutions and consents which must be obtained to bind such party have been obtained that no further approvals, acts or consents are required to bind such party to this Agreement.

26. **INTERPRETATION.** The parties acknowledge that this Agreement is an “arm’s length” agreement, entered into by the parties freely, without duress, coercion or any undue influence. The parties have each carefully reviewed this Agreement and have agreed to
each term of this Agreement. No presumption will apply in favor of either party in the interpretation of this Agreement or in the resolution of any ambiguity of any provision of this Agreement.

27. INTEGRATION. This Agreement embodies the entire Agreement of the parties in relation to the scope of services herein described, and no other agreement or understanding, verbal or otherwise, exists between the parties.

IN WITNESS WHEREOF, the parties entered into this Agreement on the day and year first hereinabove appearing.

RIVERFRONT JOINT POWERS AUTHORITY

By: ___________________________

HENRY LI
General Manager/CEO

By: ___________________________

Approved as to Content:

By: ___________________________

Chief Financial Officer

Approved as to Form:

BY: ___________________________

Authority Attorney

CITY OF SACRAMENTO

By: ___________________________

Approved as to Content:
By:__________________________

Approved as to Form

By:__________________________
   City Attorney

CITY OF WEST SACRAMENTO

By:__________________________

Attest:

By:__________________________
   Kryss Rankin, City Clerk

Approved as to Form

By:__________________________
   Jeffrey Mitchell, City Attorney
EXHIBIT A

FTA GRANT AGREEMENT

To be attached upon its execution.
EXHIBIT B

TIRCP PROGRAM SUPPLEMENT FOR PROJECT

To be attached upon its execution.
EXHIBIT C

PROPOSITION 1A PROGRAM SUPPLEMENT FOR PROJECT
STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
DIVISION OF MASS TRANSPORTATION  

PROGRAM SUPPLEMENT/AMENDMENT  
STATE FUNDED TRANSIT PROJECTS  

MASTER AGREEMENT NO.: 64A0038 A01  
PROGRAM SUPPLEMENT NO.: 03A0038-15 A1  

PROVISION SECTION  
This PROGRAM SUPPLEMENT hereby incorporates all of the provisions contained in MASTER AGREEMENT No. 64A0038 A01, entered into between STATE and RECIPIENT on September 28, 2000, and is subject to all the terms and conditions thereof. This PROGRAM SUPPLEMENT is adopted in accordance with ARTICLE I of the aforementioned MASTER AGREEMENT under authority of Resolution 10-12-0151 approved by RECIPIENT on December 13, 2010. The RECIPIENT further stipulates that, as a condition to the reimbursement of State funds obligated to this PROJECT, it accepts and will comply with the covenants, obligations, terms and conditions set forth in said MASTER AGREEMENT and on the following page(s) of this PROGRAM SUPPLEMENT.  

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PROJECT TITLE: Sacramento Intermodal Facility High Speed Rail Program Project  

PROJECT SUMMARY: Improvements to provide connectivity of Sacramento Regional Transit service to High Speed Rail including relocating existing light rail track, passenger platform and associated systems, and constructing a streetcar system (including track, platforms, procure cars, etc) to connect to the new Sacramento Intermodal Facility and future High-Speed Rail Terminal. This amendment reflects the financial de-allocation of $1,152,000 and expand the scope of work to include the construction of a streetcar system. 

REQUIRED SIGNATURES  
Recipient: Sacramento Regional Transit District  
Signed By:  
Name: Henry Li  
Title: General Manager/CEO  
Date:  

State Dept.: Department of Transportation  
Signed By:  
Name: Sukhvinder Takhar  
Title: (Acting) Deputy Director, Division of Planning  
Date: 8-11-16  

DISTRIBUTION LIST  
Caltrans Headquarters Accounting (2)  
Caltrans District (1)  
Recipient (1)  
Caltrans Mass Transportation (1)  

LIST OF ATTACHMENTS INCLUDED  
☑ I. Scope of Work  
☑ II. CTC Resolutions  
☑ III. Certification of Funds  
☑ IV. 3rd Party Agreement  
☑ V. Special Conditions  

{00091104.20}
ATTACHMENT I

Scope of Work

(Scope of Work includes the CTC-approved Project Description, Project Schedule, Overall Funding Plan and Project Financial Plan for the total project.)

Project Description

(See attached documents)

Project Overall Funding Plan

(See attached documents)

Project Financial Plan

(See attached documents)

Project Schedule

(See attached documents)
ATTACHMENT II

CTC Resolutions
Attachment B

STATE OF CALIFORNIA  DEPARTMENT OF TRANSPORTATION

PROJECT PROGRAMMING REQUEST

DTP-0001 (Revised September 2013)

Date: 6/9/16

Amendment (Existing Project)

District 03

County SAC

Route/Corridor

PM Bk

PM Ahd

Project Sponsor/Lead Agency

Sacramento Regional Transit District

MPO

Element

TPRP No. REG17943

Project Manager/Contact

Jenny Nielo

Phone (916) 321-3884

E-mail Address JNielo@sacrt.com

Project Title

Sacramento Valley Station Loop & Downtown/Riverfront Sac-W. Sac Streetcar-HSR Connectivity Improvement

Location, Project Limits, Description, Scope of Work

In the cities of Sacramento/Sacramento Co. & West Sacramento/Yolo Co. Multi-rail/corridor improvements to provide connectivity of the urban area to High Speed Rail. Project includes the relocation of existing LRT track & platforms, the construction of a Streetcar system including tracks, streetcar maintenance facility, platforms and associated systems, as well as the procurement of 6 vehicles. For all, includes overhead catenary system, traction power system, signal system, special track work, pedestrian and bicycle connections and associated civil work.

Includes ADA Improvements

Includes Bike/Ped Improvements

Component

PA&ED

PS&E

Right of Way

Construction

Implementing Agency

Sacramento Regional Transit District

Sacramento Regional Transit District

Sacramento Regional Transit District

Sacramento Regional Transit District

Purpose and Need

The relocation and expansion of light rail and addition of new streetcar system will provide connectivity to the Sacramento Valley Station (SVS) also formerly referred to known as the Sacramento Intermodal Transportation Facility (SITF), future High Speed Rail Terminal, East Sacramento/Midtown areas and West Sacramento. The system will serve the downtown core, provide access to jobs and benefit disadvantaged communities. Improvements will allow for operational flexibility to serve all light rail lines and add new streetcar transit mode.

Project Benefits

The project provides connectivity to all modes of transportation, bus, commuter rail and high speed rail; provides operational flexibility to serve the future Green Line, Blue Line, Northeast Corridor, and the Gold Line. The project expands rail service into West Sacramento increasing transit ridership and reducing GHG emissions. These projects are in the region’s adopted MTP as critical AQ/transit improvements.

Supports Sustainable Communities Strategy (SCS) Goals

Reduces Greenhouse Gas Emissions

Project Milestone

Existing

Proposed

Document Type

ND

Document Type

ND

Project Study Report Approved

11/01/13

05/01/18

Begin Environmental (PA&ED) Phase

End Environmental Phase (PA&ED Milestone)

08/31/16

06/30/16

Begin Design (PS&E) Phase

12/01/16

07/31/16

End Design Phase (Ready to List for Advertisement Milestone)

09/30/17

Begin Right of Way Phase

03/01/17

End Right of Way Phase (Right of Way Certification Milestone)

12/31/17

Begin Construction Phase (Contract Award Milestone)

02/01/18

End Construction Phase (Construction Contract Acceptance Milestone)

08/31/19

Begin Closeout Phase

10/01/19

01/30/20

End Closeout Phase (Closeout Report)

04/01/20

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-4710 or write Records and Forms Management, 1150 N Street, MS-49, Sacramento, CA 95814.
Additional Information

Scope -- This programming change request will add the Downtown/Riverfront Sacramento/West Sacramento Streetcar project to the Sacramento Valley Station (SVS) Loop project. The Streetcar project is a multi-agency (RT/SACOG/City of Sacramento/City of West Sacramento/YCTD) project that has been in development for several years. The project is presently in the President’s budget for a federal Small Starts funding and has also been submitted as a TIRCP candidate project in April 2016. The value this combined project provides for High Speed Rail (HSR) is that it significantly expands the catchment and disbursement area that can be efficiently served patrons of the HSR system. Through accelerated travel times by replacing walk and slower bus trips with more-direct and easily identifiable streetcar/light rail connections, users of HSR will have direct and efficient connectivity for approximately one mile east and west of the Sacramento Valley Station area, thus serving West Sacramento to the Midtown area on the east.

The scope of the services for this effort will be the development of a Final Design for the projects including track work and platforms, signal controls and electrification, and the associated physical and operational requirements for the projects.

Funding -- Funding will be matched with a variety of local and federal sources as noted herein. This request consists of the following (requested) actions:
1. De-allocate $1,152,000 from PASSE allocated October 8, 2013 and reprogram those funds to CON in FY17/18;
2. Reprogram $632,000 for PS&E from FY16/17 to FY15/16;
3. Reprogram $138,000 from PS&E in FY16/17 to CON in FY17/18; and
4. Allocate $632,000 for PS&E at the June 2016 CTC meeting.

Schedule -- The schedule overall remains the same as previously submitted. The environmental process has been completed ahead of schedule and this has allowed us to advance the PS&E sooner than previously submitted. With the addition of the Streetcar project, the overall schedule still remains the same with only the closeout phase adjusted to start 4 months later. The schedule proposed for the Streetcar has been aligned with the Sacramento Valley Station Loop schedule and is identical to the schedule submitted for the TIRCP grant request in April 2016.
### STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

**PROJECT PROGRAMMING REQUEST**

DTP-0001 (Revised September 2013)

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**Project Title:** Sacramento Valley Station Loop & Downtown/Riverfront Sac-W. Sac Streetscar-HSR Connectivity improvements

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**Proposed Total Project Cost ($1,000s)**

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### Fund No. 1: Caltrans- Prop 1A

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**Proposed Funding ($1,000s)**

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**Notes:** De-allocate $1.152M from E&P and reprogram bal. of $1.152M to CON.
Reduce current PS&E programmed amount to $632K and transfer to FY15/16 and reprogram $136K bal. to CON.

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**Notes:**
## PROJECT PROGRAMMING REQUEST

**State of California**

**Department of Transportation**

**Project Title:** Sacramento Valley Station Loop & Downtown/RiverfrontSac W. Sac/Sacramento HSR Connectivity Improvements

**Date:** 6/9/16

### Fund No. 3: STET - Local/Financing

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<th>Prior</th>
<th>14/15</th>
<th>15/16</th>
<th>16/17</th>
<th>17/18</th>
<th>18/19</th>
<th>19/20+</th>
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<tr>
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**Notes:**
- Proposed Funding ($1,000s)
- Reprogram $1,339K from PS&E FY 16/17 to CON in FY17/18

### Fund No. 4: STP

<table>
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<tr>
<th>Component</th>
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<th>15/16</th>
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<td>623</td>
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**Notes:**
- Proposed Funding ($1,000s)
- Reduce prior by $520K.

### Fund No. 6: STA - MSA POF

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<tr>
<th>Component</th>
<th>Prior</th>
<th>14/15</th>
<th>15/16</th>
<th>16/17</th>
<th>17/18</th>
<th>18/19</th>
<th>19/20+</th>
<th>Total</th>
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<td></td>
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<td>929</td>
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</tbody>
</table>

**Notes:**
- Proposed Funding ($1,000s)
- Transfer Prior $632K from PA&ED to PS&E

---

(00091104.20)
Memorandum

To: CHAIR AND COMMISSIONERS
   CALIFORNIA TRANSPORTATION COMMISSION

From: NORMA ORTEGA
   Chief Financial Officer

Subject: FINANCIAL ALLOCATION AMENDMENT FOR LOCALLY ADMINISTERED
   PROPOSITION 1A HIGH-SPEED PASSENGER TRAIN BOND – URBAN/COMMUTER
   PROJECTS
   RESOLUTION HST1A- AA-1516-01, AMENDING RESOLUTION HST1A-A-1314-01

RECOMMENDATION:

The California Department of Transportation recommends the California Transportation
Commission (Commission) amend Resolution HST1A-A-1314-01 to de-allocate $1,152,000 in
Proposition 1A High-Speed Passenger Train Bond (Proposition 1A) funds from the Sacramento
Intermodal Facility High Speed Rail Program Project in Sacramento County.

