TRI DELTA TRANSIT

Board of Directors Meeting Agenda

Wednesday, July 26, 2023

Meeting Time:
4:00 pm

Location:
Eastern Contra Costa Transit Authority Boardroom
801 Wilbur Avenue, Antioch

BOARD OF DIRECTORS:

CITY OF ANTIOCH
Lamar Thorpe, Chair
Monica Wilson

CITY OF BRENTWOOD
Joel Bryant
Tony Oerlemans

CITY OF OAKLEY
Shannon Shaw
Anissa Williams

CITY OF PITTSBURG
Dionne Adams
Shanelle Scales-Preston

CONTRA COSTA COUNTY
Diane Burgis
Federal Glover, Vice-Chair

MEMBER-AT-LARGE
Merl Craft

Board of Directors Meeting Agenda
Wednesday July 26, 2023
Available Online: https://trideltatransit.com/board.aspx

1. **CALL TO ORDER:** Chair Lamar Thorpe
   a. Roll Call

2. **PLEDGE OF ALLEGIANCE**

3. **PUBLIC COMMENT**
   While public comments are encouraged and taken very seriously, State law prevents the Board of Directors from discussing items that are not on the meeting agenda. If appropriate, staff will follow up on public comments. Please see Public Comment Guidelines on the last page of this agenda.

4. **CHAIR'S REPORT** Chair Lamar Thorpe

5. **CONSENT CALENDAR (ACTION ITEM):**
   (see attachment: tab #1)
   a. Minutes of the Board of Directors meeting of June 28, 2023
   b. Financial Report
   c. Marketing and Customer Service Activities Report
   Requested Action: Approve items 5a, 5b, and 5c

6. **CEO'S REPORT** Rashidi Barnes
   a. Operations Report (see attachment: tab #2)

7. **ACTION ITEMS and DISCUSSION ITEMS**

   a. **ACTION ITEM**: Dynamic Personal Microtransit (DPMT) Contract Approval
   (see attachment: tab #3)
   Requested Action: Staff seeks authorization to enter into the SPDA with ECCP to advance the initial three phases of the DPMT Project, and to allow the Chief Executive Officer of ECCTA or designee to make any non-substantive changes to the agreement. The CCTA Board is scheduled to take action executing this agreement on July 19, 2023 after such, ECCTA's Chair will fully execute the SPDA. Full execution of the SPDA requires approval by both the CCTA and the ECCTA Boards. The final ECCP agreement will be a part of July's ECCTA Board Agenda.

   b. **ACTION ITEM:** Pittsburg Seafood and Music Festival
   (see attachment: tab #4)
   Requested Action:
   Provide direction to staff regarding the operation of a shuttle to the 2023 Pittsburg Seafood Festival

c. **ACTION ITEM:** Travel Policy Change

(see attachment: tab #5)

Requested Action: Amend the 1994 travel policy, specific to staff, by removing the two-conference limit for each staff member and to allow for the ECCTA CEO to manage the annual travel budget under the fiscal year budgeting process.

8. BOARD OF DIRECTOR'S COMMENTS

Under this item, Directors are limited to providing information, asking clarifying questions about matters not on the agenda, responding to public comment, referring matters to staff, or requesting a report be made at another meeting.

9. ADJOURN

Next Meeting: August 23, 2023 at 4:00pm, 801 Wilbur Avenue, Antioch, CA 94509.

PUBLIC COMMENT GUIDELINES:

- Public comments can be submitted via e-mail to CEO@trideltatransit.org.
- Comments received one hour prior to the meeting will be distributed to the members of the Board of Directors and summarized in the minutes.
- Persons requesting to address the ECCTA Board of Directors in person are requested to complete a Comment Request form and submit it to the clerk. If possible, please submit the form prior to the start of the meeting. At the appropriate time, the ECCTA chair will call on individuals to comment.
- During the public comment agenda item, the public is permitted to address the ECCTA Board of Directors on items that are on the consent calendar or items not on the agenda. Individuals may also make a request for future agenda items. No action or discussion may take place on any item not appearing on the posted agenda.
- If a person wishes to speak on a specific agenda item, the ECCTA chair will call on the individual when the agenda item is being discussed by the Board of Directors.
- Persons addressing the ECCTA Board of Directors are requested to limit their remarks to three (3) minutes unless an extension of time is granted by the chair, subject to approval of the ECCTA Board of Directors.

AGENDA, STAFF REPORT, AND DOCUMENT AVAILABILITY:

Copies of all staff reports and documents subject to disclosure that relate to each item of business referred to on the agenda are available for public inspection the Friday before each regularly scheduled Board of Director's meeting at ECCTA's front desk located at 801 Wilbur Avenue, Antioch, California. Any documents subject to disclosure that are provided to all, or a majority of all, of the members of the Board regarding any item on this agenda after the agenda has been distributed will also be made available for inspection at ECCTA's front desk at the above referenced address during regular business hours.

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION:

In compliance with the Americans with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available in the ECCTA parking lot. If you are a person with a disability and you need disability-related modifications or accommodations to participate in this meeting, please contact the CEO's Office at (925) 754-6622 or fax (925) 757-2530. Notification no fewer than 48 hours prior to the meeting will enable Tri Delta Transit to make reasonable arrangements to ensure accessibility to this meeting. {28 CFR 35.102-35, 104 ADA Title II} Please help us accommodate individuals with EI-MSC and refrain from wearing scented products to this meeting. Please turn off any electronic paging device or cell phone.

LIMITED ENGLISH PROFICIENCY (LEP):

Any person with Limited English Proficiency (LEP) who requires language assistance to communicate with the Tri Delta Transit Board of Directors during the meeting should contact the CEO's Office at (925) 754-6622 or fax (925) 757-2530. Notification no fewer than 48 hours prior to the meeting will enable Tri Delta Transit to make reasonable arrangements to assure language assistance for this meeting.

ANTICIPATED ACTION BY THE BOARD OF DIRECTORS:

The Board of Directors may take action on any item on the agenda, which action may consist of the recommended action, no action or a related action.

TAB 1

Agenda Item #5
Consent Calendar (ACTION ITEM): Minutes, Financial Report and Marketing Activities Report

Board of Directors Meeting

Wednesday July 26, 2023

ECCTA Boardroom
801 Wilbur Avenue, Antioch, CA 94509

EASTERN CONTRA COSTA TRANSIT AUTHORITY
Antioch - Brentwood - Pittsburg - Oakley and Contra Costa County

MINUTES

June 28, 2023

The Eastern Contra Costa Transit Authority (ECCTA) meeting was called to order in the ECCTA Board Room, 801 Wilbur Avenue, Antioch, California by Chair Williams at 4:00 P.M.

ROLL CALL / CALL TO ORDER

BOARDMEMBERS

PRESENT: Dionne Adams (Pittsburg); Diane Burgis (Contra Costa County); Merl Craft (Member at Large); Federal Glover (Contra Costa County); Tony Oerlemans (Brentwood); Shanelle Scales-Preston (Pittsburg); Shannon Shaw (Oakley); Lamar Thorpe (Antioch/Vice-Chair); Anissa Williams (Chair)

ABSENT: Joel Bryant (Brentwood); Monica Wilson (Antioch)

STAFF PRESENT: Rashidi Barnes, Chief Executive Officer (CEO)
Toan Tran, Chief Operating Officer (COO)
Eli Flushman, General Counsel
Agustin Diaz, Chief Financial Officer (CFO)
Joe Chappelle, Manager of Administrative Services
Tania Babcock, Compliance Manager
Leeann Lorono, Manager of Customer Service and Marketing
DeAnna Perry, Manager of Accessible Services
William Turner, Director of Maintenance
Rosanna Dominguez, Executive Assistant

OTHERS
PRESENT: Yevette McNeese, TransDev General Manger
Lori Sprinkle, TransDev Office Manager
Stephanie Hu, Contra Costa Transportation Authority
Frank Furger, AMG

PLEDGE OF ALLEGIANCE

Chair Williams led the Pledge of Allegiance.

PUBLIC COMMENT

There were no public comments.

CHAIR'S REPORT

There was no Chair's Report.

CONSENT CALENDAR

On motion by Director Glover, seconded by Director Scales-Preston, ECCTA Board members adopted the Consent Calendar, as follows, which carried by the following vote:

A. Minutes of the Board of Directors meeting of May 24, 2023
B. Financial Report
C. Marketing and Customer Service Activities Report

AYES: Adams, Burgis, Craft, Glover, Oerlemans, Scales-Preston, Shaw, Thorpe, Williams
NOES: None
ABSTAIN: None
ABSENT: Bryant, Wilson

CHIEF EXECUTIVE OFFICER'S REPORT

A. Operations Report

Chief Executive Officer Rashidi Barnes provided an update to the Govenor's budget that has been approved. For the update he included current legislature that is changing and distribution of the budget proposed. Included in the budget was the Zero Emissions Capital Fund Program. This program will assist Tri Delta Transit in meeting their zero emissions goals. A new task force has also been formed, the Transit Transformation Task Force. This task force will be responsible for coordinating a process to develop recommendations to assist in growing ridership and overall experience for riders. A Safe, Clean, & Reliable Public Transportation

Emergency Act has been introduced by Senator Scott Wiener to provide short term funding for public transit agencies.

Mr. Barnes provided an update on the mobility hub located in Antioch. ECCTA has been awarded $400k in funding from MTC and ABAG to begin planning.

Mr. Barnes provided an update on the last 6 diesel buses that have been delivered to ECCTA. As California has mandated all buses be zero emission by 2040 the fleet going forward will be transitioning to ZEBs. Mr. Barnes presented the approved ZEB plan.

Mr. Barnes recognized outgoing employee Kevin Moody who has been with Tri Delta Transit since January 2000. He has been an asset to maintenance but also to Tri Delta Transit as a whole during his 23 years of service.

ACTION AND DISCUSSION ITEMS

A. Dynamic Personal Microtransit (DPMT) Update

Stephanie Hu, Director of Programs for CCTA (Contra Costa Transportation Authority) gave a report of the DPMT Feasibility Study and the plan going forward for the program in East Contra Cost County. Director Hu broke down services that will be offered and scheduling functions of the system that will be used. This program will be Federally funded, due to this, federal regulations will need to be followed. Director Burgis asked if Hydrogen or other type of technologies have been considered for these vehicles. CEO Barnes responded that space for the vehicles in order to be available for ADA passengers resulted in electric vehicles being selected.

No action was needed as this was a discussion item. The final ECCP agreement will be a part of July's ECCTA Board Agenda.

B. Fare Equity Analysis for Mobile Ticket App Elimination

Compliance Manager Tania Babcock requested acceptance of the findings from ECCTA's Paratransit Mobile Fare Payment Type Elimination Fare Equity Analysis. Compliance Manager Babcock reviewed the findings and reasoning for performing the Equity Analysis. ECCTA is required to comply with guidelines issued by the FTA.

The elimination of the Mobile Ticketing App required ECCTA to issue an evaluation on the effect it had on our low-income passengers. ECCTA's results found that no impact was made on minority paratransit passengers but did create a Disproportionate Burden on the low-income paratransit passengers. ECCTA did perform additional outreach to these passengers to alleviate this burden.

On motion by Director Craft, seconded by Director Shaw, ECCTA Board members adopted Resolution #230628B accepting the findings of ECCTA's Paratransit Mobile Fare Payment Type Elimination Fare Equity Analysis, carried by the following vote:

AYES:	Adams, Burgis, Craft, Glover, Oerlemans, Scales-Preston, Shaw, Thorpe, Williams
NOES:	None
ABSTAIN:	None
ABSENT:	Bryant, Wilson

C. Approval of FY2023-24 ECCTA Budget

Chief Operating Officer (COO) Toan Tran reported the 2023-2024 Operating Budget and Capital Budget for ECCTA. COO Tran provided the high-level breakdown of revenue/funding and expenses for both budgets. COO Tran reviewed the service levels and the ridership both current and historically. Chair Williams has requested that the data provided be broken out by TMR and fixed route. Operating budget has been affected by lower ridership levels. Reforms will be made moving forward that will include a more robust service plan to continue to provide service to our customers. COO Tran reported two other operating expenses included were an increase for COLA and the new insurance policy for ECCTA. COO Tran reviewed in more detail the eight capital budget projects that have been included in the budget. These projects are either fully funded or essential.