BACKGROUND:

On October 8, 2013, the Commission allocated $1,752,000 in Proposition 1A funds under
Resolution HST1A-A-1314-01, to the Sacramento Regional Transit District (SacRT) for the
Sacramento Intermodal Facility High Speed Rail Program project. The SacRT anticipates
completing Project Approval and Environmental Document under budget resulting in cost
savings; the de-allocated balance will be reprogrammed to the construction Phase.

The necessary changes are reflected in strikethrough and bold on the attached revised vote list.

FINANCIAL RESOLUTION:

Be it Resolved, that the original $1,752,000 allocated from the Budget Act of 2012, Budget Act
Item 2660-104-6043 described on the attached revised vote list, is hereby amended to de-allocate
$1,152,000, reducing the Proposition 1A High-Speed Passenger Train Bond Program amount to
$600,000, in accordance with the revised vote list.

Attachment
## 2.6 Mass Transportation Financial Matters

<table>
<thead>
<tr>
<th>Project #</th>
<th>Allocation Amount</th>
<th>Recipient</th>
<th>Project Title</th>
<th>Location</th>
<th>Program/Year</th>
<th>Project ID</th>
<th>Fund Type</th>
<th>Amount by Program Code</th>
<th>Fund Type</th>
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<td>1</td>
<td>$1,752,000</td>
<td>Sacramento Regional Transit District</td>
<td>Sacramento Intermodal Facility High Speed Rail</td>
<td>Amending Resolution HST1A-A:1344-01 to de-allocate $1,152,000 in Prop 1A.</td>
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<td></td>
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<td></td>
<td></td>
</tr>
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</table>

Amend Resolution HST1A-1344-01 to de-allocate $1,152,000 in Prop 1A.
## ATTACHMENT III

### Certification of Funds

<table>
<thead>
<tr>
<th>Name of Recipient:</th>
<th>Sacramento Regional Transit District</th>
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<tbody>
<tr>
<td>Name of Project:</td>
<td>Sacramento Intermodal High Speed Rail Facility</td>
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<tr>
<td>CTC Resolution Numbers:</td>
<td>HST1A-AA-1516-01</td>
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<tr>
<td>Date of Resolution:</td>
<td>June 29-30, 2016</td>
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<tr>
<td>Allocation Amount:</td>
<td>($1,152,000) $600,000</td>
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<td>Fund Source:</td>
<td>HSPTBF</td>
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<tr>
<td>Date of Third Party Contract Award:</td>
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<tr>
<td>Period of Availability:</td>
<td>October 8, 2013-June 30, 2016</td>
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</table>

This amendment reflects the financial de-allocation of $1,152,000 and expand the scope of work to include the construction of a streetcar system.

<table>
<thead>
<tr>
<th>SOURCE DIST-UNIT</th>
<th>CHARGE DIST-UNIT</th>
<th>EXP AUTH NO. PROJECT ID</th>
<th>OBJECT</th>
<th>ALLOCATION AMOUNT</th>
<th>LED</th>
<th>FY</th>
<th>ENCUMBRANCE DOCUMENT NO.</th>
<th>PPNO</th>
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<tr>
<td>03</td>
<td>0274</td>
<td>R331GA 0913000317</td>
<td>7049</td>
<td>($1,152,000) $800,000</td>
<td>6/30/16</td>
<td>15/16</td>
<td>03A0038-15</td>
<td>N/A</td>
</tr>
</tbody>
</table>

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.

Signature of Accounting Officer: [Signature]

Date: 8/18/16

---

(00091104.20)
EXHIBIT D

DISCLOSURE OF LOBBYING ACTIVITIES FORM
FTA CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, ________________________________ hereby certify on
(Name and Title of Contractor)

behalf of ______________________ that:
(Company Name)

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 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.

This certification is a material representation of fact upon which reliance was placed when
this transaction was made or entered into. Submission of this certification is a prerequisite
for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.
Any person who fails to file the required certification shall be subject to a civil penalty of
not less than $10,000 and not more than $100,000 for each such failure.

The Consultant certifies or affirms the truthfulness and accuracy of each statement of its
certification and disclosure, if any. In addition, the contractor understands and agrees that the
provisions of 31 U.S.C. Section 3801 et seq., apply to this certification and disclosure, if any.

Executed this __________ day of ______________________, 20__.

By: ________________________________

Signature of Authorized Official

________________________________________
## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. Section 1352. (See following page for public burden disclosure.)

### 1. Type of Federal Action:
- [ ] Contract
- [ ] Grant
- [ ] cooperative agreement
- [ ] loan
- [ ] loan guarantee
- [ ] loan insurance

### 2. Status of Federal Action:
- [ ] bid/offer/application
- [ ] initial award
- [ ] post award

### 3. Report Type:
- [ ] initial filing
- [ ] material change

For Material Change Only:
- Year:
- Quarter:
- Date of last report:

### 4. Name and Address of Reporting Entity:
- Prime
- Subawardee
- Tier______, if known:
- Congressional District, if known:

### 5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
- Prime
- Subawardee
- Tier______, if known:
- Congressional District, if known:

### 6. Federal Department/Agency:

### 7. Federal Program Name/Description:

### 8. Federal Action Number, if known

### 9. Award Amount, if known:

### 10. a) Name and address of Lobbying Entity
(if individual, last name, first name, MI):

### 11. Amount of Payment (check all that apply):
- $__________ actual
- $__________ planned

### 12. Form of Payment (check all that apply):
- [ ] cash
- [ ] in-kind; specify: nature ________, value ________

### 13. Type of Payment (check all that apply):
- [ ] retainer
- [ ] one-time fee
- [ ] commission
- [ ] contingent fee
- [ ] deferred
- [ ] other; specify: ____________________

### 14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

### 15. Continuation Sheets(s) SF-LLL-A attached:
- [ ] yes
- [ ] no

### 16. Information required through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. section 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: __________________________
Print Name: _________________________
Title: _______________________________
Telephone No.: ______________________
Date: _______________________________

Federal Use Only:

Authorized for Local Reproduction Standard Form - LLL

---

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form must be completed by the reporting entity, whether subawardee or prime federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to 21 U.S.C. Section 1352. The filing of a form is required.
for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer of 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 a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change reports. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subawardee recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants, and contract awards under grants.

5. If the organization filing the report in item 4 checks “Subawardee” then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., “RFP-DE-90-001”.

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform and the date (s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official must sign and date the form, print his/her name, title, and telephone number.
EXHIBIT E

LOCAL MATCH FUNDS

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<th>Amount (Millions)</th>
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</tr>
<tr>
<td>City of Sacramento</td>
<td>$9</td>
</tr>
<tr>
<td>County of Sacramento</td>
<td>$3</td>
</tr>
</tbody>
</table>
THE DESIGN, PROCUREMENT AND CONSTRUCTION AGREEMENT
FOR THE STREETCAR PROJECT
BY AND BETWEEN
RIVERFRONT JOINT POWERS AUTHORITY
AND
SACRAMENTO REGIONAL TRANSIT

__________ __, 2018
THIS DESIGN, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE STREETCAR PROJECT ("Agreement") is entered into on __________ __, 2018 ("Effective Date"), by and between Sacramento Regional Transit ("RT") and the Riverfront Joint Powers Authority, a joint power authority established by the Cities of Sacramento and West Sacramento ("Authority"). RT and the Authority shall each be referred to herein as a “Party” or collectively as “Parties.”

RECITALS

A. The Cities of Sacramento and West Sacramento (each a “City” and collectively, “Cities”) entered into the Joint Exercise of Powers Agreement for the Riverfront Joint Powers Authority ("JPA Agreement") for the purpose, in part, to acquire, plan, design, finance, construct, operate, hold and maintain a fixed-rail streetcar system that will operate within and between the two cities ("Project").

B. The Project is in the design stage and the Authority, in conjunction with the Cities, is working on securing the required funding for the Project.

C. Project funding, through the Federal Transit Administration ("FTA") under a Small Starts Grant Agreement ("SSGA"), requires that the design and construction of the Project be conducted by an entity experienced in the design and construction of rail transit projects.

D. RT has extensive experience in the design, construction and procurement of regional transit projects similar to the Project.

E. It is the desire of the Parties that RT continue to provide design, construction and procurement services for the Project.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

ARTICLE I

DESIGN AND CONSTRUCTION SERVICES

Section 1.1 Services. The Authority appoints RT to provide design, construction and procurement services for the Project which shall include but are not limited to the services set forth in Exhibit A ("Services"). RT agrees to perform the Services in a reasonable, prudent and diligent manner consistent with good practices within the industry. RT will perform the Services in accordance with the schedule attached as Exhibit B ("Schedule") and the budget attached as Exhibit C ("Budget"). RT will have no obligation to perform Services to the extent it will incur costs in excess of $203.5 million, unless the Budget is increased to provide compensation for such Services. Notwithstanding any other term or condition of this Agreement, the Authority shall at all times have and retain ultimate ownership and control over the Project and its management and operations.
Section 1.2  RT Contractors. In providing the Services, RT will obtain the services of numerous contractors (each an “RT Contractor” and collectively, “RT Contractors”). Any RT Invitation to Bid (“ITB”) or Request for Proposal (“RFP”) for a Contractor to provide the services set forth in Exhibit D or otherwise requested in writing by the Authority (“Key Services”), and any agreement awarded pursuant to an ITB or RFP for the Key Services (“Key Agreements”), must be approved in writing by the Authority before the ITB or RFP is advertised and before the Key Agreement is executed by RT and the RT Contractor unless such pre-approval is waived in writing by the Authority. The Authority may not condition its approval of an ITB, RFP or Key Agreement on any matter that is contrary to any term of the Subrecipient Agreement, the SSGA, or any federal or state law. Within 30 days of execution, RT shall provide the Authority with fully executed copies (including all attachments, schedules and exhibits referenced therein) of all RT Contractor agreements (“RT Contractor Agreements”). To the extent applicable based on the nature of the Services, RT Contractor Agreements entered into after the Effective Date must include the contract terms consistent with the provisions of this Section 1.2:

(a) Quality Control. The RT Contractor Agreement shall require that each RT Contractor is responsible for “Quality Control” with respect to the contracted Services and include RT’s standard form quality control clause that is applicable based on the nature of the RT Contractor Agreement. For purposes of the RT Contractor Agreement, Quality Control is to be performed solely by the RT Contractor and constitutes the techniques, activities, checking and verifications that sustain process and product control and measure the performance characteristics during work in-progress and final submittals.

(b) Project Accounting. Upon request by the Authority, RT Contractors shall provide copies of all Project accounting and reports to the Authority that it provides to RT under the RT Contractor Agreement. Any Project accounting or reports that RT is required to also provide to FTA under the SSGA must first be provided to the Authority with sufficient time for the Authority to review and comment.

(c) Ownership of Work. The Authority will have a beneficial ownership interest in all materials, work in progress, and finished goods produced by RT Contractor pursuant to the RT Contractor Agreement (“Work”), for which progress payments have been made. Such beneficial ownership must be free of all encumbrances; if not, RT may obtain a priority lien secured pursuant to appropriate sections of the Uniform Commercial Code and other applicable state laws or local ordinances to secure its title rights. Nevertheless, RT Contractor will be responsible for risk of loss for those items of Work until Final Inspection and Acceptance (as those terms are defined in the Subcontractor Agreement). RT Contractor will be prohibited from placing any mechanics liens or any other encumbrances on any completed Work consistent with all applicable laws.

(d) Performance, Payment and Service Disruption Bonds. Performance, Payment and Service Disruption Bonds (collectively, “Bonds”) will be required of all RT Contractors performing construction services each in an amount no less than one hundred percent (100%) of the project costs for that portion of the work performed by that RT Contractor. The Authority and the Cities shall be named as additional obligees in all Bonds and shall have all rights as obligees and may independently seek to enforce its rights as obligee of all Bonds.
(e) **Permits.** RT Contractor must, before beginning any Work that requires a permit or similar authorization (“**Permit**”), secure and pay for all necessary licenses, fees, bonds, charges, inspections, customs or import duties, permits, and similar authorizations from all governmental authorities required to fulfill the RT Contractor Agreement requirements and RT Contractor’s obligations. Copies of all Permits must be provided to the Authority.

(f) **Modification to RT Contractor Agreements.** RT will promptly notify Authority of any potential contract change orders or amendments to RT Contractor Agreements. Except in the event of an emergency where property or life are at risk, Authority must approve any alteration or modification of an RT Contractor Agreement prior to the execution by RT of the contract change order or amendment or prosecution of any changed work or services. In the event of an emergency, RT may issue a contract change order or amendment only to the extent necessary to eliminate the emergency condition and must provide notice to the Authority at the earliest opportunity. In addition, Authority must approve the termination of any Key Agreement. The Authority will be deemed to have approved a contract change order, amendment, or termination if the Authority does not affirmatively reject the proposed contract change order, amendment or termination within 14 days after receipt of notice from RT.