On motion by Director Thorpe, seconded by Director Craft, ECCTA Board members approved resolution #230628C, the proposed FY2023-2024 ECCTA operating and capital budget by the following vote:

AYES:	Adams, Burgis, Craft, Glover, Oerlemans, Scales-Preston, Shaw, Thorpe, Williams
NOES:	None
ABSTAIN:	None
ABSENT:	Bryant, Wilson

D. Approval of the FY2023-24 Project List for The California State of Good Repair Program

Chief Financial Officer (CFO) Agustin Diaz presented the list of items that will be covered by the California State of Good Repair Program for FY2023-24. CFO Diaz reviewed the requirements for the program. The project items will be the ECCTA Cash Fares Vault and an upgrade to the HVAC system.

On motion by Director Thorpe, seconded by Director Shaw, ECCTA Board members adopted Resolution #230628D approving ECCTA's fiscal year 2023-24 SGR Project List Submittal, carried by the following vote:

AYES:	Adams, Burgis, Craft, Glover, Oerlemans, Scales-Preston, Shaw, Thorpe, Williams
NOES:	None
ABSTAIN:	None
ABSENT:	Bryant, Wilson

E. On- Call Contract Award

Chief Operating Officer Toan Tran presented the RFP 2023-02 for an On-Call A&E consulting services. With several potential projects in consideration, these services will be utilized on task basis so a full-time engineer is not currently needed.

On motion by Director Glover, seconded by Director Burgis, ECCTA Board members adopted Resolution #230628E authorizing for the Chief Executive Officer to enter into three three-year contracts for on-call consulting services with Stantec Consulting Services Inc., Mark Thomas & Company, Inc., and BKF Engineers, each with two one-year options, with the stipulation that any task order in excess of $100,000 to any of the three companies be submitted to the ECCTA Board of Directors.

AYES:	Adams, Burgis, Craft, Glover, Oerlemans, Scales-Preston, Shaw, Thorpe, Williams
NOES:	None
ABSTAIN:	None
ABSENT:	Bryant, Wilson

F. ECCTA FY2023-2024 Insurance Policy

Chief Executive Officer (COO) Toan Tran reported that ECCTA's current insurance policy is set to expire June 30th, 2023. Travelers Insurance has notified ECCTA that they will not be renewing the policy due to a claim in 2016 and a pending claim. EPIC Insurance Brokers (EPIC) only located one option for ECCTA and that is with GSRMA which is a Joint Powers Authority that is a risk pool. Resulting from an inquiry from Director Burgis, COO Tran reported that the cost of joining is included in the premium which is 5 times the amount of the premium ECCTA paid with Travelers. Director Craft inquired what the deductible would be for an occurrence. COO Tran will follow up with a breakdown of liabilities and the difference of costs for each. Clarification was made that we are guaranteed coverage, renegotiation is done every two years. Per the contract Travelers only needs to report expiration in coverage 60 days prior. This premium has been included in the budget for FY2023-2024.

On motion by Director Thorpe, seconded by Director Scales-Preston, ECCTA Board members adopted Resolution #230628F authorizing for the Chief Executive Officer or their designee to file an application with the Metropolitan Transportation Commission for the FY2023-2024 allocation of Transportation Development Act and State Transit Assistance funds, carried by the following vote:

AYES:	Adams, Burgis, Craft, Glover, Oerlemans, Scales-Preston, Shaw, Thorpe, Williams
NOES:	None
ABSTAIN:	None
ABSENT:	Bryant, Wilson

G. FY2023-2024 ECCTA Board of Directors Election of Officers

Chief Executive Officer Rashidi Barnes reviewed the schedule rotation of representatives for Chair and Vice-Chair. Mr. Barnes requested the Board elect Antioch Representative Director Lamar Thorpe as the chair of the ECCTA Board of Directors for FY2023-2024 and the Board elect County Representative Director Federal Glover to serve as Vice-Chair of the ECCTA Board of Directors for FY2023-2024.

On motion by Director Craft, seconded by Director Shaw, ECCTA Board members elected Antioch Representative Lamar Thorpe as the Chair of the ECCTA Board of Directors for FY2023-2024.

AYES:	Adams, Burgis, Craft, Glover, Oerlemans, Scales-Preston, Shaw, Thorpe, Williams

NOES: None
ABSTAIN: None
ABSENT: Bryant, Wilson

On motion by Director Burgis, seconded by Director Scales-Preston, ECCTA Board members elected County Representative Federal Glover as the vice-chair of the ECCTA Board of Directors for FY2023-2024.

AYES: Adams, Burgis, Craft, Glover, Oerlemans, Scales-Preston, Shaw, Thorpe, Williams
NOES: None
ABSTAIN: None
ABSENT: Bryant, Wilson

BOARD OF DIRECTORS COMMENTS

All board members in attendance congratulated newly appointed Chair Thorpe and Vice-Chair Glover. All board members in attendance thanked Director Williams for her service as ECCTA's Chair.

ADJOURNMENT

The meeting of the Eastern Contra Costa Transit Authority adjourned at 5:13 P.M. to July 26, 2023 at 4:00 P.M. in the ECCTA Administration Facility, 801 Wilbur Avenue, Antioch, California.

Respectfully submitted,
Rosanna Dominguez
Executive Assistant

TRI DELTA TRANSIT

Income Statement - Comparison to Annual Budget

As of June 30, 2023

(unaudited)

	YTD Actual			YTD Budget			YTD Variance *favorable/(unfavorable)*			FY23 Full Year Budget			YTD % of Fiscal Year Budget		
	ECCTA	**FR**	**DR**	**ECCTA**	**FR**	**DR**	**ECCTA**	**FR**	**DR**	**ECCTA**	**FR**	**DR**	**ECCTA**	**FR**	**DR**
OPERATING REVENUES															
Passenger Fares	$ 1,654,376	$ 973,745	$ 680,631	$ 1,739,509	$ 993,177	$ 746,332	$ (85,133)	$ (19,432)	$ (65,701)	$ 1,739,509	$ 993,177	$ 746,332	95%	98%	91%
Other Income	$ 461,345	$ 180,000	$ 281,345	$ 375,276	$ 170,000	$ 205,276	$ 86,069	$ 10,000	$ 76,069	$ 375,276	$ 170,000	$ 205,276	123%	106%	137%
Total Operating Revenues:	$ 2,115,721	$ 1,153,745	$ 961,976	$ 2,114,785	$ 1,163,177	$ 951,608	$ 936	$ (9,432)	$ 10,368	$ 2,114,785	$ 1,163,177	$ 951,608	100%	99%	101%
NON-OPERATING REVENUES															
Federal Funds	$ 4,454,993	$ 2,312,135	$ 2,142,858	$ 4,361,172	$ 2,531,592	$ 1,829,580	$ 93,821	$ (219,457)	$ 313,278	$ 4,361,172	$ 2,531,592	$ 1,829,580	102%		117%
State Funds	$ 19,664,132	$ 15,721,268	$ 3,942,864	$ 21,512,953	$ 17,228,711	$ 4,284,242	$ (1,848,821)	$ (1,507,443)	$ (341,378)	$ 21,512,953	$ 17,228,711	$ 4,284,242	91%	91%	92%
Local Funds	$ 2,643,214	$ 1,299,147	$ 1,344,067	$ 2,094,279	$ 879,879	$ 1,214,400	$ 548,935	$ 419,268	$ 129,667	$ 2,094,279	$ 879,879	$ 1,214,400	126%	148%	111%
Inter-Operator Agreements	$ 2,387,642	$ 2,387,642	$ -	$ 1,404,496	$ 1,404,496	$ -	$ 983,146	$ 983,146	$ -	$ 1,404,496	$ 1,404,496	$ -	170%	170%	n/a
Interest & Other Misc Income	$ 23,886	$ 20,142	$ 3,744	$ 10,000	$ 8,000	$ 2,000	$ 13,886	$ 12,142	$ 1,744	$ 10,000	$ 8,000	$ 2,000	239%	252%	187%
Total Non-operating Revenues:	$ 29,173,867	$ 21,740,334	$ 7,433,533	$ 29,382,900	$ 22,052,678	$ 7,330,222	$ (209,033)	$ (312,344)	$ 103,311	$ 29,382,900	$ 22,052,678	$ 7,330,222	99%	99%	101%
Total Revenues:	**$ 31,289,588**	**$ 22,894,079**	**$ 8,395,509**	**$ 31,497,685**	**$ 23,215,855**	**$ 8,281,830**	**$ (208,097)**	**$ (321,776)**	**$ 113,679**	**$ 31,497,685**	**$ 23,215,855**	**$ 8,281,830**			
OPERATING EXPENSES															
Purchased Transportation	$ 19,503,544	$ 13,124,855	$ 6,378,689	$ 18,473,766	$ 12,170,311	$ 6,303,455	$ (1,029,778)	$ (954,544)	$ (75,234)	$ 18,473,766	$ 12,170,311	$ 6,303,455	106%	108%	101%
Materials and Supplies	$ 5,068,721	$ 4,113,468	$ 955,253	$ 4,525,155	$ 3,539,656	$ 985,499	$ (543,566)	$ (573,812)	$ 30,246	$ 4,525,155	$ 3,539,656	$ 985,499	112%	116%	97%
Salaries & Benefits	$ 5,966,193	$ 5,205,417	$ 760,776	$ 6,148,512	$ 5,547,924	$ 600,588	$ 182,319	$ 342,507	$ (160,188)	$ 6,148,512	$ 5,547,924	$ 600,588	97%	94%	127%
Services	$ 1,233,107	$ 910,113	$ 322,994	$ 1,036,006	$ 804,950	$ 231,056	$ (197,101)	$ (105,163)	$ (91,938)	$ 1,036,006	$ 804,950	$ 231,056	119%	113%	140%
Other	$ 424,200	$ 354,143	$ 70,057	$ 401,444	$ 347,420	$ 54,024	$ (22,756)	$ (6,723)	$ (16,033)	$ 401,444	$ 347,420	$ 54,024	106%	102%	130%
Casualty and liability insurance	$ 619,804	$ 525,479	$ 94,325	$ 670,003	$ 592,566	$ 77,437	$ 50,199	$ 67,087	$ (16,888)	$ 670,003	$ 592,566	$ 77,437	93%	89%	122%
Utilities	$ 249,979	$ 210,444	$ 39,535	$ 219,781	$ 194,424	$ 25,357	$ (30,198)	$ (16,020)	$ (14,178)	$ 219,781	$ 194,424	$ 25,357	114%	108%	156%
Taxes	$ 20,436	$ 15,673	$ 4,763	$ 18,196	$ 14,811	$ 3,385	$ (2,240)	$ (862)	$ (1,378)	$ 23,018	$ 18,604	$ 4,414	89%	84%	108%
Total Operating Expenses:	**$ 33,085,984**	**$ 24,459,592**	**$ 8,626,392**	**$ 31,492,863**	**$ 23,212,062**	**$ 8,280,801**	**$ (1,593,121)**	**$ (1,247,530)**	**$ (345,591)**	**$ 31,497,685**	**$ 23,215,855**	**$ 8,281,830**	105%	105%	104%
EXCESS REV/(EXP)	$ (1,796,396)	$ (1,565,513)	$ (230,883)	$ 4,822	$ 3,793	$ 1,029	$ 1,385,024	$ 925,754	$ 459,270	$ 0	$ 0	$ -			

TRI DELTA TRANSIT

Staff Report to ECCTA Board of Directors

Meeting Date: July 26, 2023

Agenda Item: Marketing/Communications Activities – Agenda Item #5c

Lead Staff: Leeann Loroño, Manager of Customer Service and Marketing

Approved: Rashidi Barnes, Chief Executive Officer

Tri Delta Transit strives to provide top notch service to our customers and the community, as well as communicate the pivotal role Tri Delta Transit plays in the community. Here are some projects Marketing has been working on.