(g) **Standard Labor Provisions.** All RT Contractor Agreements for public works, as defined by applicable state or federal law, must include RT’s standard labor contract terms in force at the time the specific RT Contractor Agreement is executed and shall provide that the Authority has a right to inspect all payroll records of the RT Contractor. The standard RT labor contract terms in force as of the Effective Date are as set forth in **Schedule 1.2(g).**

(h) **Commencement of Work.** For all Key Agreements that include a project management plan, the Authority must approve in writing the RT Contractor’s project management plan before RT may issue the notice to proceed to the RT Contractor. No material change or modification may be made to any Services, Work or any project management plan without the prior written approval the Authority.

(i) **Inspection and Testing of RT Contractors’ Work.** In RT Contractor Agreement for manufacturing and constructions, RT must include Inspection and Testing provisions that provide the Authority’s designated representative has all the same rights and authority as RT to inspect all RT Contractor Work and to all RT Contractor inspection and testing reports. Notwithstanding the terms and conditions of this Section 1.2(i), while the Authority has the right to inspect all Work it does not have a duty to do so and RT shall remain responsible for the inspection and testing all RT Contractor Works.

(j) **Final Inspection.** RT must include in the final inspection provision attached hereto as **Schedule 1.2(j) (“Final Inspection”)** in all construction agreements. RT may not issue Final Acceptance (as that term is defined in the RT Contractor Agreement), without first obtaining the Authority’s written consent.

(k) **Project Records.** RT must include in the Project Records provision attached hereto as **Schedule 1.2(k) in all construction agreements.** RT must ensure that Authority obtains copies of all Project Records as that term is defined in **Schedule 1.2(k).**
(l) **Insurance Requirements.** RT will ensure that all RT Contractors will have appropriate insurance for their operations (e.g. general liability, auto, professional liability, pollution, property/builders risk). RT must require that RT Contractors include the Authority and the Cities as additional insureds, with the same rights as RT, under all insurance policies required to be maintained by RT Contractor under the RT Contractor Agreements (“**Contractor Insurance Policies**”). RT must provide the Authority copies of all certificates and endorsements of the Contractor Insurance Policies. Each Contractor Insurance Policy must include a waiver of subrogation clause and shall be endorsed to state that RT Contractor’s coverage shall not be canceled, modified, or materially changed except after thirty (30) days’ prior written notice to RT, the Authority and the Cities.

(m) **RT Contractor Representations and Warranties.** All representations and warranties made by RT Contractors under the RT Contractor Agreements must be made directly and jointly to RT, the Authority and the Cities. To the extent any warranty bonds are required under an RT Contractor Agreement, the bond must name the Authority and the Cities as additional obligees.

(n) **RT Contractor Indemnification.** The Authority and the Cities, and their elected officials, directors, officers, employees, successors and assigns, must be named as additional indemnitees under any indemnification provision required of the RT Contractors under any RT Contractor Agreement.

(o) **Authority Participation in Services and Appointment of Owners’ Representative.** Authority will have the right to all documentation, reports, plans, schedules, budgets prepared by RT Contractors in their providing of the Services (“**Contractor Reports**”). Authority and its designees also will have the right to attend any and all meetings between RT and the RT Contractors and RT must notify Authority, if so requested by Authority, of any meetings that are to be held between RT and any RT Contractor. To aid in the efficient prosecution of the Services, Authority must appoint an owner’s representative to provide oversight of RT’s performance of the Services (“**Owner’s Representative**”). Any desired direction or oversight of RT Contractors by the Owner’s Representative must be done in coordination with RT. The Owner’s Representative may not unilaterally direct or control any RT Contractors. Any Authority request for a modification to any RT Contractor Agreement must be directed to RT and not to the RT Contractor. The Authority must provide written documentation to RT regarding the limits of authority of the Owner’s Representative (e.g., which decisions may be made by the Owner’s Representative as opposed to the Authority’s Board).

(p) **Acceptance of Contractor Reports.** Any acceptance by the Authority of any Contractor Reports (whether provided by RT Contractor or RT) shall not be deemed an acceptance of any Services nor shall it serve to waive any representation, warranty or claim the Authority may have under this Agreement or any RT Contractor Agreement.

**Section 1.3 Compensation.** RT shall be compensated for providing the Services as set forth in the Budget. Prior to any compensation being paid to RT, RT shall submit to the Authority an invoice listing in detail all Services provided to RT and the corresponding compensation for such Services (including third-party invoices received and not yet paid) (“**Invoice**”). RT may draw down from Subrecipient Grant (as that term is defined in the Subrecipient Agreement) or the
Authority shall remit payment to RT on undisputed Invoices within thirty (30) days after the Authority has received the Invoice unless the Authority has provided written notice to RT disputing an invoiced amount. Any retention amounts required of RT Contractors under any RT Contractor Agreement will not be released to RT Contractor except upon the written consent of the Authority; RT will provide notices to Authority regarding any request for release of retention. If Authority fails to object to the retention release within fourteen (14) calendar days, Authority will be deemed to have approved the retention release. The parties will work in good faith to resolve any disputed Invoice amounts. Any disputed Invoice amounts that cannot be resolved between the parties, shall be resolved in accordance with the provisions of Article V of this Agreement. The provisions of this Section 1.3 shall apply unless different payment terms are agreed to in writing by the Authority and RT.

Section 1.4  Legal Ownership in Project. The Parties shall execute all agreements and such other documents as are necessary to convey title to all assets acquired for the Project so that all right, title and interest in the Projects assets are ultimately held by the Authority or the Cities, as applicable, with the exception that assets currently owned by RT for its operations that will be used for the Project (including but not limited to tracks, overhead wires, traction power equipment and signaling) will continue to be owned by RT and will be the subject of a shared use agreement. Upon completion of construction, the H street facilities will be conveyed to RT. All other newly-acquired assets will be acquired in the name of the Authority, either through assignment of title or assignment of contracts entered into by RT under this Agreement. To the extent the Cities are contributing pre-existing assets to the construction and operation of the Project (primarily street rights of way), title to those assets will continue to be held by the contributing City, with an appropriate agreement executed, as needed, for use of the asset by RT or the Authority. Attached as Exhibit E is a schedule of assets anticipated to be obtained for the Project.

ARTICLE II

INTERGOVERNMENTAL AGREEMENT

The intent of this Agreement is to identify the Services (as defined in Section 1.1, above), that RT will directly provide or contract to provide as the recipient of the SSGA. The responsibility for these activities will be retained, to the extent specified in this Agreement and the Subrecipient Agreement, by RT as the recipient, rather than being delegated to the Authority as the subrecipient.

ARTICLE III

AUTHORITY AND RESPONSIBILITY OF THE PARTIES

Section 3.1 Compliance with Laws. In performing its obligations under this Agreement, each party must comply with federal, state and local laws, ordinances, regulations, policies and orders (collectively, “Laws”) applicable to each party’s obligations including, without limitation, ensuring its compliance with the provisions of the SSGA and all Laws applicable to the SSGA and the Project as applicable to such party. Each party shall remedy any violation of any Law which occur and for which it is responsible. Each party shall promptly notify the other party in writing of any such material violation and such party shall transmit promptly to the other party
a copy of any citation or other communication received by such party setting forth any such violation.

Section 3.2 Compliance with Obligations. RT must use commercially reasonable efforts to cause the Authority to comply with all terms and conditions contained in any contract, agreement, judicial, administrative or governmental order, law or ruling, lease, mortgage, deed of trust or other contractual or security instrument affecting the Authority in all material respects; provided, however, that, except as otherwise set forth herein, RT shall not be required to make any payment or incur any liability on account thereof. RT shall promptly notify the Authority in writing of any violation of any such instrument or agreement in any material respect.

ARTICLE IV

TERM AND TERMINATION OF AGREEMENT

Section 4.1 Term. Subject to the early termination provisions set forth in this Article IV, the term of this Agreement shall commence on the Effective Date and shall expire on the earlier to occur of (a) RT and the FTA have not entered into an SSGA within two (2) years from the Effective Date; or (b) the FTA’s closeout of the SSGA (“Term”).

Section 4.2 Termination by Agreement. The Parties may mutually agree in writing to terminate the Agreement, provided that the terms of Section 3 of the Subrecipient Agreement regarding termination of this Agreement have been satisfied. For clarification purposes, the applicable provision of Section 3 of the Subrecipient Agreement provides, “The Authority, or its assignee, may not terminate (a) the Design Agreement prior to the completion of design, procurement and construction services being completed, or (b) the O&M Agreement so long this Agreement remains in effect unless, in each case, the Authority and RT have entered into a separate grant management agreement whereby RT will provide the grant management services set forth in this Section 3 and Authority will fully cooperate with and compensate RT its reasonable costs for the performance of such services.” RT agrees that it will negotiate in good faith with the Authority the separate grant management agreement and to accept in the separate grant management reasonable terms and conditions.

Section 4.3 Termination by Default. In the event RT fails to comply with the material terms and conditions of this Agreement, or any other material breach of, or material default under this Agreement, the Authority may terminate the Agreement by providing RT with written notice of its intent to terminate this Agreement (“Default Notice”) and the date of termination of the Agreement which must be at least thirty (30) days after the date upon which the Default Notice is received by RT (“Termination Date”). The Default Notice must provide an explanation of the Default. If the Default is not cured by RT prior to the Termination Date, the Agreement shall terminate provided that the terms of Section 3 of the Subrecipient Agreement regarding termination of this Agreement have been satisfied (see requirements above in Section 4.2). If, however, RT promptly and diligently, cures the Default prior to the Termination Date, then the Default Notice shall have no force or effect and the Authority shall not have the right to terminate this Agreement for the basis set forth in that particular Default Notice.
Section 4.4 Effects of Termination. Upon termination of this Agreement in accordance with the provisions of this Article IV, the following shall apply:

(a) RT shall cease providing all Services as of the Termination Date.

(b) RT shall immediately deliver possession to the Authority (or its designee) of all assets, books and records in its possession associated with the Project and any that are necessary to provide the Services; provided RT may keep a copy of any book or record it may need for its own business, corporate, tax or financial purpose.

(c) If requested by the Authority, RT shall assign existing Project contracts including, without limitation, all Key Agreements to the Authority or its designee.

(d) The Authority shall pay to RT all amounts owed to RT for Services and any other funds or expenses incurred by RT up to and including the Termination Date and reimburse RT or assume responsibility for any outstanding obligations or liabilities of RT owed to third parties as of the Termination Date as a result of providing the Services.

(e) RT shall make itself available to assist in providing transition services at the request of the Authority for a period of three (3) months from the Termination Date (“Transition Services”). The Authority shall pay RT for the actual and total costs to RT in providing the Transition Services, including all administrative costs.

ARTICLE V
DISPUTE SETTLEMENT

Section 5.1 Meet and Confer. In the event of any dispute, controversy, claim, or disagreement arising out of or related to this Agreement or the acts or omissions of the parties with respect to this Agreement (each, a “Dispute”), the Parties shall, as soon as reasonably practicable after one Party gives written notice of a Dispute to the other Party (“Dispute Notice”), meet and confer in good faith regarding such Dispute at such time and place as mutually agreed upon by the Parties. If any Dispute is not resolved to the mutual satisfaction of the Parties within thirty (30) days after delivery of the Dispute Notice (or such other period as may be mutually agreed upon by the Parties in writing), the Parties shall settle such Dispute as otherwise set forth in this Article V.

Section 5.2 Other Proceedings. In the event a Dispute is not resolved by the meet and confer provisions under Section 5.1 above, the Parties may choose any other available legal means to settle the Dispute. Each Party agrees that a violation or threatened violation of this Agreement may cause irreparable injury to the other Party, entitling the other Party to seek injunctive relief in addition to all legal remedies.