July Marketing Campaigns

July continues with Summer Youth Pass as sales end at the end of the month. Eastern Contra Costa County continues to be the community with the biggest need with over 100 sales to date, compared to other transit agency sales.

Passes are available at Tri Delta Transit front office and on-line at 511cc.org/youthpass.

Pass2Class

As a continued effort to encourage and enable youth to ride, 511 Contra Costa runs the Pass2Class program, which allows families to receive two 20-ride passes to send students to school on the bus instead of driving. As they do not expire, we encourage households to utilize the Summer Youth Pass until the end of August then use Pass2Class. It's like an extra 1 ½ months free!

Into the Community

Tri Delta Transit was honored to participate in the City of Oakley's Summerfest. Despite the heat, it was a terrific event. Tri Delta Transit, along with operator Jesse Dunerway, gave out information on Accessible Services, operator job openings, Tri MyRide, and more.

The day was even more fun due to a visit from Jeanne Krieg and Councilmember Shaw.

Ongoing projects:

Highlighting Special Occasions

Tri Delta Transit celebrates occasions along with our riders.

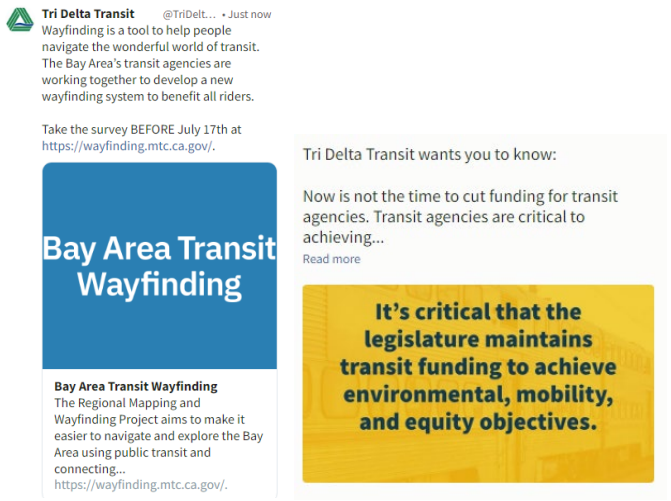
This month, we honored:

- 4th of July holiday
- Disability Pride Month
- National Kitten Day
- National Ice Cream Day

Transit Takes You Places

Tri Delta Transit takes you to the people, places and things that you love. We love our local food and music events!

If you have an event that a Tri Delta Transit route goes near or to, send it to comments@eccta.org, and we will let riders know.



Promoting Transit

Tri Delta Transit is a community partner to Bay Area Transit. With 27 agencies, there is a lot going on. Tri Delta Transit helped promote the following programs:

- Transit Funding
- Bay Area Transit Wayfinding Project
- Clipper Start
- Clipper Mobile

SOCIAL MEDIA ANALYTICS

Following please find a brief summary of metrics for the Tri Delta Transit social media accounts.

MAIN ACCOUNTS	MONTHS		
Followers	**APRIL 2023**	**MAY 2023**	**JUNE 2023**
Facebook	1.2K	1.3K	1.3K
Instagram	934	944	963
Twitter	1,024	1,025	1,027
LinkedIn	343	348	355

NEW ALERT ACCOUNTS	MONTHS		
Followers	**APRIL 2023**	**MAY 2023**	**JUNE 2023**
Facebook	23	29	32
Instagram	72	73	N/A
Twitter	8	9	9

*Low number of alerts posted this month.

TWITTER	MONTHS		
	APRIL 2023	**MAY 2023**	**June 2023**
Impressions	4,269	6,223	4,211
Engagement	42	20	42
Retweets	44	54	44
Likes - New	7	0	0

Please let us know if you have any questions or need further information about any of these materials.

TAB 2

Agenda Item #6
CEO's Report

Board of Directors Meeting

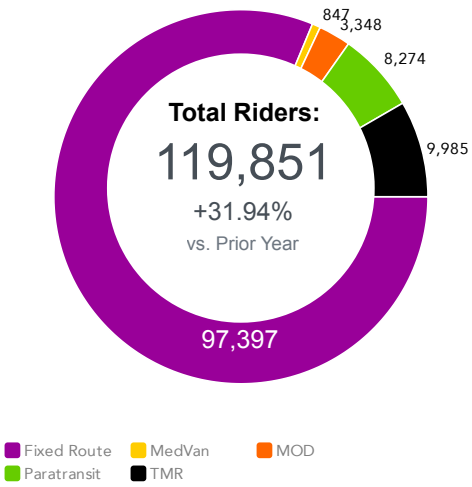
Wednesday July 26, 2023

ECCTA Boardroom
801 Wilbur Avenue, Antioch, CA 94509

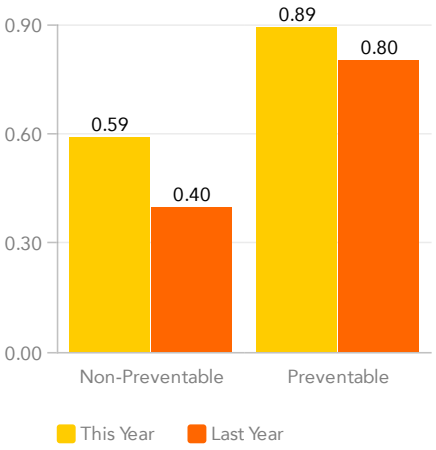
Month - Fiscal Year
May/FY2023

TRI DELTA TRANSIT Performance Summary

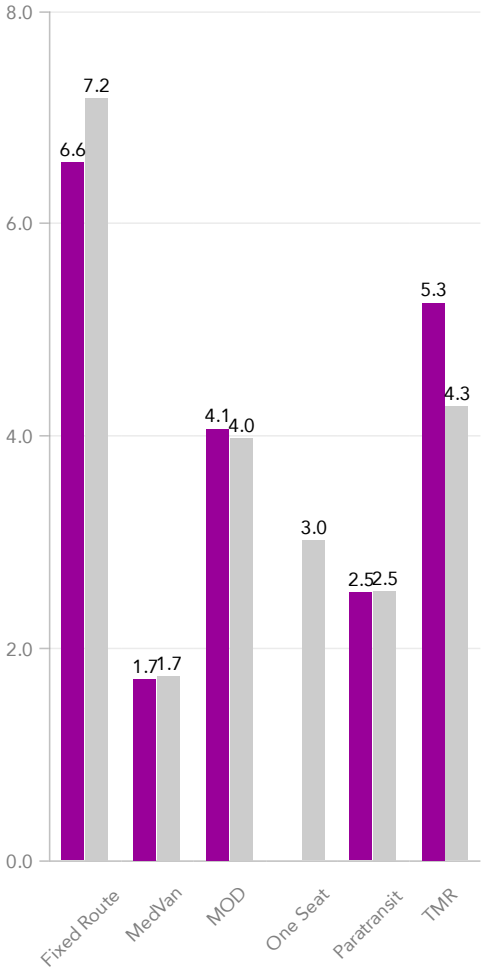
Ridership



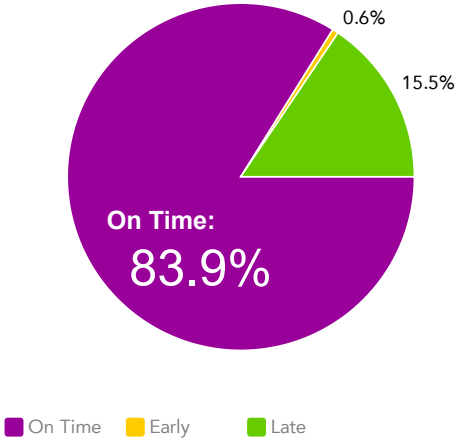
Accidents / 100K Miles



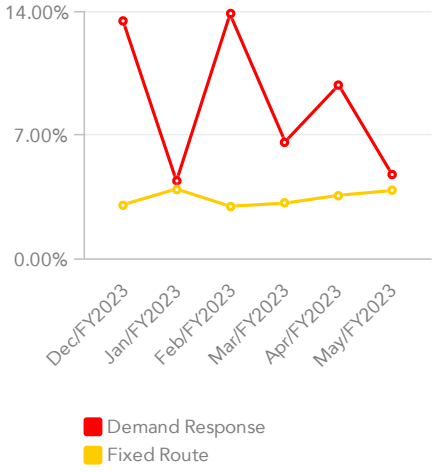
Passengers Per Revenue Hour



On Time Performance



Cost Recovery Ratio

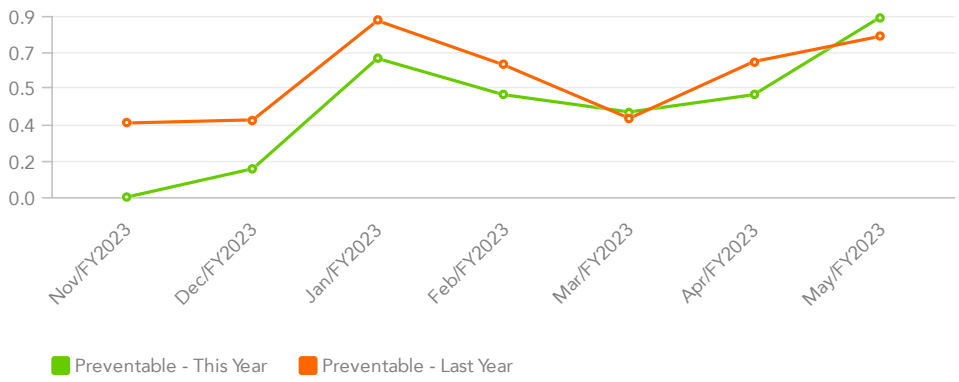


Safety Performance

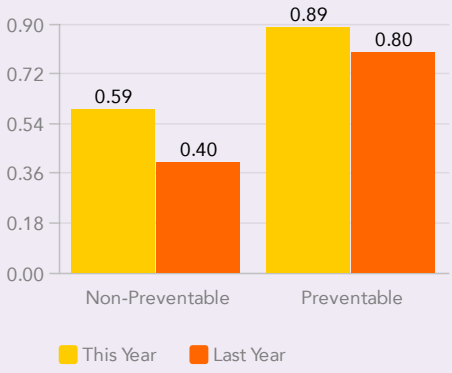
Preventable Accident Report

	Accidents	Per 100,000 Miles
Dec/FY2023	1	0.14
Jan/FY2023	4	0.69
Feb/FY2023	2	0.51
Mar/FY2023	4	0.42
Apr/FY2023	4	0.51
YTD 2022	2	0.80
YTD 2023	3	0.89
YTD Change	1	11.25%

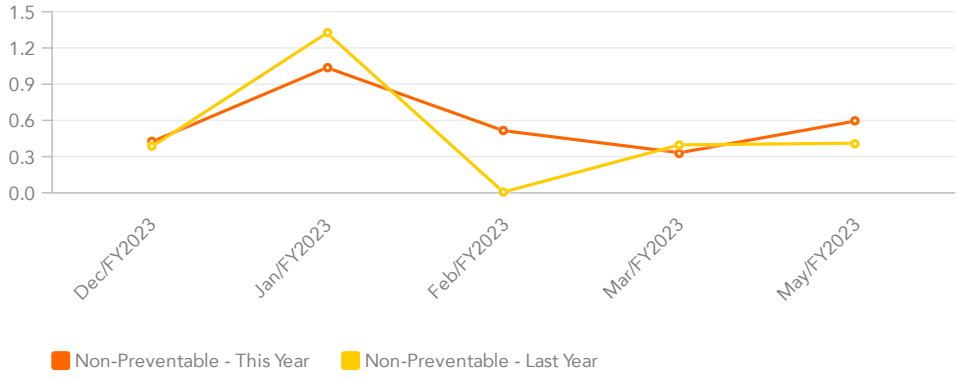
Preventable Accidents Per 100,000 Miles
Last Six Months - System Wide



Year To Date - System Wide
Accidents Per 100,000 Miles

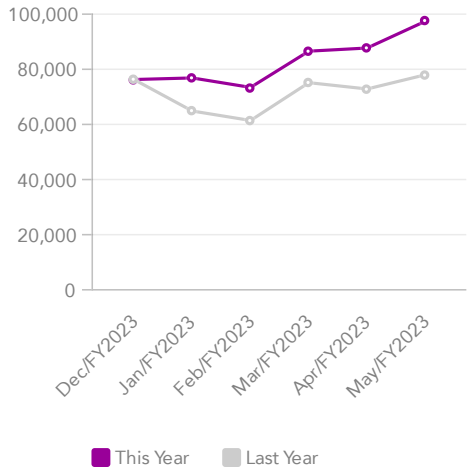


Non-Preventable Accidents Per 100,000 Miles
Last Six Months - System Wide

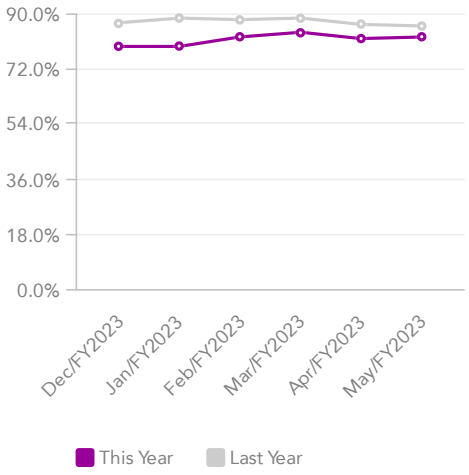


Fixed Route Performance

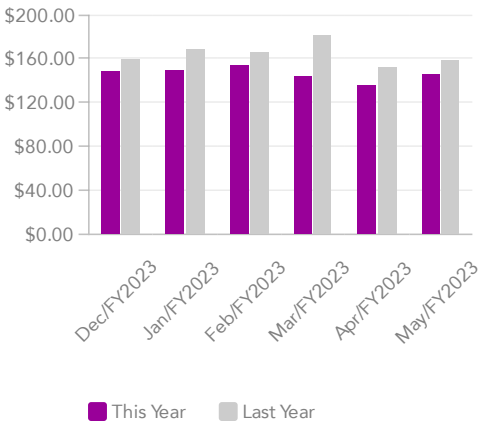
Total Ridership



On Time Performance



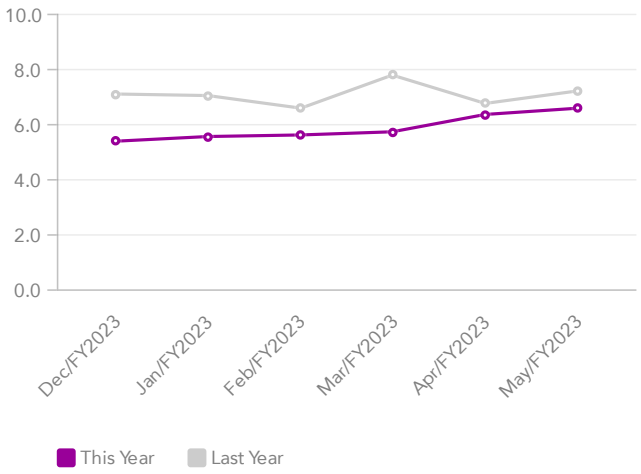
Operating Cost Per Revenue Hour



YTD Report - Fixed Route

	Metric	This Year	Prior Year	% Change
Customer Service	% of Trips On Time	82.37	85.86	-4.1%
	Average Miles Between Roadcalls	105,713.50	154,746.60	-31.7%
	Complaints Per 100k Riders	24.64	38.65	-36.2%
	Ridership Per Rev. Hour	6.58	7.19	-8.5%
Financial	Operating Costs Per Rev. Hour	144.62	158.74	-8.9%
Ridership	Ridership	97,397.00	77,619.00	+25.5%

Passengers Per Revenue Hour



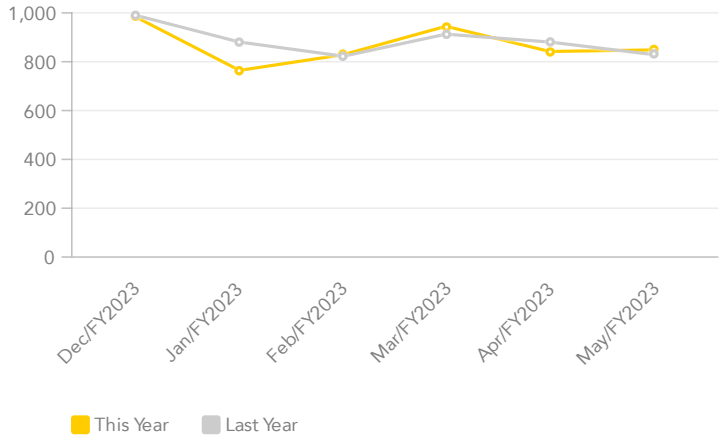
MedVan, Paratransit, and MOD Performance

MedVan

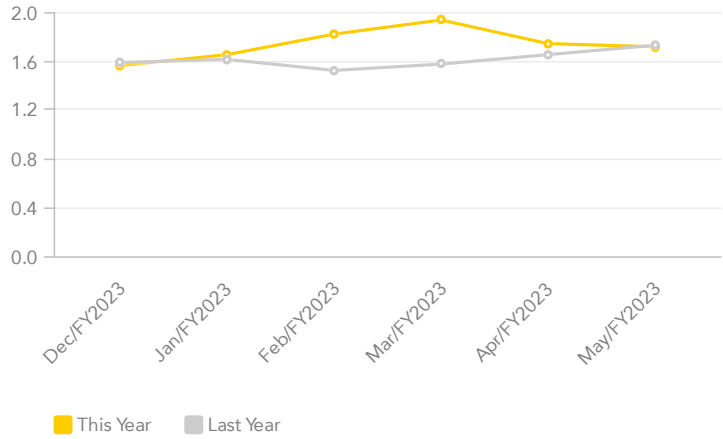
YTD Report

	Metric	This Year	Prior Year	% Change
Customer Service	% of Trips On Time	97.53	94.40	+3.3%
	Complaints Per 100k Riders	0.00	241.25	-100.0%
	Ridership Per Rev. Hour	1.71	1.73	-1.2%
Financial	Operating Costs Per Rev. Hour	127.06	114.49	+11.0%
Ridership	Ridership	847.00	829.00	+2.2%

Total Ridership



Passengers Per Revenue Hour

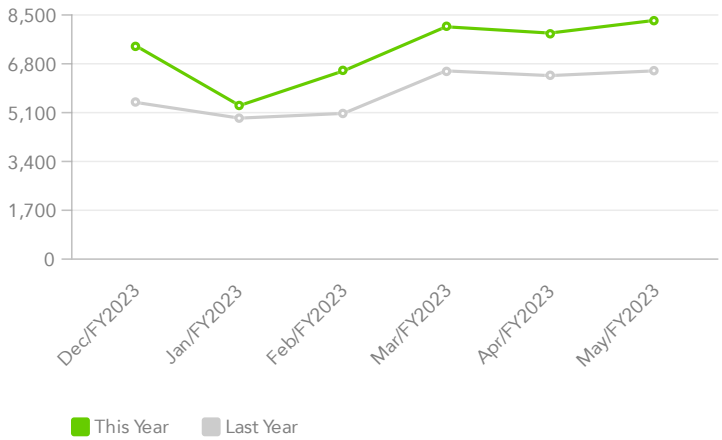


Paratransit

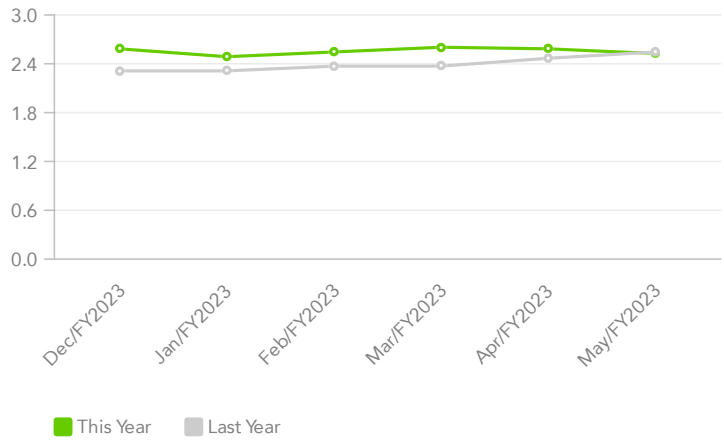
YTD Report

	Metric	This Year	Prior Year	% Change
Customer Service	% of Trips On Time	90.43	94.96	-4.8%
	Complaints Per 100k Riders	120.86	198.99	-39.3%
	Ridership Per Rev. Hour	2.52	2.54	-0.8%
Financial	Operating Costs Per Rev. Hour	125.89	113.46	+11.0%
Ridership	Ridership	8,274.00	6,533.00	+26.6%

Total Ridership



Passengers Per Revenue Hour

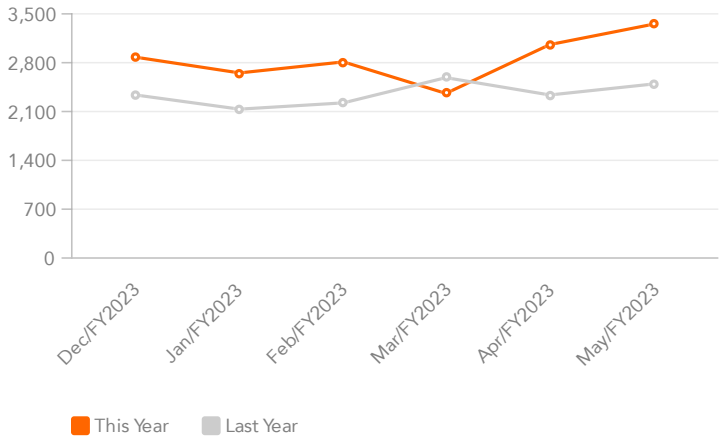


YTD Report

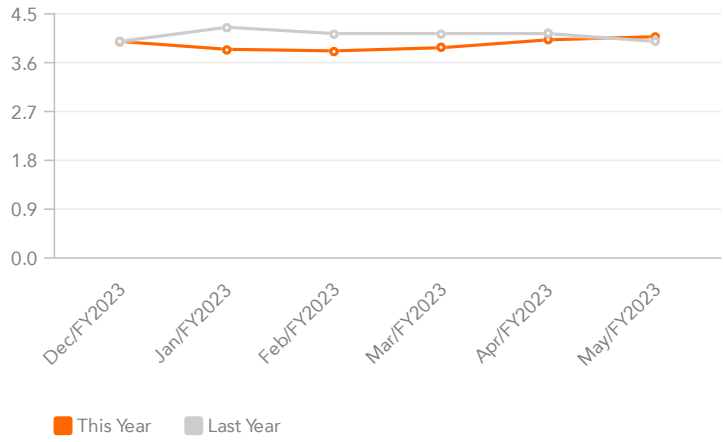
MOD

	Metric	This Year	Prior Year	% Change
Customer	Complaints Per 100k Riders	0.00	40.32	-100.0%
Service	Ridership Per Rev. Hour	4.06	3.98	+2.0%
Financial	Operating Costs Per Rev. Hour	93.23	97.91	-4.8%
Ridership	Ridership	3,348.00	2,480.00	+35.0%