Section 5.3 Forum for Legal Action. Any and all legal action that is initiated to enforce any provision of this Agreement or arising out of or related to this Agreement must be brought or filed in either the state or federal court in Sacramento County.
ARTICLE VI

INDEMNITY

Section 6.1  **Mutual Indemnity.** Pursuant to California Government Code Section 895.4:

(1) each party as Indemnitor, must defend, hold harmless and indemnify the other party, as Indemnitee, against any claim, obligation, loss, penalty, fine, demand, damage, cost, expense or liability, including attorneys’ fees, demand for return of all or a portion of the FTA grant funds or any withholding from or denial of any future FTA grant funds (hereafter collectively referred to as “Claim(s)” caused by (i) the breach by Indemnitor of any term or condition of this Agreement; and (ii) the negligent or wrongful act or omission of the Indemnitor (including, without limitation, Indemnitor’s officers, agents or employees) arising out of or resulting from Indemnitor’s performance of this Agreement. For any Claim related to any FTA action on future grant funds, the burden shall be on the Indemnitee to demonstrate, through written evidence from an authorized representative of FTA, that any damage or portion of damage was directly attributable to the Indemnitor’s breach, or negligent or wrongful act or omission; and

(2) if a party is held liable upon any judgment for damages caused by any action giving rise to an indemnification obligation as set forth under Section 6.1(1) and that party pays in excess of its share as determined through application of principles of comparative fault, that party is entitled to a contribution from the other party to the extent of the other party’s comparative fault.

In determining the scope of the indemnity provision above, the parties recognize that in providing the Services, RT is an independent contractor. Nothing in this Agreement shall constitute or be construed as a creation of a partnership, corporation, association for profit, or principal-agent, bailor-bailee, lessor-lessee, franchisor-franchisee, joint venture, or employer-employee relationship between the Parties to the Agreement, or any other relationship among any of the Parties, such that any one Party is liable in any manner for the obligations of any other Party. In all instances, none of RT’s directors, officers, employees, sub-contractors, agents or representatives shall be considered employees of the Authority or either City. Furthermore, none of the Authority’s or Cities’ officers, employees, subcontractors, agents, or representatives shall be considered employees of RT. RT is fully responsible for all claims, wages, commissions, compensation, losses, liabilities, benefits, taxes and withholding due, and all fees, costs, penalties and other amounts in connection with, related to, or asserted by, any of the officers, employees, sub-contractors, agents or representatives of RT.

Section 6.2  **Duty to Defend.** Indemnitor must, upon Indemnitee’s request, defend at its sole cost any suit asserting a Claim covered by this indemnity. The parties must cooperate in the defense of such actions brought by others with respect to the matters covered in this indemnity. In addition, Indemnitor must reimburse Indemnitee for all costs, including reasonable attorney’s fees, associated with efforts to enforce this indemnification provision. In the event of a Claim where it is determined that there exists comparative fault, each party will bear its own costs, including reasonable attorney’s fees.
Section 6.3 Non-Exclusivity/Standard of Care. The foregoing right to indemnity is in addition to, and not exclusive of, any other legal, equitable or statutory right(s) of indemnification or insurance to which a party may be entitled. Nothing set forth in this Agreement establishes a standard of care for, or create any legal rights in, any person not a party to this Agreement.

ARTICLE VII

MISCELLANEOUS

Section 7.1 Time is of the Essence. Time is of the essence for the performance of each of the obligations under this Agreement.

Section 7.2 Third Party Beneficiaries. Each City is a third party beneficiary of this Agreement. Except as provided in the preceding sentence or to the extent a third party is expressly given rights herein, any agreement to pay an amount and any assumption of liability herein contained, expressed or implied, shall be only for the benefit of the Parties and their respective legal representatives, successors and assigns, and such agreement or assumption shall not inure to the benefit of the obligors of any indebtedness of any party whomsoever. It is the intention of the Parties that no person or entity shall be deemed a third party beneficiary of this Agreement except to the extent stated in the first sentence of this Section 7.2.

Section 7.3 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto.

Section 7.4 Notices. Any notice, demand, or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered or three (3) business days after mailed by prepaid certified mail, return receipt requested, addressed or sent to the required party via e-mail as follows:

(a) if to Authority, to:

Name
Address
Attn:_______________________

(b) if to RT, to:

Name
Address
Attn:_______________________

or to such other address and to the attention of such other person or officer as either Party may designate by written notice pursuant to this Section.

Failure to conform to the requirement that mailings be done by registered or certified mail shall not defeat the effectiveness of notice actually received by the addressee.
Section 7.5  Governing Law. The laws of the State of California shall govern this Agreement.

Section 7.6  Assignment. This Agreement shall not, voluntarily or by operation of law, be assigned, transferred, mortgaged, licensed, or otherwise transferred or encumbered by either of the Parties. Any assignment contrary to the provisions of this Agreement shall be deemed a material breach under the Agreement, and any assignment in violation of this provision shall be null and void.

Section 7.7  Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity.

Section 7.8  Waiver of Breach. The failure of a Party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other Party shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment or that right or power for all or any other times.

Section 7.9  Attorneys’ Fees; Prejudgment Interest. If the services of an attorney are required by a Party to secure the performance hereof or otherwise upon the breach or default of the other Party to this Agreement, or if any judicial remedy or arbitration is necessary to enforce or interpret any provision of this Agreement or the rights and duties of any person in relation thereto, the prevailing Party shall be entitled to reasonable attorneys’ fees, costs and other expenses to resolve the dispute and to enforce the final judgment, in addition to any other relief to which such Party may be entitled. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

Section 7.10  Injunctive Relief. Because a Party’s breach of this Agreement may cause the other Party irreparable harm for which money is inadequate compensation, the Parties agree that they will be entitled to injunctive relief to enforce this Agreement, in addition to damages and other available remedies.

Section 7.11  Force Majeure. Neither Party shall be liable nor deemed to be in default for any delay or failure of performance under this Agreement or other interruption of service or employment resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, strikes or other interruptions by either Party’s employees or agents or any similar or dissimilar cause beyond the reasonable control of either Party.

Section 7.12  Severability. In the event any provision of this Agreement is held to be unenforceable for any reason, such provision shall be severable from this Agreement if it is capable of being identified with and apportioned to reciprocal consideration or to the extent that it is a provision that is not essential and the absence of which would not have prevented the parties from entering into this Agreement. The unenforceability of a provision that has been performed shall
not be grounds for invalidation of this Agreement under circumstances in which the true controversy between the parties does not involve such provision.

Section 7.13 Article and Section Headings. The article and section headings contained in this Agreement are for reference purposes only and shall not effect in any way the meaning or interpretation of this Agreement.

Section 7.14 Counterparts and Approvals by the Parties. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same agreement. In the event this Agreement requires the written approval of both Parties including, without limitation any amendment to this Agreement or its Exhibits as set forth in Section 7.15 below, the approvals shall be effective upon the last of the Parties to provide its approval regardless of the sequence or timing of the Parties’ approvals.

Section 7.15 Integration and Amendment. This Agreement, together with all Exhibits and all agreement regarding the Project reference herein, supersedes all previous contracts between the parties and constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement. No oral statement or prior written material not specifically incorporated herein shall be of any force and effect.

Section 7.16 Construction. Whenever the context requires, the gender of all words used herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural.

Section 7.17 References. Unless otherwise specified, the references herein to “Sections” or “Articles” refer to the sections or articles in this Agreement, respectively.

[Signatures to immediately follow.]
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives as of the Effective Date.

AUTHORITY: 

RIVERFRONT JOINT POWERS AUTHORITY

By: ____________________________
Its: ____________________________

RT: 

SACRAMENTO REGIONAL TRANSIT

By: ____________________________
Its: ____________________________
EXHIBIT A
SERVICES

Existing Services
RT has commenced the following services or procurement of the following goods and services under the terms of: (1) the September 4, 2013 Memorandum of Understanding Between the Sacramento Area Council Of Governments and the City of Sacramento, the City of West Sacramento, the Sacramento Regional Transit District, and the Yolo County Transportation District for Planning the Downtown/Riverfront Transit (“Streetcar”) Project; (2) the August 15, 2015 Memorandum of Understanding for Release, Oversight, and Contract Award of The Request(s) for Proposal(s)/Qualification(s) for Advanced Design and Vehicle Procurement for the Downtown/Riverfront Streetcar Project between RT and SACOG; (3) the November 16, 2016 Interagency Project Agreement to Support Design and Engineering of the Downtown Riverfront Streetcar Project; and (4) the July 10, 2017 Interagency and Cost Reimbursement Agreement to Support Small Starts Grant Preparation, Vehicle Maintenance Facility Design, and Specialty Consultant Services for the Downtown Riverfront Streetcar Project. RT will continue providing these services and oversee the performance of these services by third party contactors or consultants, as applicable, during the term of this Agreement:

- Civil, Track and Systems Design (currently being performed by HDR, with RT oversight)
- Vehicle Maintenance Facility (currently being performed by Stantec Architecture, Inc.)
- Streetcar Vehicle Procurement (Proposals have been received and are being evaluated)
- Environmental Support Services
- Construction Management (currently being performed by PGH Wong on a Work Order basis)
- Quality Control/Support

Future Services
The following services and procurements have not yet commenced and will be performed by RT or the RT-selected contractor or consultants, as applicable during the term of this Agreement:

- Civil, Track, Systems, and Station Construction
- Vehicle Maintenance Facility Construction
- Fare Vending Machine Procurement
- Trackwork Procurement
- Non-Revenue Vehicle Procurement
- Radio System Procurement
- Safety Support during construction
- Safety Certification
- Vehicle Inspection
- Project Controls Support
- Risk Support
- Finance support
- Outreach Consultant
• Real Estate Support

The following services may optionally be performed by RT or the RT-selected contractor or consultant upon issuance of a written directive from Authority to RT to perform the services or select a third party consultant to perform the services. Alternatively, Authority may directly contract for these services:

• Marketing Consultant
• Economic Consultant
**EXHIBIT B**

**SCHEDULE**

Below is an overview of the anticipated completion dates for the Project and Services. These dates are provided for reference only and are subject to adjustment. Authority consent is not needed for any adjustment in any anticipated completion date unless the delay will affect the revenue service date, as identified in the SSGA, as it may be modified during the course of performance.

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<th>Schedule Layout</th>
<th>Task Template</th>
<th>Start Date</th>
<th>End Date</th>
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<td><strong>Exhibit B</strong></td>
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Design, Construction and Procurement Agreement
Draft of May 31, 2018
(00085139.20)
EXHIBIT C

BUDGET

The following table identifies the approximate budget for the Project. The parties anticipate that the Services being performed or to be performed by RT or the selected contractor/consultant will not exceed $203.5 million, with the remainder of the Project budget being dedicated to Authority or other third party costs. RT may shift funds between budget line items as needed to perform the Services, but will not be reimbursed under the Subrecipient Agreement for costs in excess of $203.5 million unless and until the Authority approves an amendment to this Budget Exhibit.
## Main Worksheet - Build Alternative

**SACOG / Regional Transit / Cities of Sacramento and West Sacramento**
**Downtown / Riverfront Streetcar Project**

### Engineering

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<th>Item Description</th>
<th>Quantity</th>
<th>Base Year Dollars w/ Contingency (2018)</th>
<th>Base Year Dollars Allocated w/ Contingency (2018)</th>
<th>Base Year Dollars Unit Cost</th>
<th>Base Year Dollars Unit Cost w/ Contingency</th>
<th>Total Project Cost w/ Contingency (2018)</th>
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<td>24,771</td>
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<td>144</td>
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<td>$12,725</td>
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<tr>
<td>70.02 Heavy Rail</td>
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<td>7,011</td>
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<td>$1,115</td>
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<td>$22,707</td>
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<td>80.03 Project Management, Design, and Construction</td>
<td>7,110</td>
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<td>7,810</td>
<td>$1,115</td>
<td>$12,725</td>
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<td>80.04 Construction Administration &amp; Management</td>
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<td>2,216</td>
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<td>$12,725</td>
<td>$22,707</td>
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<td>80.06 Legal Services, Litigation, etc.</td>
<td>217</td>
<td>21</td>
<td>238</td>
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<td>$12,725</td>
<td>$22,707</td>
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<tr>
<td>80.07 Traffic engineering &amp; transportation, etc.</td>
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<tr>
<td>99 UNALLOCATED CONTINGENCY</td>
<td>205,040</td>
<td>20,040</td>
<td>205,080</td>
<td>$29,952</td>
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<td>100%</td>
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<td>100 FINANCE CHARGES</td>
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Note: All amounts are in 2018 dollars.
## Main Worksheet - Build Alternative