Total Ridership



Passengers Per Revenue Hour

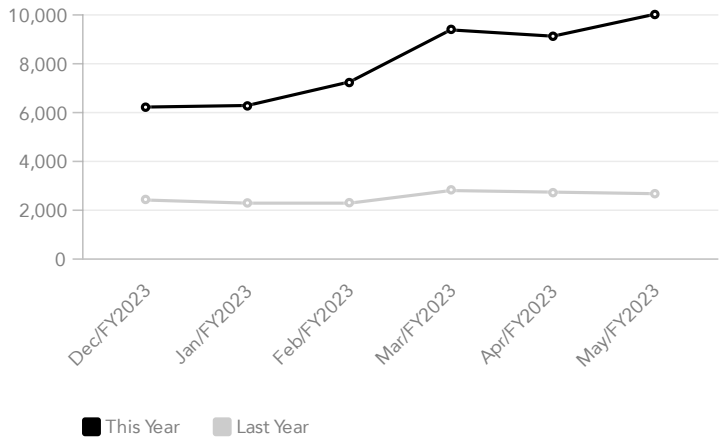


YTD Report

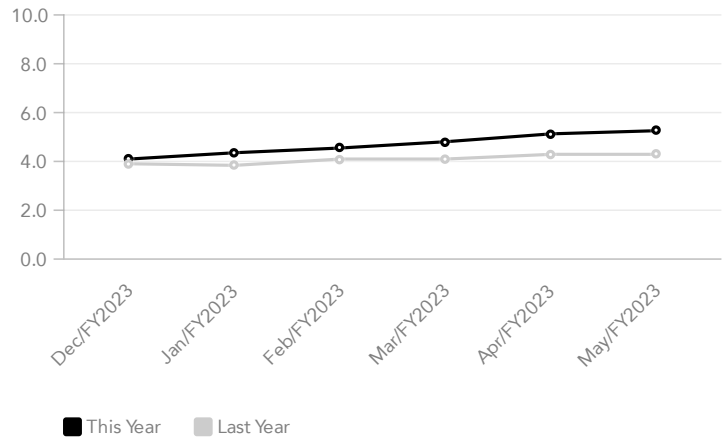
TMR

	Metric	This Year	Prior Year	% Change
Customer	Complaints Per 100k Riders	10.02	37.79	-73.5%
Service	Ridership Per Rev. Hour	5.25	4.28	+22.7%
Financial	Operating Costs Per Rev. Hour	123.84	108.35	+14.3%
Ridership	Ridership	9,985.00	2,646.00	+277.4%

Total Ridership



Passengers Per Revenue Hour



TAB 3

Agenda Item #7a
ACTION ITEM: Dynamic Personal Microtransit (DPMT) Contract Approval

Board of Directors Meeting

Wednesday July 26, 2023

ECCTA Boardroom
801 Wilbur Avenue, Antioch, CA 94509

TRI DELTA TRANSIT

Staff Report to ECCTA Board of Directors

Meeting Date: July 26, 2023

Agenda Item: Dynamic Personal Microtransit (DPMT) Contract Approval – Agenda Item #7a

Lead Staff: Rashidi Barnes, Chief Executive Officer

Background

In the Spring of 2021, the Cities of Antioch, Brentwood, Oakley, and Pittsburg collaborated and conducted the East Contra Costa County Dynamic Personal Microtransit (DPMT) Feasibility Study (Study) to support potential DPMT deployment in the region. The Study findings were presented to the ECCTA Board on March 24, 2021, and the Board approved resolution #210324D in support of the Study findings and authorizing the Chief Executive Officer to enter discussions with other project partners and stakeholders to advance the project.

At the March 23, 2022 meeting, the Board received a presentation on a procurement strategy to advance the deployment of a DPMT project in East County. The presentation discussed the proposed partnership between ECCTA and the Contra Costa Transportation Authority (CCTA) to advance this project and reviewed the strategy to deliver the project using a Private/Public Partnership (P3) model. The Board also approved a Memorandum of Understanding (MOU) between ECCTA and CCTA (Authorities) that defines the roles and responsibilities for tasks related to the advancement of the DPMT project. As described in the MOU, responsibilities for the procurement of the P3 Developer Team, execution of agreements and management of the DPMT project will be jointly shared by ECCTA and CCTA.

CCTA and ECCTA have continued to seek input from the industry to inform the development of procurement documents for the DPMT project. Based on this

input, a System Pre-Development Agreement (SPDA) was developed, and the Authorities released a Request for Proposals (RFP) on November 1, 2022 to identify a Developer Team to advance the project, if it is found to be financially feasible. The scope of work defined in the RFP requires the Developer Team to advance the project in three distinct phases. Phase 1 and Phase 2 of the work will be performed at risk by the Developer Team with no entitlement to payment from the Authorities. Phase 3 will be subject to funding identified to complete this phase of the work.

Multiple rounds of one-on-one meetings were held with interested prospective proposer teams since the release of the RFP to seek input from the industry on the project delivery structure and project phasing, and to receive comments on the draft RFP and SPDA. Comments received from the one-on-one meetings resulted in refinements to the procurement documents and issuance of several procurement addenda. The final addendum to the RFP was issued on May 19, 2023.

Developer Team proposals were due on June 2, 2023 and the Authorities received one proposal from East County Connection Partners (ECCP). The ECCP Team is comprised of Plenary, Glydways, Flatiron, Circlepoint and InfraStrategies. A review panel consisting of staff from CCTA, ECCTA and the City of Oakley evaluated the proposal on June 8, 2023 and recommended award of the contract to ECCP. This recommendation was endorsed by the City Managers of the four East County Cities, the Executive Director of the CCTA, and the Chief Executive Officer of ECCTA at a meeting held on June 20, 2023.

Requested Action

Staff seeks authorization to enter into the SPDA with ECCP to advance the initial three phases of the DPMT Project, and to allow the Chief Executive Officer of ECCTA or designee to make any non-substantive changes to the agreement. The CCTA Board is scheduled to take action executing this agreement on July 19, 2023 after such, ECCTA's Chair will fully execute the SPDA. Full execution of the SPDA requires approval by both the CCTA and the ECCTA Boards. The final ECCP agreement will be a part of July's ECCTA Board Agenda.

Attachment A

Dynamic Personal Microtransit Project Request for Proposals

Dynamic Personal Microtransit Project
Request for Proposals

Contra Costa Transportation Authority

and

Eastern Contra Costa Transit Authority (Tri Delta Transit)

System Pre-Development Agreement

Issued: May 19, 2023, as part of Addendum No. 7

Contra Costa Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597

Eastern Contra Costa Transit Authority
801 Wilbur Avenue
Antioch, CA 94509

RFP Procurement No. 22-05
RFP Procurement Contact:
Brian Kelleher, CFO
Contra Costa Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597
Email: DPMT@ccta.net

Table of Contents

This System Pre-Development Agreement (this Agreement) is made and entered into as of the "Effective Date", which shall be the date of the full execution of this Agreement as reflected by the date set forth on the Authorities' signature page attached hereto, among:

(a) Contra Costa Transportation Authority (CCTA), a local transportation authority organized under the provisions of the California Local Transportation Authority and Improvement Act (codified at California Public Utilities Cod §§ 180000 *et seq.*) pursuant to Contra Costa Ordinance 88-01 (as amended by Ordinance 06-02)

(b) Eastern Contra Costa Transportation Authority (ECCTA), a joint powers authority organized under California Government Code §§ 6500 *et seq.* doing business as "Tri Delta Transit" (ECCTA, together with CCTA, each an Authority and together the Authorities); and

(c) [*Developer Name*], a [*insert type of company and where formed / organized prior to execution*] under the laws of [*State*] (the Developer, together with CCTA and EECTA, the Parties and each a Party).

Notwithstanding the foregoing, while for ease of reference, CCTA and EECTA are collectively referred to herein as the Authorities, either one of them may in their discretion act or perform for both of them in their capacity as Authorities under this Agreement with the prior written consent of the non-acting party, and Developer shall accept such action or performance as discharging the relevant obligation(s) of both Authorities.

RECITALS

A. **WHEREAS**, the Authorities seek to deploy an innovative, multi-city dynamic personal micro-transit system (Project) in eastern Contra Costa County as more fully described herein; and

B. **WHEREAS**, the Authorities have determined that it is necessary to secure the services of a private Developer partner and associated Key Team Members for purposes of performing certain predicate Work to advance the Project prior to securing necessary environmental clearances and funding and determining whether to proceed with construction and operations under a separate agreement to be negotiated and agreed to in future; and

C. **WHEREAS**, the Authorities issued the Request for Proposal for the Project on [insert date prior to execution], 2022 in order to select a proposer to enter into this Agreement and perform the Work in furtherance of the Project. The Authorities selected the Developer and issued a notice of intent to award this Agreement on [insert date prior to execution]; and

D. **WHEREAS**, the performance of the Work is authorized pursuant to each Authority's inherent authority under their organizing acts, statutes, and ordinances, Public Contract Code § 22160, *et seq.* (Design-Build Law), and the Infrastructure Finance Act (AB 2660) codified at Government Code § 5956, *et seq.* (IFA), in the case of the IFA only with respect to the performance of IFA Work by the IFA Project Implementation Partner and not the performance of other Work, and in all cases subject to completion of various conditions precedent to proceeding, including pursuant to National Environmental Policy Act of 1969 (NEPA) and

California Environmental Quality Act of 1970 (CEQA). CCTA has not yet initiated necessary review and approval processes pursuant to NEPA and CEQA.

NOW, THEREFORE, BE IT RESOLVED, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

PART A: FOUNDATIONAL MATTERS

1. CONSTRUCTION OF CONTRACT

1.1. Interpretation and Definitions

a. For purpose of this Agreement, and except as otherwise specified herein, the rules of interpretation, of construction, and for resolution of conflicts, ambiguities, and inconsistencies, set forth in Exhibit 1 apply to this Agreement including its Exhibits.

b. Except as otherwise specified herein or as the context may otherwise require, capitalized terms and acronyms used in this Agreement have the respective meanings set out in Exhibit 2.

1.2. Integrated and Binding Contract

a. This Agreement, which includes its Exhibits each as fully incorporated elements of the Agreement, constitutes, subject to Section 30.3, a single, non-severable, integrated agreement whose terms are interdependent and non-divisible.

b. Except as otherwise specified herein or as the context may otherwise require, any term, condition, requirement, criteria, or specification set out or referenced in any part of this Agreement is a binding obligation.

c. This Agreement supersedes all prior negotiations, representations, or agreements, whether written or oral.

1.3. Integration of Provisions Required by Law

The Parties agree that any additional provisions not set forth in this Agreement required by any existing or future Law to be inserted in this Agreement are and will be deemed to be incorporated in this Agreement as and when required by or for compliance with such Law with effect from the date of their incorporation (unless Law expressly provides for retroactive effectiveness).

2. ENTRY INTO AND EFFECTIVENESS OF CONTRACT

2.1. Effectiveness and Base Term

a. This Agreement will come into effect on and from the Effective Date.

b. The "Term" will commence on the Effective Date and end on the earliest to occur of the following (such date being the Expiry Date):

i. the Termination Date; and

ii. the date of execution of the SDA with the Developer.

c. Subject to Section 30.5, this Agreement will terminate on the Expiry Date.

2.2. Grant of Rights; Qualifications and Restrictions

2.2.1. Grant of Rights

Subject to the terms and conditions of this Agreement:

a. the Authorities hereby grant to the Developer:

   i. other than with respect to the IFA Work:

      A. the exclusive right to undertake the Phase 1 Work and, subject to issuance of the relevant NTP and satisfaction of the relevant conditions precedent thereto, the Phase 2 Work and the Phase 3 Work.

      B. the exclusive right to negotiate terms for the SDA and to develop and implement the Project; and

   ii. with respect to the IFA Work:

      A. to the IFA Project Implementation Partner, subject to issuance of the relevant NTP and satisfaction of the relevant conditions precedent thereto, the exclusive right to undertake the IFA Work; and

      B. to the Developer, the right to oversee and manage the performance of the IFA Work on the Authorities' behalf through the performance of the Non-IFA Work; and

b. except following a termination due to Developer Default or a termination due to failure to proceed initiated by the Developer under Section 20.4, the Authorities will not at any time during the twelve (12) calendar month period following the Termination Date undertake themselves (other than under this Agreement), or entertain proposals from or negotiate with, any third party regarding the development or implementation of the Project or any similar dynamic personal microtransit system connecting the cities of Antioch, Brentwood, Oakley, Pittsburg, or other recreational, business and transit hubs in the eastern portion of Contra Costa County, for which purposes a "dynamic personal microtransit system" means a system of autonomous rubber wheeled, zero-emission vehicles, each designed to accommodate a single party, operating within a fixed guideway and delivering on demand public transit services; and

c. the Developer accepts such rights and acknowledges its obligations under this Agreement, in the case of the IFA Work, on behalf of the IFA Project Implementation Partner.

2.2.2. Qualifications and Restrictions

a. The Parties acknowledge and agree that the foregoing grant of rights:

   i. is conditioned on the Developer's satisfaction, in accordance with this Agreement, of the conditions to commencement of each Phase of Work;

   ii. will not, except as expressly provided in Section 2.2.1.b, prevent or limit either Authority from taking any action to build, maintain, operate, authorize, fund, finance, legislate, regulate, or otherwise undertake, support, cooperate or coordinate with, any existing or new mode of transportation in or through Contra

Costa County, from proceeding with work to integrate other projects or modes of transportation with the Project, or to prepare for expiration or termination of this Agreement or any Developer right hereunder;

iii. do not constitute an interest in real property, a lease to the Developer (whether an operating lease or a financing lease), or a grant (regardless of the characterization of such grant, including by way of easement, purchase option, conveyance, lien or mortgage), in each case, of any right, title, interest or estate, including any legal or equitable ownership interest, in the Work, the Project or any part of either thereof; and

iv. do not constitute or convey any right to engage in any revenue generating activities as part of the Work or in connection with the Project, including through the display or sale of advertising, the sale of naming rights, the undertaking of any concession activity, the charge of fees or fares, the sale, lease, license, or other form of monetization of any interest (tangible or intangible) in the Work or Project, or otherwise.

b. Notwithstanding the foregoing, the Developer may submit written requests for the Authorities' approval, not to be unreasonably withheld or delayed, to enter any property to which either Authority is entitled to grant such permission for purposes of conducting due diligence and otherwise facilitating, and preparing for, the Developer's performance of the Work. The Authorities' approval of any such Developer request will be subject to such conditions as either Authority may require, including the Developer having in place all necessary insurance coverage and otherwise indemnifying the Authorities, and assuming all liabilities, costs and expenses associated with such entry.

c. The Authorities will use reasonable efforts to pursue legislative changes to applicable Law to address constraints on the procurement and implementation of the Project based on their determination or agreement as to the need for and benefit of such changes.

2.2.3. Acceptance "As Is", "Where Is", and "With All Faults"

a. The Developer acknowledges and agrees that, except as otherwise expressly provided in the Agreement:

i. the grant of rights with respect to any information, documents, equipment, materials, work or work product, facility, structure, or property of any kind made available to the Developer, is provided:

A. on an "as is", "where is", and "with all faults" basis without undertaking, guaranty, representation or warranty, express or implied, regarding the accuracy, completeness, relevance, fitness for purpose, or adequacy of condition of the same (or any part thereof); and

B. subject to any condition or restriction (including the rights of third parties) that may exist from time to time on the same; and

ii. Developer will bear all risk, including of delay and/or increased cost, resulting from or arising out of the use of any such information, documents, equipment, materials, work or work product, assistance, facility, structure, or property.

2.2.4. Authority Undertakings

The Authorities will undertake each of the tasks for which it they are responsible under Exhibit 4 Part B and, without limiting the foregoing, will use reasonable efforts to:

a. assist the Developer in identifying available local, state and federal funds for inclusion in its funding plan with respect to (i) the Phase 3 Work and (ii) the SDA Work;

b. prior to the date that is eighteen (18) months following the Effective Date, apply for and obtain funding for the Phase 3 Work, to the extent set out in the funding plan developed by Developer as part of the Work and approved by the Authorities;

c. apply for and obtain funding for any SDA Work and implementation of the Project, to the extent set out in the funding plan developed by Developer as part of the Work and approved by the Authorities;

d. subject to the Authorities' approval of the proposed acquisition of any right-of-way and the identification by Developer of sufficient funding for such proposed acquisition, confirm the availability or non-availability of any right-of-way identified by Developer as necessary for the proposed Initial Segment; and

e. coordinate with the Developer in accordance with Section 4.2 in connection with its efforts to apply for and obtain any Permits or other approvals necessary for the Project for which the Developer is otherwise responsible.

2.2.5. Limitations on Authority Undertakings; Reservation of Rights

Notwithstanding the foregoing grant of rights and any other provision of this Agreement, including any undertaking by either Authority, Authorities will not be required to:

a. undertake any activity that would cause it to incur or assume any material otherwise unreimbursed cost or expense, or any material liability or risk, which is not expressly contemplated hereunder;

b. take any action that is contrary to Law or any Permit, or agreement binding on either Authority; or

c. exercise any power of eminent domain or initiate or participate in litigation.

2.2.6. Delegation of Authority

While, for ease of reference, CCTA and ECCTA are collectively referred to herein as the Authorities, either one of them may in their discretion act or perform for both of them in their capacity as the Authorities under this Agreement, and the Developer shall accept such action or performance as discharging the relevant obligation(s) of both CCTA and ECCTA, except where this Agreement expressly refers to either CCTA or ECCTA, and not to an Authority or the Authorities.

PART B: PRE-DEVELOPMENT WORK AND UNDERTAKINGS

3. DESCRIPTION AND SCOPE-OF-WORK

3.1. Project Purpose, Goals, and Assumptions

a. The Developer is responsible for performing the Work in accordance with the following purposes.

b. The purposes of the Work and this Agreement include: providing a basis for the Parties to negotiate and agree to the terms of one or more SDAs under which the Developer and the Key Team Members would, collectively, undertake responsibility for designing, constructing, financing, operating, and maintaining the Project, or an Initial Segment thereof in accordance with the objectives set forth in clause c below.

c. The Project to be delivered through the SDA is expected to:

i. include the planning, designing, constructing, and operating of a dynamic personal microtransit system that, as built out and with respect to any Initial Segment, would include the following elements:

A. a fleet of driverless vehicles operating on-demand on dedicated elevated or at-grade pathways;

B. a mobile application developed for the system by the Developer that interfaces with other mobile applications that are under development or developed by the Authorities for the system;

C. the ability of users to request rides through such mobile application or kiosks at designated boarding zones; and

D. through the ultimate build-out of the Project, a system which would connect the cities of Antioch, Brentwood, Oakley, and Pittsburg as well as other recreational, business and transit hubs in the eastern portion of Contra Costa County; and

ii. otherwise achieving the following objectives:

A. fully autonomous operations;

B. zero-emission/electric vehicles;

C. Americans with Disabilities Act (ADA) compliance;

D. minimum 4-person capacity that is also bicycle compatible;

E. on-demand, single party travel with wait times that do not exceed 2-5 minutes;

F. point-to-point travel;

G. financially self-sustaining through minimization of the need for ongoing operational subsidies;

H. operations in an exclusive guideway or right-of-way;

I. utilizing technology that is ready for deployment;

J. is scalable after the Initial Segment; and

K. does not preclude the possibility of providing first mile/last mile service to connect to the dedicated pathways in the future.

3.2. Developer's Role

a. Without limiting the scope of-work as otherwise described in this Agreement, and subject to its terms, the Developer will as part of the Work:

i. prepare, complete, and submit for review all Phase Deliverables;

ii. implement any Phase Deliverable which, in accordance with its approved terms, requires the Developer to undertake such action under the terms of this Agreement and not a future SDA;

iii. conduct due diligence with respect to the Project in accordance with the Standard of Care;

iv. perform due diligence and analysis, preliminary engineering and design, and develop reports, plans, preliminary designs, estimates, Phase Deliverables and other submittals, as reasonably necessary to complete each phase of work, propose a plan of finance and funding for the Project, and provide a basis for negotiation and agreement on one or more forms of SDA;

v. subject to Section 3.3.3, be responsible for timely securing and maintaining Permits necessary for the Work, including all associated risk of delay and/or cost, provided that:

A. the Developer will promptly deliver to the Authorities copies of all applications for and records of and relating Permits; and

B. where it is necessary to obtain, modify, renew, or extend any Permit, the Authorities will, at the request of the Developer use reasonable efforts to attend meetings and cooperate with any relevant Permit issuer and to undertake necessary actions (within their authority) that may only be taken by the Authorities;

vi. provide support to the Authorities in the performance of their obligations under this Agreement and their efforts to otherwise further the development of the Project;

vii. furnishing all required labor, services, parts, materials, equipment, tools, labor, and incidentals reasonably necessary to complete the Work; and

viii. otherwise undertake and complete all additional, collateral, and incidental work as required and reasonably necessary to complete the Work in accordance with the Agreement and all applicable Laws.

b. In order to facilitate, oversee, and manage the Developer's performance of the Work:

i. the Authorities may, in their discretion and upon prior notice, require the Developer to attend in-person meetings and/or teleconference or videoconference calls as part of the process for progressing the Phase Work;

ii. the Authorities may, acting reasonably, either provide a facility for any such meetings or accept the use of a facility for any such meetings provided by the Developer;

iii. the Developer will submit weekly reports to the Authorities showing the status of work and progress made toward the completion of the Phase Work, including accounting for Work and Project expenditures made, incurred, committed, or anticipated; and

iv. the Developer will confer with the Authorities for the purpose of providing the Authorities with an opportunity to attend key progress meetings with third parties, and in particular any meetings with other Governmental Authorities.

3.3. Phased Scope of Work

3.3.1. Description of Phase Work

Subject to the grant of rights pursuant to Section 2.2.1, the Work will be divided into three (3) sequential Phase periods and associated scopes of work as follows, in each case excluding any Excluded Work and with respect to the IFA Work, subject to Section 5.1:

a. "Phase 1 Work", which is comprised of:

i. completion all Phase 1 Work identified in the SDA Schedule and Workplan once initially prepared by the Developer and approved by the Authorities as part of the Phase 1 Work, which will generally include the activities identified in Part B of Exhibit 4 and shall include the Phase 1 Report;

ii. identification of a viable initial segment of the Project system for which design, construction, and long-term operations and maintenance can be sustainably funded or financed through a combination of likely grant funding sources, ongoing project revenues (the Initial Segment), or other public sources as necessary (subject to identification and approval of the same by the Authorities);

iii. identification of the proposed technology solution, operational assumptions, and system design parameters for implementation of the Initial Segment, which shall be scalable to future segment(s) to allow full build-out of the Project;

iv. identification of a funding plan (to include all available local, state, and federal funding programs) for the Phase 3 Work and, in sufficient detail to inform

negotiation and entry into a SDA, to fund each Phase of the work, through and including operations of the Initial Segment, including proposed prioritization of specific grant programs to pursue, identification of any funding support expected to be needed from the Authorities, and providing the Authorities a summary of the process by which such funding sources are to be obtained and associated risk factors;

v. review and analysis of the assumptions made in the Feasibility Study, including providing capital and operating cost estimates for the Initial Segment, sufficient to support advancement to Phase 2;

vi. proposing a viable approach and cost for completing the environmental review for each of the Initial Segment and for programmatic approval of future phases of the Project;

vii. through the foregoing, identifying an organizational, procurement, legal compliance, and contracting plan, including specified roles for the Key Team Members and any Subcontractors;

viii. timely completion of the Phase Deliverables with respect to Phase 1 and completion or satisfaction of any other requirements of this Agreement which expressly or by their nature must be completed or satisfied prior to commencement of Phase 2 Work; and

ix. subject to any restriction under applicable Law, any other elements of the Phase 2 Work or Phase 3 Work that the Developer desires to advance at its own cost and risk;

b. "Phase 2 Work", which is comprised of:

i. any and all Phase 1 Work not yet complete at the time of the issuance of the Notice to Proceed with Phase 2 Work;

ii. completion of all Phase 2 Work identified in the SDA Schedule and Workplan prepared by the Developer and approved by the Authorities as part of the Phase 1 Work, including application for and obtaining of funds necessary for the Phase 3 Work and for SDA Work; and

iii. timely completion of the Phase Deliverables with respect to Phase 2 and completion or satisfaction of any other requirements of this Agreement which expressly or by their nature must be completed or satisfied prior to commencement of Phase 3 Work; and

c. "Phase 3 Work", which is comprised of:

i. any and all Phase 1 Work and Phase 2 Work not yet complete at the time of the issuance of the Notice to Proceed with Phase 3 Work;

ii. completion of all Phase 3 Work identified in the SDA Schedule and Workplan prepared by the Developer and approved by the Authorities as part of the Phase 1 Work, including:

A. advancement of design of the Initial Segment to at least 30%;

B. identification and cost estimation for any right-of-way acquisition necessary to complete the Initial Segment;

C. advancement of development of the proposed technology solution, system design parameters, system engineering, and preparation of technical specifications for implementations of the Initial Segment that will also be applicable to future segments;

D. support the initiation and completion of environmental review of the Initial Segment, in accordance with Section 3.3.3;

E. to the extent not previously achieved, either (I) completion of testing of the AV proposed for use in the AV Service on the Initial Segment consistent with the bus testing requirements in 49 USC 5318 with such AV having received a passing score as required by 49 CFR Part 6, together with Developer certification of the same, or (II) verification including based on guidance from the FTA that such AV taking into account its intended use in the AV Service on the Initial Segment does not require compliance with such bus testing requirements;

F. complete an investment grade ridership and revenue analysis; and

G. negotiation in good faith and (subject to the mutual determination of the Parties that the Project is financially achievable and that sufficient funding sources have been identified and secured, or are reasonably likely to be secured, and satisfaction of such other conditions precedent the Authorities and the Developer may require) entry into the SDA with the Authorities; and

iii. timely completion of the Phase Deliverables with respect to Phase 3 and completion or satisfaction of any other requirements of this Agreement which expressly or by their nature must be completed or satisfied prior to negotiation of and entry into any SDA with the Authorities.