**SACOG / Regional Transit / Cities of Sacramento and West Sacramento**

### Downtown / Riverfront Streetcar Project

#### Engineering

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Base Year Dollars w/o Contingency</th>
<th>Base Year Dollars w/ Contingency</th>
<th>Total Year Dollars w/o Contingency</th>
<th>Total Year Dollars w/ Contingency</th>
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<td>21,984</td>
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<td>10.02 Guideway - All-grade exclusive - bicycle</td>
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<tr>
<td>10.03 Guideway - All-grade in mixed traffic</td>
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<tr>
<td>10.04 Guideway - Aerial structure</td>
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<tr>
<td>10.05 Guideway - Rail on RM</td>
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<tr>
<td>10.06 Guideway - Underground rail</td>
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<tr>
<td>10.07 Guideway - Underground tunnel</td>
<td></td>
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<tr>
<td>10.08 Track - Retaliation</td>
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<td>10.09 Track - Direct insertion</td>
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<tr>
<td>10.10 Track - Embedment</td>
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<tr>
<td>10.11 Track - Sidewalk</td>
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<tr>
<td>10.12 Track - Sidewalk &amp; noise deflection</td>
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<td>3,692</td>
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<td>22,649</td>
<td>24,238</td>
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<td>20.02 Aerial station, stop, shelter, rail, terminal, platform</td>
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<tr>
<td>20.03 Underground station, stop, shelter, rail, terminal, platform</td>
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<td><strong>SYSTEMS</strong></td>
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<td>20.05 System, structure, structure, structure</td>
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<tr>
<td>20.06 Vehicle parking and storage structure</td>
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<tr>
<td><strong>SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BUILDINGS</strong></td>
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<td></td>
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<tr>
<td>20.08 Light Maintenance Facility</td>
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<tr>
<td>20.09 Heavy Maintenance Facility</td>
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<tr>
<td>20.10 Storage or Maintenance of Way Building</td>
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<tr>
<td>20.11 Yard and Yard Track</td>
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<tr>
<td>20.12 Track - commercial one</td>
<td></td>
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<tr>
<td>20.13 Support &amp; Special Conditions</td>
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<tr>
<td><strong>SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BUILDINGS</strong></td>
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<tr>
<td>20.07 Administration Building: Office, sales, ticketing, revenue counting</td>
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<td>20.08 Light Maintenance Facility</td>
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<td>20.09 Heavy Maintenance Facility</td>
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<tr>
<td>20.10 Storage or Maintenance of Way Building</td>
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<tr>
<td>20.11 Yard and Yard Track</td>
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<tr>
<td>20.12 Track - commercial one</td>
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<tr>
<td>20.13 Support &amp; Special Conditions</td>
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<tr>
<td><strong>SYSTEMS</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>20.01 System, structure, structure, structure</td>
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<tr>
<td>20.06 Vehicle parking and storage structure</td>
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<tr>
<td>70.01 Light Rail</td>
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<tr>
<td>70.02 Heavy Rail</td>
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<tr>
<td>70.03 Commuter Rail</td>
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<td>70.04 Bus</td>
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<td>70.05 Other</td>
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<td><strong>PROFESSIONAL SERVICES (applies to Cats. 10-50)</strong></td>
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<td></td>
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<td>80.01 Project Development</td>
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<td>80.03 Project Management for Design and Construction</td>
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<td>80.04 Construction Administration &amp; Management</td>
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<td>80.05 Professional Liability and Other Non-Construction Insurance</td>
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<td>80.06 Legal, Planning, Social Benefits by new agencies, others, etc.</td>
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<tr>
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<td>22,041</td>
<td>153,784</td>
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<td><strong>Total Project Cost ($10 - 100)</strong></td>
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<td>29,023</td>
<td>100%</td>
<td>100%</td>
<td>206,641</td>
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<tr>
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<tr>
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<tr>
<td><strong>Total Project Cost ($10 - 100)</strong></td>
<td>206,641</td>
<td>29,023</td>
<td>100%</td>
<td>100%</td>
<td>206,641</td>
</tr>
</tbody>
</table>

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Design, Construction and Procurement Agreement
Draft of May 31, 2018

(00085139.20)
EXHIBIT D

KEY AGREEMENTS

Both the solicitation documents and resulting contracts for the following activities must be reviewed and approved by the Authority prior to advertising by RT or execution of the resulting contract, as applicable:

- Vehicle Procurement
- Civil Track and Systems Construction
- Vehicle Maintenance Facility Construction
- Fare Vending Machine Procurement
- Special Trackwork
- Non-Revenue Vehicles
- Radio System
- Any other solicitation with an estimated contract value of $100,000 or above
EXHIBIT E

PROJECT ASSET LIST WITH IDENTIFICATION OF OWNERSHIP

ASSETS BY SCC

1. SCC 10 – Embedded Track / Special Trackwork
2. SCC 20 – Station Amenities
3. SCC 30 – Vehicle Maintenance Facility (VMF)
4. SCC 30 – Yard and Yard Track
5. SCC 50 – Train Control / Signals / Crossing Protection
6. SCC 50 – Substations
7. SCC 50 – Communications Equipment
8. SCC 50 – Fare Vending Machines / Equipment
9. SCC 60 – Right of Way
10. SCC 70 – Vehicles / Spare Parts
SCHEDULE 1.2

RT CONTRACTOR AGREEMENT TERMS AND CONDITIONS

Capitalized terms used but not defined in this Schedule 1.2 shall have such meaning as set forth in the Agreement to which this Schedule 1.2 is attached.

Schedule 1.2(g). Prevailing Wage

A. Hours of Labor/Overtime.

Eight hours labor constitutes a legal day’s work. Contractor will forfeit, as a penalty to RT, $25 for each worker employed in the performance of the work by Contractor or any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any 1 calendar day and 40 hours in any 1 calendar week, unless compensation for all hours worked in excess of 8 hours per day and 40 hours per week is paid at not less than 1 ½ times the basic rate of pay. (Labor Code Sections 1810-1815 and Title 8, California Code of Regulations, Sections 16000-16403). If the prevailing wage determination requires a higher rate of pay for overtime work than is required under Labor Code Section 1815, the higher overtime rate must be paid as required under the implementing regulations. (Title 8, California Code of Regulations, Sections 16100(b)(8) and 16200(a)(3)).

B. Prevailing Wage Rates.

Contractor and its subcontractors must pay not less than the prevailing wage to all workers. (Labor Code Sections 1771 and 1774 and Title 8, California Code of Regulations, Section 16100(c)). No person, including Contractor and its subcontractors at any tier, may take or receive any portion of a workers’ wage or accept a fee in connection with a public works project as proscribed under Labor Code Sections 1778 and 1779.

Copies of the prevailing rate of per diem wages for each craft, classification or type of worker needed to perform the work are on file at RT’s office at 2811 “O” Street, Sacramento, CA 95816. A copy will be made available to any interested Bidder upon request (Labor Code Section 1773.2). Changes in general prevailing wage determinations must apply to the Project when issued by the Director of Industrial Relations at least 10 days prior to the date of issuance of the Notice of Invitation to Bid for this Work. (Labor Code Section 1773.6 and Title 8, California Code of Regulations, Section 16204).

Contractor must post a copy of the prevailing rate of per diem wages at each Project site. (Labor Code Section 1773.2).

Pursuant to Labor Code Section 1740, for federally-funded contracts, wage rates are subject to modification to comply with revisions in the federal minimum wage schedule.

RT will not recognize any claim for additional compensation due to the payment by Contractor of any wage rate in excess of the prevailing wage rates applicable to this Contract. The
possibility of wage increases is one of the elements to be considered by Contractor in determining its Bid.

Pursuant to Labor Section 1775, Contractor will forfeit to RT a penalty in an amount up to $200, as determined by the Labor Commissioner, for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any public work done under this Contract by him/her or by any subcontractor under him/her.

C. Payroll Records.

Contractor is solely responsible for compliance with the payroll recordation requirements set out in Labor Code Section 1776. Contractor and its subcontractors at any tier must keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by it in connection with this Contract. (Labor Code Section 1812). Additional provisions and requirements pertaining to payroll record administration follow:

Each week, Contractor and all subcontractors must submit electronic certified payroll records to the DIR in accordance with Section 3.5.1 and Section 6.8.5. Payroll records must be submitted on forms approved by the DIR that contain not less than the requirements set out in Labor Code Section 1776 and 29 C.F.R. Sec. 5.5(a)(3)(i) (Title 8, California Code of Regulations, Section 16401). Unless another verification form is required by the DIR, each payroll record must be verified using the verification form set out in the regulations implementing Labor Code Section 1776. (See Title 8, California Code of Regulations, Section 16401). Contractor is responsible for submission of copies of payroll records of all subcontractors.

Upon reasonable written or oral notice, RT representatives must be permitted to inspect the original payroll records of Contractor and its subcontractors at any tier. (Title 8, California Code of Regulations, Section 16400(e)). Payroll records include all time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidence that reflects job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works Project. (Title 8, California Code of Regulations, Section 16000).

The penalties specified in Labor Code Section 1776(g) for noncompliance with the provisions of said Section 1776 will be withheld from progress payments due or that may become due to Contractor if the Division of Labor Standards Enforcement or the Division of Apprenticeship Standards of the Department of Industrial Relations requests RT to withhold such penalties. Specifically, RT will withhold $100 per day if Contractor does not comply with a request to produce payroll records within 10 days. This is not a “retention,” but a permanent deduction as a penalty.

Contractor and each subcontractor must preserve its payroll records for a period of 3 years from the date of completion of the contract or the written acceptance of the work by RT, whichever is later.
D. **Employment of Apprentices.**

Contractor is solely responsible for compliance with the apprenticeship requirements set out in Labor Code Section 1777.5. Contractor may not refuse to accept otherwise qualified employees as registered apprentices on any public works, on the ground of the race, religious creed, color, national origin, ancestry, sex or age of such employee, except as provided in Labor Code Section 3077. (Labor Code Sections 1777.5, 1777.6 and 1777.7; Title 8, California Code of Regulations, Section 200 et seq.). To ensure compliance and complete understanding of the law regarding apprentices, and specifically the required ratio thereunder, Contractor or subcontractor should, where questions exist, contact the California Apprenticeship Council prior to commencement of work on this Contract.

E. **Enforcement of Prevailing Wage Requirements.**

If this Contract provides for the maintenance of a public work within the meaning of Labor Code Section 1771, it is subject to the prevailing wage requirements contained in that Section. Contractor must comply with all prevailing wage requirements for public works contracts (Labor Code Section 1770 et seq.) notwithstanding that this Contract may not otherwise be subject to all such requirements. RT may enforce the prevailing wage requirement in the manner provided in the above Labor Code provisions.

F. **Workers’ Compensation.**

Pursuant to Labor Code Section 1860, Contractor must secure the payment of workers’ compensation to its employees in accordance with the provisions of Labor Code Section 3700. Prior to the commencement of work, Contractor must sign and file with RT, Director of Civil and Track Design a certification in the following form as set forth in Labor Code Section 1861:

“I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

This certification is hereby incorporated in the Contract and execution of the Contract by Contractor will constitute the signing and filing of said certificate.

G. **Subcontracts.**

Contractor must insert in all of its subcontracts the clauses set forth in this Section 1.2(g) “Labor Provisions” and also a clause requiring its subcontractors to include these clauses in any lower-tier subcontracts. Contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Schedule 1.2(g) “Labor Provisions.”
Schedule 1.2(j). Final Inspection

When Contractor considers that all of the Work, or any discrete portion of the Work, covered under this Contract is nearing final completion, Contractor must so inform RT and the Authority in writing and request a punchlist. If RT and the Authority concur that all of the Work, or any discrete portion of the Work is nearing completion, RT will, within 30 days after the request, prepare a punchlist identifying all non-conformities or incomplete items. If RT or the Authority does not believe that the Work, or any discrete portion thereof is nearing completion, RT or the Authority may reject the request for a punchlist. The punchlist is intended to aid Contractor in completion of the Work, but is not an exhaustive list of all non-conformities or incomplete items and does not waive RT’s or the Authority’s right to later assert that additional Work is required. Contractor must correct or replace unsatisfactory, incomplete or unacceptable Work and complete such Work within 30 days. For items of Work not completed by Contractor within 30 days, RT may proceed to have the items corrected or completed using RT or third-party forces. The costs of such corrections will be deducted from compensation due Contractor.

Title to such rejected Work and risk of loss will remain with Contractor, and Contractor must correct all defects or damage at its sole cost and expense.

Final Acceptance of all of the will occur after successful completion of all testing and punchlist items and the correction of a defects and damaged Work, and RT’s determination and the Authority’s concurrence that the Work conforms to the Contract requirements. RT will inform Contractor of such acceptance of the Work by RT and the Authority by issuing a Letter of Final Acceptance. After RT has finally accepted the Work, Contractor will be relieved of the duty of maintaining and protecting the accepted Work. Such Final Acceptance of the Work will not relieve Contractor from responsibility for errors, improper fabrication, non-conformance to a Contract requirement, latent defects, or for deficiencies within Contractor’s control. Unless otherwise stipulated, all warranties begin with the date of Final Acceptance. Coincident with such Final Acceptance, RT will record a Notice of Completion.