3.3.2. Excluded Work

a. The Work shall exclude:

i. any anticipated SDA Work, including the performance of any construction, demolition, installation, or relocation work in relation to the Project;

ii. the self-performance by the Developer, or the performance by any Key Team Member or Subcontractor, other than the IFA Project Implementation Partner, of any IFA Work;

iii. the performance of any work which is at such time precluded under, or would prejudice the outcome of, review of the Project pursuant to NEPA and CEQA pending receipt of an Environmental Decision;

iv. the performance of any work which would be subject to California Public Contract Code § 7104, which must be separately authorized by a Notice to Proceed or the SDA subject to terms and conditions which comply with California Public Contract Code § 7104 and which are otherwise acceptable to the Authorities;

v. the submission for or receipt of any Permit for the Project which the Authorities have notified the Developer must be submitted for or received by either Authority or another entity;

vi. any application for or receipt of funding or financing for the Project from a Governmental Authority or any other third party, excluding self-funding of the Work by any Developer-Related Party, which has not been approved in advance by the Authorities; and

vii. without limitation with respect to Section 31.5 and except to the extent expressly authorized by the Authorities, including through an approved SDA Schedule and Workplan, any community engagement, outreach, or communications regarding the Work and the Project, and any marketing or publicity regarding the Work and the Project,

(together, the Excluded Work).

b. If the Developer undertakes any efforts outside of the scope of the Work under this Agreement (including any Excluded Work and, with respect to Phase 2 or Phase 3, which is outside the scope of, or in advance of, the effectiveness of any SDA in relation to the same) or unrelated to the Project (including work included in any request, order, or other authorization issued by a Person in excess of that Person's authority, or included in any oral request or directive), then the Developer will be deemed to have undertaken such efforts voluntarily, at its own risk (including risk of breach), liabilities, cost, and expense.

3.3.3. Relationship of Work to Environmental Review and Compliance Process

a. The Parties acknowledge and agree that, as of the Effective Date, the environmental review process for the Project pursuant to NEPA and CEQA has not yet been initiated and is envisioned to remain ongoing at the time of execution of any SDA. As such, any property that may be subject to inclusion in the future Project limits and any future grant of rights with respect to the same, and/or any property or area which is depicted in or referenced in any way in the Agreement or any future Submittal or Phase Deliverable, reflects multiple possible alternatives under consideration pursuant to NEPA and CEQA from time to time and not an agreement with respect to any particular alternative.

b. The Authorities shall be the lead agencies responsible for the environmental review process for the Project pursuant to NEPA and CEQA and for pursuit and receipt of the Environmental Decision. The Developer shall provide all reasonably required support for the Authorities' pursuit and receipt of the Environmental Decision through its performance of the Work and otherwise as needed upon the reasonable request of the Authorities.

3.4. Notices to Proceed (NTP) and Periods for Performance of Phased Work

a. The Developer has no authority to proceed with any element of the Work prior to the Authorities' issuance of an NTP for the Phase 1 Work. The Authorities will issue NTP to proceed with the Phase 1 Work within fifteen (15) calendar days of the Effective Date.

b. The Developer's authority to proceed with any element of the Phase 2 Work or the Phase 3 Work shall be sequenced through issuance of the relevant NTP in the Authorities' discretion following completion of the prior Phase of Work.

c. The Developer acknowledges and agrees that:

i. except as provided for in Section 3.4.d, the Authorities have no obligation to issue any NTP or to otherwise approve terms for proceeding with Phase 1, Phase 2, or Phase 3;

ii. absent any NTP to proceed with the Phase 3 Work, the Authorities have no obligation to negotiate any SDA, and no in case are the Authorities obligated to agree or execute any SDA; and

iii. the Authorities have no liability to Developer under this Agreement with respect to the performance of such Phase of the Work, and the Developer acknowledges and agrees that it is not guaranteed, and has no contractual right or interest in, any Phase of the Work absent any such notice and/or any SDA in relation thereto.

d. The Developer will undertake Phase 1 Work during Phase 1, Phase 2 Work during Phase 2, and Phase 3 Work during Phase 3. The Developer will not begin performing Phase 1 Work, Phase 2 Work, or Phase 3 Work prior to receiving a Notice to Proceed in relation to the same.

e. Notwithstanding the foregoing, the Authorities shall issue an NTP for the Phase 3 Work no later than thirty (30) days following completion of all Phase 1 Work and Phase 2 Work, subject to the Parties' mutual satisfaction that the following conditions precedent have been achieved:

i. confirmation from all Parties that the business model for the Project is acceptable;

ii. sufficient committed funding being in place for the Phase 3 Work (which will not require receipt of funds, but may be satisfied by budget approval and commitments from the Authorities and/or other entities, and/or irrevocable

commitments of grant funds), including sufficient contingency, to be mutually agree by the Parties;

iii. satisfactory assessment of the permitting and environmental review and stakeholder engagement processes to be undertaken in Phase 3; and

iv. receipt of all third-party approvals required for the commencement of the Phase 3 Work.

3.5. Phase 1 Amendment

a. The Parties acknowledge that certain aspects of the Project remain unknown at this time and that, as a result, amendments to this Agreement may be desired following completion of the Phase 1 Work. The Developer may, in its discretion, propose amendments to this Agreement to the Authorities concerning the conduct of the Phase 2 Work or the Phase 3 Work. Any proposed amendments shall be provided in the form of a Change Proposal submitted under Section 8.2 and shall be submitted concurrent with the Developer's Phase 1 Report for the Authorities' consideration.

b. The Authorities agree to negotiate in good faith with respect to any amendments proposed by the Developer pursuant to this Section 3.5; provided, however, that the Authorities shall be under no obligation to accept any amendments proposed by the Developer; and provided further that any failure of the Authorities to accept any amendments proposed by the Developer, in whole or in part, shall not excuse the Developer's obligation to perform the Phase 2 Work upon issuance of an NTP for the same by the Authorities.

c. Nothing in this Section 3.5 is intended to limit the rights of either Party under Section 20.4 of this Agreement.

3.6. Negotiation and Entry into an SDA

a. Prior to the completion of Phase 3 Work, the Parties will negotiate in good faith the form of an SDA with respect to the pricing and scope of SDA Work and endeavor to mutually agree and timely execute such SDA.

b. For purposes of negotiating any SDA, Parties acknowledge and agree that such SDA will, unless otherwise agreed:

i. at the Authorities election, incorporate by reference any previously approved Submittal, including any Phase Deliverable;

ii. include pricing prepared in compliance with Section 7.3 and as approved by the Authorities;

iii. incorporate such additional, supplemental, replacement, and/or alternative terms and conditions as the Authorities determine necessary to comply with Law, standard, or any agreement binding on either Authority or applicable to the Project; and

iv. be in a form either prepared by, or approved by, the Authorities.

c. Notwithstanding the foregoing:

i. the Authorities may at any time by notice to the Developer require the Developer to submit Phase Deliverables (to the extent not previously submitted) with respect to, and to negotiate, a single or separate SDAs, provided that having made any such election the Authorities may by subsequent notice adjust their election; and

ii. in accordance with Section 20.2, the Authorities may at any time by notice to the Developer terminate the Phase Work and this Agreement prior to execution of any SDA.

d. The Authorities' foregoing right to negotiate two or more SDAs includes the right to require entry into a separate SDA or other direct agreement with the IFA Project Implementation Partner with respect to any SDA Work to be performed under the authority of the IFA.

4. GENERAL UNDERTAKINGS

4.1. Developer Undertakings

4.1.1. Obligation to Perform the Work and Standards for Performance

a. Subject to the express terms of this Agreement, the Developer will do and perform all the Work in compliance with:

i. this Agreement, including in light of Section 3.1;

ii. Law and any Permits;

iii. any NTPs;

iv. the approved SDA Schedule and Workplan, as such may be updated from time to time;

v. the proposal;

vi. applicable Submittals, including all approved designs, specifications, and plans delivered as Phase Deliverables;

vii. the Project Standards;

viii. any agreement binding on either Authority of which and to the extent the Developer is aware of such agreement and its relevant terms as of the Effective Date; and

ix. the Standard of Care;

b. Except as otherwise expressly provided in the Agreement, the Developer:

i. accepts all risks, responsibilities, obligations, and liabilities in connection with delivering the Work consistent with this Agreement.

ii. will be solely responsible for and have control over the means and methods, techniques, sequences, and procedures of Work.

4.1.2. Affirmative Covenants

The Developer hereby undertakes that it will:

a. observe all corporate, limited partnership or limited liability company, as applicable, formalities and do all things necessary to preserve its existence;

b. observe and comply with all applicable Laws pertaining to completion of the Work in accordance with the terms of this Agreement;

c. maintain, comply with, and ensure that each Key Team Member and each subcontractor maintains and complies with, all licenses, certifications, and accreditations and related standards, as well as all other required professional abilities, skills, and capacity required to perform the Work;

d. in response to a request by the Authorities, execute any conflict of interest, Prohibited Act, or similar certification that may be required; and

e. inform the Authorities whether it or any other Developer-Related Party, including any of its or their officers or holders of a controlling interest, is or has been placed on any debarred, suspended, or excluded parties list maintained by the United States Government, and incorporate such obligation into each Subcontract of every tier.

4.1.3. Negative Covenants

The Developer hereby undertakes that it will not:

a. change its legal form or name of organization without the Authorities' prior consent, such consent in the Authorities' discretion, may be withheld if such change would adversely affect the Authorities' rights, obligations, or interests under this Agreement or with respect to the Work, otherwise, not to be unreasonably withheld;

b. permit any other person or entity to carry out any business activities on the or in relation to the Work and the Project, except as expressly permitted by this Agreement;

c. commit or otherwise facilitate, and not permit any other Developer-Related Party to commit or otherwise facilitate, the commission of any Prohibited Acts;

d. promise any employee of either Authority, whose duties include matters relating to or affecting the subject matter of this Agreement, compensation of any kind or nature from the Developer, while such employee is employed by such Authority, or for one (1) year thereafter;

e. take part in any activities that will be, or give the appearance of, a conflict of interest with either Authority or that would appear to compromise the integrity of either Authority;

f. take any action (or refrain from taking any action) not contemplated in this Agreement in a manner that is calculated or intended to directly or indirectly prejudice or frustrate either Authority's rights hereunder;

g. unless expressly approved by the Authorities in their discretion, enter into any agreement with any third party, that in any way purports to, or reasonably could be interpreted to, obligate either Authority; and

h. enter upon, disturb, or use any property of any person or entity except with the express permission of, and in compliance with all requirements of, the owner or holder of such property.