Schedule 1.2(k). Project Records

Contractor must maintain comprehensive records and documentation relating to this Project. The records must include, but are not limited to, Contract Documents, Drawings, Technical Specifications, Addenda, Working and Shop Drawings and submittals, including review comments from RT; training records (if applicable); Contract Change Orders and claims (including all related communications and dispute resolution proceedings); Project Schedule and updates; Requests for Information; Quality Records and audits; communications; minutes from meetings; insurance policies and correspondence; safety, injury, damage, and incident reports; Hazardous Materials manifests; As-Built Plans with all accompanying documentation (showing all changes); cost and pricing data, reflecting all costs incurred in performing the Project; and copies of all warranties for products incorporated into the Project (collectively, “Project Records”). All Project Records or copies thereof (excepting cost and pricing data) must be kept at the Project site.
Prior to Final Acceptance, Contractor must provide RT and the Authority with a full set (excluding cost and pricing data) of the Project Records in hard-copy format. In addition, Contractor must provide RT and the Authority with electronic copies, in their native file format, of all Project Records stored electronically by Contractor.

Contractor must maintain a complete set of records relating to this Contract for a period of 7 years from final payment for this Work. All cost and price records must be complete and in sufficient detail to allow for future audits.
THE OPERATIONS AND MAINTENANCE AGREEMENT
FOR THE STREETCAR PROJECT
BY AND BETWEEN
RIVERFRONT JOINT POWERS AUTHORITY
AND
SACRAMENTO REGIONAL TRANSIT

_______ __, 2018
THIS OPERATIONS AND MAINTENANCE AGREEMENT FOR THE STREETCAR PROJECT ("Agreement") is entered into effective as of this ___ day of __________, 2018 ("Effective Date"), by and between Sacramento Regional Transit ("RT") and the Riverfront Joint Powers Authority, a joint power authority established by the Cities of Sacramento and West Sacramento ("Authority"). RT and the Authority shall each be referred to herein as a “Party” or collectively as “Parties.”

RECITALS

WHEREAS, the City of Sacramento and the City of West Sacramento (each a “City” and collectively, “Cities”) entered into the Joint Exercise of Powers Agreement for the Riverfront Joint Powers Authority ("JPA Agreement") for the purpose, in part, to acquire, plan, design, finance, construct, operate, hold and maintain a fixed-rail streetcar system that will operate within and between the two cities (“Project”);

WHEREAS, the Project is nearing the completion of the design stage and the Authority, in conjunction with the Cities, is working on securing the required funding for the Project;

WHEREAS, RT has extensive experience in the operations and maintenance of regional transit projects similar to the Project;

WHEREAS, it is the expectation of the Authority that the Project will be operational and public ridership on the streetcars will begin in 2022;

WHEREAS, Project funding through the Federal Transit Administration ("FTA") under a Small Starts Grant Agreement ("SSGA") requires that operation and maintenance for the Project be conducted by an entity experienced in the operation and maintenance of rail transit projects; and

WHEREAS, it is the desire of the Parties that RT provide certain operation and maintenance services for the Project as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

ARTICLE I

OPERATIONS AND MAINTENANCE SERVICES

Section 1.1 Appointment. The Authority hereby appoints RT to provide operation and maintenance services for the Project. Exhibit A identifies the Parties’ understanding of the activities and services that need to be provided for operation of the Project. Not later than thirty-six (36) months prior to the planned commencement of revenue service ("Budget Methodology Due Date"), RT will provide the Authority with its proposed methodology for developing an annual budget and RT’s proposed methodology for payment of the Services (as defined below) to RT by the Authority (collectively, “Budget Methodologies”). Not later than twenty-four (24)
months prior to the planned commencement of revenue service ("Initial Budget Due Date"), the Parties will complete development of a detailed agreement to define the roles, responsibilities and expectations regarding the operation and maintenance of the Project and the annual budget for the first twelve months of the Services ("Initial Budget"). In the event the parties cannot reach agreement on a Budget Methodology or the Initial Budget within sixty (60) days of the Budget Methodology Due Date or the Initial Budget Due Date, respectively, either party may seek to resolve the impasse through non-binding arbitration under the procedures set forth in Exhibit B. In developing the budget and methodology for payment, unbudgeted cost overruns that are not caused by failure of RT or its contractors to diligently perform the Services will be the responsibility of the Authority and, if not satisfied by the Authority, will be the responsibility of the Cities jointly, as specified in the Subrecipient and Interagency Agreement for Streetcar Funding ("Subrecipient Agreement"). Those activities and responsibilities ultimately assigned to RT which initially shall include, at a minimum, all services listed on Exhibit A except customer service and marketing, and shall not include the setting of fares which shall remain the responsibility of the Authority with oversight by RT, will be referred to in this Agreement as the "Services". Notwithstanding any other term or condition of this Agreement, the Authority shall at all times have and retain ultimate ownership and control over the Project and its management and operations.

Section 1.2 Acceptance. RT hereby accepts the appointment and agrees to perform the Services in a reasonable, prudent and diligent manner consistent with good practices within the industry. The Authority shall reimburse RT for its commercially reasonable costs in providing the Services pursuant to terms and conditions established under Section 1.1, consistent with the SSGA and all other Laws (as that term is defined below). If RT determines, based on the adopted Authority budget, that insufficient funding is available for the performance of all Services for the upcoming fiscal year, the Parties will engage in the meet and confer process set out in Section 5.1 to resolve any disagreement between the Parties. If any invoice submitted by RT consistent with the adopted annual budget remains unpaid due to unavailability of funds, and not due to a legitimate dispute regarding costs, after compliance with the process set out in Section 5.1, RT may unilaterally reduce Services as needed to match the available funds and proceed toward a termination for default.

Section 1.3 Legal Ownership in Project. The Parties shall execute all agreements and such other documents as is necessary to convey title to all assets acquired for the Project so that all right, title and interest in the Project assets are ultimately held by the Authority or the Cities, as applicable. All newly-acquired assets will be acquired in the name of the Authority. To the extent the Cities are contributing pre-existing assets to the construction and operation of the Project, title to those assets will continue to be held by the contributing City, with an appropriate agreement executed, as needed, for use of the asset by RT or the Authority.

ARTICLE II

INDEPENDENT CONTRACTOR STATUS

RT will act as an independent contractor in performing this Agreement. Nothing in this Agreement shall constitute or be construed as a creation of a partnership, corporation, association for profit, or principal-agent, bailor-bailee, lessor-lessee, franchisor-franchisee, joint venture, or
employer-employee relationship between the Parties to the Agreement, or any other relationship among the Parties, such that any one Party is liable in any manner for the obligations of the other Party. In all instances, none of RT’s officers, employees, sub-contractors, agents or representatives shall be considered employees of the Authority or either City. Furthermore, none of the Authority’s or either Cities’ officers, employees, subcontractors, agents, or representatives shall be considered employees of RT. RT is fully responsible for all claims, wages, commissions, compensation, losses, liabilities, benefits, taxes and withholding due, and all fees, costs, penalties and other amounts in connection with, related to, or asserted by, any of the officers, employees, sub-contractors, agents or representatives of RT.

ARTICLE III

AUTHORITY AND RESPONSIBILITY OF RT

Section 3.1 Compliance with Laws. RT must comply with federal, state and local laws, ordinances, regulations, policies and orders (collectively, “Laws”) relative to the providing of the Services and the operation and maintenance of the Project including, without limitation, ensuring all Services comply with the provision of the SSGA and all Laws applicable to the SSGA and the Project. RT shall remedy any violation of any Law which occur and for which it is responsible. RT shall promptly notify the Authority in writing of any such material violation and RT shall transmit promptly to the Authority a copy of any citation or other communication received by RT setting forth any such violation.

Section 3.2 Compliance with Obligations. RT must use commercially reasonable efforts to cause the Authority to comply with all terms and conditions contained in any contract, agreement, judicial, administrative or governmental order, law or ruling, lease, mortgage, deed of trust or other contractual or security instrument affecting the Authority in all material respects; provided, however, that, except as otherwise set forth herein, RT shall not be required to make any payment or incur any liability on account thereof. RT shall promptly notify the Authority in writing of any violation of any such instrument or agreement in any material respect.

ARTICLE IV

TERM AND TERMINATION OF AGREEMENT

Section 4.1 Term. The term of this Agreement shall commence on the Effective Date and shall expire on the earliest to occur of (a) RT and the FTA have not entered into an SSGA within two (2) years from the Effective Date; or (b) the Agreement is terminated as provided in Sections 4.2, 4.3 or 4.4 (“Term”); provided that in all cases of termination under Sections 4.2, 4.3 or 4.4, prior to the effective date of the termination (1) RT determines, in the scope of its role of ensuring grant compliance under the Subrecipient Agreement, that a suitable replacement operator has been engaged and operations will continue seamlessly in compliance with the SSGA; and (2) the terms of Section 3 of the Subrecipient Agreement requiring that RT and the Authority enter into a separate grant management agreement have been satisfied. No termination of this Agreement will be effective or valid until RT has made the determination set forth above in subsection (b)(1) of this Section 4.1, which determination may not be unreasonably withheld, conditioned, or delayed.
Section 4.2  **Termination by Agreement.** The Parties may mutually agree in writing to terminate the Agreement.

Section 4.3  **Termination by Default.** In the event RT fails to comply with the material terms and conditions of this Agreement, or any other material breach of, or material default under, this Agreement, the Authority may terminate the Agreement by providing RT with written notice of its intent to terminate this Agreement (“Default Notice”) and the date of termination of the Agreement which must be at least thirty (30) days after the date upon which the Default Notice is received by RT (“Termination Date”). The Default Notice must provide an explanation of the Default. If the Default is not cured by RT prior to the Termination Date, the Agreement shall terminate. If, however, RT promptly and diligently, cures the Default prior to the Termination Date, then the Default Notice shall have no force or effect and the Authority shall not have the right to terminate this Agreement for the basis set forth in that particular Default Notice.

Section 4.4  **Termination Without Cause.** Notwithstanding any other provision in this Agreement, either Party may terminate this Agreement by providing the other Party no less than one hundred eighty (180) days’ prior written notice of such termination (“No Cause Termination Notice”). The No Cause Termination Notice must include the date the Agreement terminates and RT is to cease providing all Services (“Termination Date.”)

Section 4.5  **Effects of Termination.** Upon termination of this Agreement in accordance with the provisions of this Article IV, the following shall apply:

(a)  RT shall cease providing all Services as of the Termination Date.

(b)  RT shall immediately deliver possession to the Authority (or its designee) of all assets, books and records in its possession associated with the Project and any that are necessary to provide the Services.

(c)  If requested by the Authority, RT shall assign existing Project contracts to the Authority or its designee.

(d)  The Authority shall pay to RT all amounts owed to RT for Services and any other funds or expenses incurred by RT up to and including the Termination Date and reimburse RT or assume responsibility for any outstanding obligations or liabilities of RT owed to third parties as of the Termination Date as a result of providing the Services.

(e)  RT shall make itself available to assist in providing transition services at the request of the Authority for a period of three (3) months from the Termination Date (“Transition Services”). The Authority shall pay RT for the actual and total costs to RT in providing the Transition Services, including all administrative costs.

**ARTICLE V**

**DISPUTE SETTLEMENT**

Section 5.1  **Meet and Confer.** In the event of any dispute, controversy, claim, or disagreement arising out of or related to this Agreement or the acts or omissions of the parties with
respect to this Agreement (each, a “Dispute”), the Parties shall, as soon as reasonably practicable after one Party gives written notice of a Dispute to the other Party (“Dispute Notice”), meet and confer in good faith regarding such Dispute at such time and place as mutually agreed upon by the Parties. If any Dispute is not resolved to the mutual satisfaction of the Parties within thirty (30) days after delivery of the Dispute Notice (or such other period as may be mutually agreed upon by the Parties in writing), the Parties shall settle such Dispute as otherwise set forth in this Article V. Note the requirement to meet and confer as set forth in this Section 5.1 shall not apply to non-binding arbitration between the parties for budget-purposes initiated under the terms set forth in Section 1.1 above.

**Section 5.2 Other Proceedings.** In the event a Dispute is not resolved by the meet and confer provisions under Section 5.1 above, the Parties may choose any other available legal means to settle the Dispute. Each Party agrees that a violation or threatened violation of this Agreement may cause irreparable injury to the other Party, entitling the other Party to seek injunctive relief in addition to all legal remedies.

**Section 5.3 Forum for Legal Action.** Any and all legal action that is initiated to enforce any provision of this Agreement or arising out of or related to this Agreement must be brought or filed in either the state or federal court in Sacramento County.

**ARTICLE VI**

**INDEMNITY**

**Section 6.1 Mutual Indemnity.** Pursuant to California Government Code Section 895.4:

1. each party as Indemnitor, must defend, hold harmless and indemnify the other party, as Indemnitee, against any claim, obligation, loss, penalty, fine, demand, damage, cost, expense or liability, including attorneys’ fees, demand for return of all or a portion of the FTA grant funds or any withholding from or denial of any future FTA grant funds (hereafter collectively referred to as “Claim(s)”) caused by (i) the breach by Indemnitor of any term or condition of this Agreement; and (ii) the negligent or wrongful act or omission of the Indemnitor (including, without limitation, Indemnitor’s officers, agents or employees) arising out of or resulting from Indemnitor’s performance of this Agreement. For any Claim related to any FTA action on future grant funds, the burden shall be on the Indemnitee to demonstrate, through written evidence from an authorized representative of FTA, that any damage or portion of damage was directly attributable to the Indemnitor’s breach, or negligent or wrongful act or omission; and

2. if a party is held liable upon any judgment for damages caused by any action giving rise to an indemnification obligation as set forth under Section 6.1(1) and that party pays in excess of its share as determined through application of principles of comparative fault, that party is entitled to a contribution from the other party to the extent of the other party’s comparative fault.

In determining the scope of the indemnity provision above, the parties recognize that in providing the Services, RT is an independent contractor. Nothing in this Agreement shall constitute or be construed as a creation of a partnership, corporation, association for profit, or
principal-agent, bailor-bailee, lessor-lessee, franchisor-franchisee, joint venture, or employer-employee relationship between the Parties to the Agreement, or any other relationship among any of the Parties, such that any one Party is liable in any manner for the obligations of any other Party. In all instances, none of RT’s directors, officers, employees, sub-contractors, agents or representatives shall be considered employees of the Authority or either City. Furthermore, none of the Authority’s or Cities’ officers, employees, subcontractors, agents, or representatives shall be considered employees of RT. RT is fully responsible for all claims, wages, commissions, compensation, losses, liabilities, benefits, taxes and withholding due, and all fees, costs, penalties and other amounts in connection with, related to, or asserted by, any of the officers, employees, sub-contractors, agents or representatives of RT.

Section 6.2 Duty to Defend. Indemnitor must, upon Indemnitee’s request, defend at its sole cost any suit asserting a Claim covered by this indemnity. The parties must cooperate in the defense of such actions brought by others with respect to the matters covered in this indemnity. In addition, Indemnitor must reimburse Indemnitee for all costs, including reasonable attorney’s fees, associated with efforts to enforce this indemnification provision. In the event of a Claim where it is determined that there exists comparative fault, each party will bear its own costs, including reasonable attorney’s fees.

Section 6.3 Non-Exclusivity/Standard of Care. The foregoing right to indemnity is in addition to, and not exclusive of, any other legal, equitable or statutory right(s) of indemnification or insurance to which a party may be entitled. Nothing set forth in this Agreement establishes a standard of care for, or create any legal rights in, any person not a party to this Agreement.

ARTICLE VII

MISCELLANEOUS

Section 7.1 Time is of the Essence. Time is of the essence for the performance of each of the obligations under this Agreement.

Section 7.2 Third Party Beneficiaries. Each City is a third party beneficiary of this Agreement. Except as provided in the preceding sentence or to the extent a third party is expressly given rights herein, any agreement to pay an amount and any assumption of liability herein contained, expressed or implied, shall be only for the benefit of the Parties and their respective legal representatives, successors and assigns, and such agreement or assumption shall not inure to the benefit of the obligors of any indebtedness of any party whomsoever. It is the intention of the Parties that no person or entity shall be deemed a third party beneficiary of this Agreement except to the extent stated in the first sentence of this Section 7.2.

Section 7.3 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto.

Section 7.4 Notices. Any notice, demand, or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered or three
(3) business days after mailed by prepaid certified mail, return receipt requested, addressed as follows:

(a) if to Authority, to:

Name
Address
Attn: ________________________

(b) if to RT, to:

Name
Address
Attn: ________________________

or to such other address and to the attention of such other person or officer as either Party may designate by written notice pursuant to this Section.

Failure to conform to the requirement that mailings be done by registered or certified mail shall not defeat the effectiveness of notice actually received by the addressee.

Section 7.5 Governing Law. The laws of the State of California shall govern this Agreement.

Section 7.6 Assignment. This Agreement shall not, voluntarily or by operation of law, be assigned, transferred, mortgaged, licensed, or otherwise transferred or encumbered by either of the Parties. Any assignment contrary to the provisions of this Agreement shall be deemed a material breach under the Agreement, and any assignment in violation of this provision shall be null and void.

Section 7.7 Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity.

Section 7.8 Waiver of Breach. The failure of a Party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other Party shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment or that right or power for all or any other times.

Section 7.9 Attorneys’ Fees; Prejudgment Interest. If the services of an attorney are required by a Party to secure the performance hereof or otherwise upon the breach or default of the other Party to this Agreement, or if any judicial remedy or arbitration is necessary to enforce or interpret any provision of this Agreement or the rights and duties of any person in relation thereto, the prevailing Party shall be entitled to reasonable attorneys’ fees, costs and other expenses to resolve the dispute and to enforce the final judgment, in addition to any other relief to which such Party may be entitled. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of
prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

Section 7.10  Injunctive Relief. Because a Party’s breach of this Agreement may cause the other Party irreparable harm for which money is inadequate compensation, the Parties agree that they will be entitled to injunctive relief to enforce this Agreement, in addition to damages and other available remedies.

Section 7.11  Force Majeure. Neither Party shall be liable nor deemed to be in default for any delay or failure of performance under this Agreement or other interruption of service or employment resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, strikes or other interruptions by either Party’s employees or agents or any similar or dissimilar cause beyond the reasonable control of either Party.

Section 7.12  Severability. In the event any provision of this Agreement is held to be unenforceable for any reason, such provision shall be severable from this Agreement if it is capable of being identified with and apportioned to reciprocal consideration or to the extent that it is a provision that is not essential and the absence of which would not have prevented the parties from entering into this Agreement. The unenforceability of a provision that has been performed shall not be grounds for invalidation of this Agreement under circumstances in which the true controversy between the parties does not involve such provision.

Section 7.13  Article and Section Headings. The article and section headings contained in this Agreement are for reference purposes only and shall not effect in any way the meaning or interpretation of this Agreement.

Section 7.14  Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same agreement.

Section 7.15  Integration and Amendment. This Agreement supersedes all previous contracts between the parties and constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement. No oral statement or prior written material not specifically incorporated herein shall be of any force and effect. This Agreement may not be amended except by a writing duly executed by all of the Parties to this Agreement.

Section 7.16  Construction. Whenever the context requires, the gender of all words used herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural.

Section 7.17  References. Unless otherwise specified, the references herein to “Sections” or “Articles” refer to the sections or articles in this Agreement, respectively.

[Signatures to immediately follow.]
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives as of the Effective Date.

AUTHORITY:  
RIVERFRONT JOINT POWERS AUTHORITY

By: _______________________________
Its: _______________________________

RT:  
SACRAMENTO REGIONAL TRANSIT

By: _______________________________
Its: _______________________________
EXHIBIT A

OPERATION AND MAINTENANCE SERVICES

The following is a list of main operations and maintenance services for the Project.

Operations, Supervision and Administration

- Operator Staffing
- Operator Check-in, Fitness-for-Duty Checks
- Operator Administration & Scheduling
- Streetcar Personnel (O&M) Payroll
- Office Management
- Operations Supervision
- Control: Traction Power Control
- Control: Train Movement & Direction
- Scheduling and Run Cuts
- Special Events & Charter Service Approval
- Special Events & Charter Service Operation
- Recruitment and Training - Operations
- Rules Development
- Procedures Development
- Rules and Procedures Compliance Checks
- Track Access
- Track Access Utility Markouts/Permitting Coordination
- Track Access Training
- Research & Analysis, Special Surveys and Analyses, etc.
- Ride Checks, Passenger Counts, & Other Operating Measures
- National Transit Database Reporting
- Service Quality and Reporting, Service Planning
- Asset Management and Reporting

Maintenance

- Maintenance Staffing
- Track and Track Switch Inspection and Preventive Maintenance
- Track and Track Switch Repairs
- Signals/Traffic: Streetcar-Specific in Right-of-Way
- Signals/Traffic: Transmission to City Box
- Signals/Traffic: City Signals
- Signals/Traffic: Streetcar-Specific Signals
- Signals/Traffic: Streetcar-Specific, Right-of-Way, and Bike Signs
- Signals/Traffic: Streetcar Sensors & Transmission, Detection/Priority Equipment
- Signals/Traffic: Carborne Sensors, Transmission Signal Devices
- Utility Entrances, Enforcement of Maintenance Standards for Manholes Etc.
- Pavement in Right-of-Way
- Right-of-Way Maintenance: Signs and Pavement Markings Inspection & Maintenance
- Right-of-Way Maintenance: Streetcar Wayfinding Signs and Maes
- Right-of-Way Cleaning: Street sweeping
- Right-of-Way Cleaning: Switches and Drains
- Right-of-Way Cleaning: Emergency
- Right-of-Way Cleaning: Special Events Trash & Cleanup
- Right-of-Way Towing: Disabled and Double-Parked Autos
- Right-of-Way Towing: Disabled Streetcars
- Station, Shelter, and Stop Cleaning
- Station, Shelter, and Stop Repairs
- Substations Testing and Preventive Maintenance
- Substations Repair OCS/Contact Visual Inspection
- OCS/Contact Repair and Hands-On Inspection
- OCS/Contact Poles
- OCS/Contact Span/Contact, Hardware, Insulators
- OCS/Contact Third-Party Fixation, Building Tieoffs
- Radio System Provision
- Radio System Maintenance
- Fare Equipment Provision
- Fare Equipment Supplies
- Fare Equipment Maintenance
- Fare System Back-Office (Computer System)
- Fare Revenue Handling & Accountill9
- Streetcar Vehicle Preventive Maintenance
- Streetcar Vehicle Corrective Maintenance
- Streetcar Vehicle Routine Cleaning
- Streetcar Vehicle Heavy Cleaning
- Maintenance Control, Scheduling, Records
- Tools Calibration & Testing
- Parts and Inventory
- Maintenance Rules Development
- Maintenance Procedures Development
- Recruitment and Training - Maintenance
- Rules and Procedures Compliance Checks
- Vehicle Maintenance Facility Building maintenance

Security
- Security Certification
- Security Overall Responsibility/Plan Signatories
- Security Data, Reporting, and Tracking
- Security & Emergency Preparedness Plan
- Emergency/First Response
- Security within Right-of-Way
- Security at Vehicle/Maintenance Facility
• On-Vehicle Security
• In-Station/Stop Security
• Crowd Control
• Detours & Traffic Control
• Fare Enforcement
• Training for Security Personnel
• Training for Other First Responders
• Training for Non-Security Personnel
• TSA, DHS, Federal Interaction
• Internal Security Audits

Safety
• Safety Certification
• Safety Overall Responsibility/Plan Signatory(ies)
• Safety Data Reporting and Tracking
• System Safety Program Plan
• Internal Safety Audits
• Hazard Management
• Accident Investigation
• Corrective Action Plans
• City Employee and Contractor Safety Oversight
• Change Management (Configuration management and ongoing safety certification)
• Drills and Exercises
• Training for Safety Personnel
• Training for Non-Safety Personnel

Customer Service and Marketing
• Marketing
• Public Relations
• Community Outreach & Campaigns
• Special Interest Groups & Committees
• Safety and Security Point of Contact for Customer Use
• Lost & Found
• Customer Service & Information
• Publications, Schedules, Notices, etc.
• Electronic & Social Media Communications, Website
• Advertising and Advertising Contractor Management (in vehicles, in stations)
EXHIBIT B

ARBITRATION PROVISIONS

In the event the parties cannot agree on the Budget Methodologies or the Initial Budget and either party seeks non-binding arbitration under the terms set forth in Section 1.1 of the Agreement to which this Exhibit B is attached, the following non-binding arbitration procedures shall apply:

(a) Arbitration may be initiated by either party making a written demand for arbitration on the other party. There shall be one arbitrator. If the parties shall fail to select a mutually acceptable arbitrator within ten (10) days after the demand for arbitration is received, then the parties stipulate to arbitration before a single arbitrator, and selected in the manner prescribed by the arbitrating body. The arbitrator must have at least ten (10) years’ experience managing, operating or constructing federal transit projects including development and oversight of transit project budgeting. Except as may otherwise be set forth in this Exhibit B, the arbitration shall be administered in accordance with the Streamlined Rules of Judicial Arbitration and Mediation Service (“JAMS”).

(b) The parties shall share all costs of arbitration.

(c) When necessary, the arbitrator shall apply the substantive law of the State of California. The parties shall exchange all budget documentation including all back-up documentation and budget detail such party relied upon in developing its Budget Methodologies or Initial Budget, as applicable. No other discovery will be available to the parties.

(d) Arbitration shall take place in either Sacramento or West Sacramento as the parties shall agree. If the parties cannot agree on a location, the parties shall flip a coin with the winner deciding the location within one of these two jurisdictions. As soon as is reasonably practicable but in no event more than thirty (30) days after an arbitrator has been selected, the arbitrator shall conduct a one-day hearing with respect to the matter to be resolved. As soon as is reasonably practicable thereafter but in no event more than thirty (30) days after the arbitration hearing, the arbitrator shall arrive at a final decision, which shall be reduced to writing, signed by the arbitrator and mailed to each of the parties. The judgment of the arbitration tribunal will be accompanied by a written statement of the basis for such judgment. The decision of the arbitrator shall not be binding on the parties.
FIRST AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT
FOR RIVERFRONT JOINT POWERS AUTHORITY

This First Amendment to the Joint Exercise of Powers Agreement for the Riverfront Joint Powers Authority ("Amendment"), is entered as of _____________, 2018 ("Effective Date"), by and between the City of West Sacramento ("West Sacramento") and the City of Sacramento ("Sacramento"). West Sacramento and Sacramento are also each referred to herein as "City" and collectively as “Cities.” Any capitalized terms not defined in this Amendment shall have the meaning ascribed to such capitalized term as set forth in the Joint Exercise of Powers Agreement for the Riverfront Joint Powers Authority dated March 21, 2017 ("Agreement").

BACKGROUND

WHEREAS, the Cities entered into the Agreement on March 21, 2017;

WHEREAS, the Federal Transit Administration has requested certain changes to the structure of the Authority’s governance in order for the Project to be eligible for federal Small Starts Grant funding; and

WHEREAS, the Cities desire to make the changes to the Agreement as set forth in this Amendment to meet these federal requirements.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which is by all parties duly acknowledged, the parties hereto do hereby agree as follows.

1. Amendment to Section 6(a) of the Agreement. Section 6(a) of the Agreement shall be deleted and replaced in its entirety with the following language:

   (a) Governing Board. The Authority shall be administered by a board of directors ("Board") consisting of five directors and their respective alternates. Each City shall appoint two (2) directors (collectively, “City Representatives”) and their two (2) alternates. Sacramento shall ensure that at least one of its appointed directors also serves at the same time as a member of the Board of Directors of the Sacramento Regional Transit District ("RT Director"). The fifth (5th) director shall be appointed by the City Representatives. Alternates shall serve as directors in the absence of their respective directors. City Representatives and their alternates shall serve at the pleasure of the appointing City.
2. Amendment to Section 6(d). Current Sections 6(d)(v), 6(d)(vi) and 6(d)(vii) Voting shall be deleted and replaced in their entirety with the following language:

(v) Approve the annual budget for the Advisory Body (as defined below) if a budget for such organization is necessary;

(vi) Approve any amendments to, terminations of, and replacements to the DPC Agreement (as defined below); in addition, prior to completion of the Project, any vote in favor of an amendment to or termination of the DPC Agreement must also include the affirmative vote of the RT Director;

(vii) Approve any amendments to, terminations of, and replacements to the Operations Agreement (as defined below); in addition, during the first 5 years of revenue operations of the Project, any vote in favor of an amendment to or termination of the Operations Agreement must also include the affirmative vote of the RT Director;

3. Amendment to Section 7 of the Agreement. Section 7 of the Agreement shall be deleted and replaced in its entirety with the following language:

7. Streetcar Design and Construction. Attached hereto as Exhibit B is the proposed Design, Procurement and Construction Agreement for the Streetcar Project ("DPC Agreement") to be entered into between the Authority and Sacramento Regional Transit ("RT"). Material changes to the DPC Agreement shall be brought back to each City's City Council for review. The Authority, or its assignee, may not terminate the DPC Agreement prior to the completion of design, procurement and construction services unless, the Authority and RT have entered into a separate grant management agreement whereby RT will provide the grant management services set forth in this Section 3 of the Subrecipient and Interagency Agreement ("Subrecipient Agreement.") RT agrees in the Subrecipient Agreement that it will negotiate in good faith with the Authority the separate grant management agreement and to accept in the separate grant management reasonable terms and conditions.

4. Amendment to Section 8 of the Agreement. Section 8 of the Agreement shall be deleted and replaced in its entirety with the following language:

8(a) Streetcar Operation. It is the desire of the Cities to enter into an Operations and Maintenance Agreement with the RT for an initial term of the Streetcar operations and maintenance. It is
the further desire of the Cities that a new organization or entity (e.g. a policy committee of the Authority’s Board or a new California public benefit corporation exempt from federal and state income tax as a 501(c)(3) public charity) (“Advisory Body”) shall be formed to serve in an advisory capacity for the Streetcar operations and maintenance. The Cities acknowledge that the Advisory Body’s advice shall not impair RT’s rights and obligations to ensure that the Project meets all requirements of the federal grant agreement for the Project as set forth in the Subrecipient Agreement for Streetcar Funding to be executed by the Cities and RT. As further set forth in the Subrecipient Agreement, RT will be the final arbiter of any Compliance Issue, as defined in the Subrecipient Agreement. The Authority, or its assignee, may not terminate the Operations and Maintenance Agreement so long the Subrecipient Agreement with RT remains in effect unless, the Authority and RT have entered into a separate grant management agreement whereby RT will provide the grant management services set forth in Section 3 of the Subrecipient Agreement. RT agrees in the Subrecipient Agreement that it will negotiate in good faith with the Authority the separate grant management agreement and to accept in the separate grant management agreement reasonable terms and conditions.

(b) Exhibit C-2. Exhibit C-2 is deleted in its entirety.

5. Amendment to Section 16 of the Agreement. Section 16 of the Agreement shall be deleted and replaced in its entirety with the following language:

16. Ownership of Property and Disposition upon Termination.

(a) All newly-acquired assets will be acquired in the name of the Authority. To the extent the Cities are contributing pre-existing assets to the construction and operation of the Project, title to those assets will continue to be held by the contributing City, with an appropriate agreement executed, as needed, for use of the asset by RT or the Authority.

(b) In the event of termination of the Authority pursuant to Section 3 above and where there will be a successor public entity which will carry on the functions of the Authority and assume its assets and liabilities, the assets and liabilities of the Authority shall be transferred to the successor public entity in accordance with all applicable federal and state laws. If upon termination pursuant to Section 3 above, there is no successor public entity which will carry on the functions of the Authority and assume its assets and liabilities, the assets shall be returned to the Cities as follows: (a) to the Cities as agreed upon by the
Cities in writing; (b) unless otherwise agreed upon by the Cities in writing, all real property and any improvements thereon shall be conveyed to the City in whose jurisdiction the real property is located, and (c) all other assets shall be divided between the Cities in proportion to their respective contributions during the term of this Agreement. If upon termination pursuant to Section 3 above there is a successor public entity which will carry on some of the functions of the Authority and assume some of the assets, the Authority’s Board shall allocate the assets between the successor public entity and the Cities in accordance with the provisions set forth in subsections (a) through (c) above. Notwithstanding any other term or condition set forth in this Section 16, disposition of property of the Authority upon its termination must be done in accordance with all applicable federal and state laws.

(c) As more fully set forth in the FTA Master Grant Agreement (as defined in the Subrecipient Agreement), Section 19, the Authority and the Cities understand and agree that the federal government retains a federal interest in all real property, equipment and supplies acquired or improved for use in connection with the Project until the Federal Government removes its interest. In furtherance of the foregoing, the Parties are required to: (a) ensure that Project property is used continuously and without delay for its originally authorized purpose throughout its useful life or until disposition occurs; (b) ensure that associated uses of Project property are transit supportive; (c) notify FTA if the conditions contained in (a) or (b), above, are not being met; and (d) seek FTA guidance regarding the requirements of this section through FTA circulars and other writings (including FTA Circular 5010.1E and the Uniform Relocation Assistance Act).

6. Continuing Validity. This Amendment is being executed by the Cities in compliance with Section 19 of the Agreement. Except as expressly modified pursuant to this Amendment, all other terms and conditions of the Agreement remain unchanged and in full force and effect.

7. Headings. The headings used in this Amendment are for convenience only and have no effect on the content, construction, or interpretation of the Agreement.

8. Counterparts. This Amendment may be executed in any number of counterparts, and by different parties in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.
IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized officers, as of the Effective Date.

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MEMORANDUM

TO: Board of Directors
    Riverfront Joint Powers Authority

FROM: Streetcar Project Management Team

RE: Staff Report, Agenda Item 4
    Approval of Revised Draft Conflict of Interest Code

DATE: June 12, 2018

DISCUSSION:

Every public agency is required to adopt a conflict of interest code. (Government Code section 87300.) The Authority previously approved a draft Conflict of Interest Code on November 30, 2017. Revisions to the code have been recommended to add the Project Manager/Owner’s Representative and remove the Auditor position within Disclosure Category 1, and to retitle the Clerk of the Board position within Disclosure Category 2. Following adoption of the draft Conflict of Interest Code, the code must be reviewed and approved by the agency’s code reviewing body prior to its effectiveness. (Government Code section 87303.) Since the Riverfront Joint Powers Authority’s jurisdiction is located within the jurisdictional boundaries in two counties, the Authority’s code reviewing body is the Fair Political Practices Commission. (Government Code section 82011, subdivision (a).)

The Conflict of Interest Code attached to this staff report includes the following Authority officers and employees as “Designated Employees” that are required to file annual disclosure statements on FPPC Form 700: Members of the Board of Directors, including alternates, if any; Executive Director; Deputy Executive Director, if any; Consultants (except those consultants exempted by the Chair or the Executive Director), and the Clerk of the Board.
Following approval by the FPPC, Authority staff will post a notice of the proposed adoption of the conflict of interest code. At least 30 days after the notice is posted, the conflict of interest code will be presented to the Board for final approval.

RECOMMENDATION:

Staff recommends that the Board approve the draft Conflict of Interest Code presented at this meeting and authorize submission of the same to the FPPC for review and approval as required by law.
The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency’s code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix, designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the Riverfront Joint Powers Authority (“Authority”).

Individuals holding designated positions shall file their statements of economic interests with the Authority, which will make the statements available for public inspection and reproduction (Gov. Code Sec. 81008). All statements will be retained by the Authority.
APPENDIX

DESIGNATED EMPLOYEES DISCLOSURE CATEGORIES

Disclosure Category One Employees:

- Members of the Board of Directors, including alternates, if any
- Executive Director
- Deputy Executive Director, if any
- Project Manager/Owner’s Representative

Consultants*

*Consultants shall disclose pursuant to the disclosure category in the Code subject to the following limitation: The Chairperson of the Board of Directors (“Chairperson”), or the Executive Director, may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this Appendix. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Chairperson’s or the Executive Director’s determination is a public record and shall be retained for public inspection in the same manner and location as this Code.

Disclosure Category One Requirements: Persons designated in this category shall disclose (1) all sources of income, (2) all interests in real property, and (3) all investments and business positions in business entities.

Disclosure Category Two Requirements: Persons designated in this category shall disclose investments and business positions in business entities, and sources of income, which provide services, supplies, materials, machinery or equipment of the type utilized by the Authority.
TO: Board of Directors  
Riverfront Joint Powers Authority

FROM: Streetcar Project Management Team

RE: Staff Report, Agenda Item 5  
Station Workshop

DATE: June 12, 2018

DISCUSSION:

As previously reported to the JPA Board, the Project Management Team has been working with the design consultants at HDR, Inc. to develop station design alternatives for consideration by the Board. A public open house is scheduled for June 14, 2018, to provide information about project developments and conceptual designs for the stations.

HDR’s design team will conduct a workshop with the Board on the station design alternatives.

RECOMMENDATION:

None; this is an opportunity for the Board to receive information on the station design alternatives and by feedback to the Project Management Team and the design team.