4.2. Parties' Duties to Cooperate and Coordinate

At all times during the term, without limiting any Party's other obligations under this Agreement, the Authorities and the Developer will use reasonable efforts to cooperate and coordinate with each Party (and exercise reasonable endeavors to cause their respective representatives, advisors, and contractors to cooperate and coordinate with each other) to facilitate the progression of the Work. The Parties shall also use reasonable efforts to cooperate with all other Governmental Authorities with jurisdiction in matters relating to the Work, including any such Governmental Authorities' review, inspection, and oversight of the Work and the Project as contemplated herein, in accordance with any Law granting such jurisdiction or as contemplated by any other agreement binding on the Authorities.

5. DIVISION OF WORK, SUBCONTRACTING, AND KEY PERSONNEL

5.1. Roles of Developer Key Team Members[1]

a. The Developer shall manage the performance and integration of elements of the Work by the Key Team Members and work to ensure that the progression of the IFA Work and the Non-IFA Work each comply with the specifications and requirements developed by the System Technology Partner.

b. The Developer shall retain, employ, enter into Subcontracts with and utilize each Key Team Member for the scope-of-work identified as being allocated to such Key Team Member as follows:

i. A System Technology Partner, which will identify and develop the technology and AV specifications and requirements for the Project, including development of the specifications package Phase Deliverable in accordance with Exhibit 4, which will apply to both the IFA Work, Non-IFA Work, and progression of such elements of the Work through the SDA.

[1] The Authorities will consider necessary changes to this provision, and the description of the Key Team Members, to reflect the actual structure of the Proposer's team, including to reflect holding company, joint venture, and subcontracting arrangements, as well any divisions of work among multiple team members anticipated here to be performed by a single Key Team Member, provided that such do not substantively reallocate work assigned here to a specific Key Team Member or otherwise deviate from the Authorities' fundamental assumptions regarding this agreement, including as reflected in the separately provided "white paper".

ii. An IFA Project Implementation Partner, which will be responsible for progressing the plan for funding, financing, designing, constructing, operating, and maintaining elements of the Project:

A. on which no State funds or financing will be expended or used; and

B. which will be comprised of infrastructure facilities supplemental to existing government-owned facilities, which facilities may be separately procured and delivered through the Developer and the Non-IFA Project Implementation Partner with potential utility independent of the IFA Project Implementation Partner, (IFA Work), provided that in no case may the IFA Project Implementation Partner undertake or manage Work related to the design, construction, financing, or operation of any element of the Project to be delivered outside of the IFA and with State funds or financing.

iii. A Non-IFA Project Implementation Partner, which is responsible for supporting progression of the Non-IFA Work to the extent not otherwise self-performed by the Developer or performed by the System Technology Partner, including preparation for procurement, design, and construction of those civil elements of the Project which are to be funded at least in part with State funds.

c. The Developer shall not without the Authorities' approval:

i. enter into any additional Subcontract other than with a Key Team Member;

ii. self-perform any IFA Work or allow such work to be performed by Key Team Member other than the IFA Project Implementation Partner;

iii. expend, or allow to be expended, any State funds or financing on IFA Work or otherwise to or through the IFA Project Implementation Partner;

iv. permit the IFA Project Implementation Partner to undertake or manage Work related to the design, construction, financing, or operation of any element of the Project to be delivered outside of the IFA and with State funds or financing;

v. self-perform any other Work, which is identified as within the mandatory scope of a particular Key Team Member, or reallocate mandatory scope identified among Key Team Members;

vi. without prior notice to the Authorities, amend, or waive any provision of, any Subcontract with a Key Team Member, other than to the extent necessary to reflect a corresponding amendment to, or Change under, this Agreement;

vii. terminate, or permit, or suffer any termination of, any Subcontract with a Key Team Member;

viii. novate, assign, transfer, or substitute, or allow any change of control in, or suffer the same, of any Key Team Member's right, obligation, or interest in a Subcontract; or

ix. assign or transfer any of its, or permit or suffer any assignment or transfer by a Key Team Member of any of such Subcontract, or of any rights and/or obligations under any such Subcontract (in whole or in material part).

5.2. Direct Agreements

The Authorities may, as a condition precedent to any NTP, require the IFA Project Implementation Partner to execute a separate direct agreement with the Authorities, such agreement shall be reasonably equivalent to this Agreement and otherwise in form and substance acceptable to the Authorities, as necessary to comply with the IFA.

5.3. Personnel

a. The Developer will ensure that all Work will be performed and, as applicable, supervised by personnel:

i. who are experienced and competent in their respective trades or professions;

ii. who are professionally qualified to, and who hold all necessary registrations, permits, approvals, and licenses to, perform or supervise the relevant part Work pursuant to this Agreement; and

iii. who will assume professional responsibility for the accuracy and completeness of the relevant part of the Work performed or supervised by them.

b. As a result, the Parties acknowledge and agree that neither Authority intends to contract for, pay for, or receive any professional services that violate any professional licensing or registration Laws, and neither Authority has any obligation hereunder to pay for such services. Therefore, any references in this Agreement to the Developer's responsibilities or obligations to "perform" the professional services portions of the Work will be deemed to mean that the Developer will "furnish" the professional services for the Project. The terms and provisions of this section will control and supersede every other provision of this Agreement to the contrary.

c. If the Authorities determines, in its good faith discretion, that any Person engaged by or acting on behalf of the Developer:

i. is not performing the Work in a proper, safe, and skillful manner;

ii. is performing the Work in a detrimental manner;

iii. does not meet the minimum performance requirements of the Work;

iv. is not qualified;

v. poses a potential risk to the health, safety, or security threat of any person, the environment, the community, or property; or

vi. is acting or threatening to act in a violent, harassing, discriminatory, or illegal manner,

then, upon notice from the Authorities, the Developer or its Subcontractor will promptly remove such Person and will not re-employ them on the Work without the prior written approval of the Authorities, in its sole discretion.

d. The Developer will not remove and/or replace any of the Key Personnel without the Authorities' prior written approval, not to be unreasonably withheld, provided that the Developer:

i. will remove Key Personnel as required by the Authorities in accordance with Section 5.3.c; and

ii. may, as required by Law or pursuant to the Standard of Care at its election, terminate, suspend, or limit the duties of any Key Personnel (and, promptly thereafter, notify the Authorities of such action).

e. If for any reason the Developer wishes to remove and/or replace any Key Personnel and such removal and/or replacement requires the Authorities' approval, the Developer will promptly deliver a notice to the Authorities for approval, setting out the reason for such removal and/or replacement, together with:

i. the identity, expertise, and experience of the proposed replacement; and

ii. any such supporting information or evidence as the Authorities may reasonably require in relation to such matters.

f. For certainty, the foregoing restrictions on removal (but not replacement) of Key Personnel does not apply to an individual who voluntarily resigns or vacates a position or employment.

g. With respect to any Key Personnel position that becomes vacant through resignation, termination, or otherwise, Developer will use commercially reasonable efforts to fill such position with a qualified replacement within ninety (90) days (or less, to the extent otherwise required to comply with this Agreement or applicable Law). If such vacancy continues beyond ninety (90) days, Developer will continue to use commercially reasonable efforts to fill such position.

5.4. Subcontracting – General Requirements

a. The subcontracting of all or any part of the Work by the Developer will not relieve the Developer from any of the obligations or conditions of this Agreement.

b. The Developer will perform Work with appropriately qualified, licensed, experienced, and competent personnel and Subcontractors.

c. The Developer shall obtain approval from the Authorities of all Key Subcontractors not identified at the time of the proposal prior to such Key Subcontractors performing any Work.

d. The Developer shall maintain records of all Subcontracts to which the Developer is a party and will, upon request by either Authority, provide the requesting Authority a list describing all Subcontracts and a copy of any Subcontract.

e. Neither the subcontracting of all or any part of the Work by the Developer nor the approval of the Key Subcontractors by the Authorities shall relieve the Developer from any of the obligations, liabilities, or conditions of this Agreement. The Developer will be liable to the Authorities for all acts and omissions of the Subcontractors and the Developer will be solely responsible for scheduling and coordinating the Work of all Subcontractors, suppliers and any other person performing Work on the Project. The Developer will direct, coordinate, and control the activities of all Subcontractors with respect to the Work. The Developer must supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Agreement. It is the Developer's responsibility to see that the Work complies with the Agreement.

f. The Developer will have the right to have Work directly or indirectly performed by its Affiliates, so long as the Developer will execute, or have a Subcontractor execute, a written Subcontract with the Affiliate on arms' length terms.

5.5. Joint and Several Liability

a. In the event that the Developer or any Key Team Member, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination thereof), then and in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by the Developer or such Key Team Member will be the joint and several obligation or undertaking of each such individual or other legal entity.

b. Each of such individual or other legal entity waives notice of the breach or non-performance of any undertaking or obligation of the Developer or any Key Team Member contained in, resulting from, or assumed under this Agreement, and the failure to give any such notice shall not affect or impair such individual or legal entity's joint and several liability under this Agreement.

6. INTELLECTUAL PROPERTY AND WORK PRODUCT

6.1. Proprietary and Third-Party Intellectual Property

a. All Proprietary Intellectual Property will remain the exclusive property of the Developer or the Developer-Related Party.

b. The Developer hereby grants to (or, with respect to any Third-Party Intellectual Property, will provide to or obtain for) the Authorities a non-exclusive, non-transferable, irrevocable, fully paid up and sub-licensable license to use the Proprietary Intellectual Property, any Third-Party Intellectual Property, and, prior to transfer of ownership to the Authorities in accordance to Section 6.3, all Work Product, solely for the Authority IP Rights Purposes; provided that:

i. the granting of such license and the Authorities' rights to exercise their rights thereunder will not be construed to provide the Authorities with greater rights to oversee, direct, manage, and engage in the Project and the Work than they would otherwise have under this Agreement, and the Authorities agree that any use of Intellectual Property or Work Product subject to such license in violation of the same by them or any of their sublicenses will be at their own risk, cost, and expense; and

ii. the Developer may, with respect to any Third-Party Intellectual Property, comply with the foregoing obligations through functionally equivalent alternative arrangements subject to the consent of the Authority (such consent not to be unreasonably withheld).

c. The Developer will promptly and clearly disclose to the Authorities any identified Proprietary Intellectual Property and Third-Party Intellectual Property prior to incorporation into or combination with the Work. The Authorities will be entitled to consider any Intellectual Property not so identified and disclosed to constitute Work Product.

d. The Developer will deliver to the Authorities copies of all Intellectual Property used in providing the Work promptly following delivery of written requests from the Authorities.

6.2. Authority-Provided Intellectual Property

The Authority may in its discretion make certain Intellectual Property available to the Developer for use on the Project and in performance of the Work. The Authority shall make such Intellectual Property available under a license, grant, assignment, or other arrangement, the nature, terms, and conditions of which shall be determined by the Authority, acting reasonably.

6.3. Work Product

a. Subject to Section 6.1, all Submittals, and other information or material of any kind, in any medium, acquired, collected, created or prepared by on behalf of the Developer in the performance of the Work, including any draft, in each case to the extent acquired, collected, developed or prepared in whole or in part during performance of and arising out of the Work, shall be considered "Work Product" in which the Developer irrevocably commits to transfer any ownership rights and claims to the Authorities of all such Work Product as "work for hire" on and from the earlier of (i) the issuance of the NTP for the Phase 3 Work, and (ii) termination of this Agreement due to a Developer Default, provided that:

i. prior to such transfer, the Developer grants to the Authorities a license with respect to such Work Product in accordance with Section 6.1.

ii. Work Product will not at any time include, and the Authorities will not obtain title to, any Developer-Provided Intellectual Property; and

iii. the Developer may request that an invention or discovery made after the Effective Date through the performance of the Work be excluded from Work Product, subject to:

A. the Authorities' approval;

B. the Developer granting to the Authorities a license with respect to such excluded Work Product equivalent to the license required for Proprietary Intellectual Property under Section 6.1;

C. the Developer agreeing to share with the Authorities a share of such royalties or other revenues generated by monetizing, securitizing, or licensing the rights to such invention or discovery; and

D. such other conditions as reasonably required by the Authorities.

b. Upon passage of ownership of any Work Product to the Authorities, the Authorities will be deemed to grant to the Developer a limited license, for Developer and other Developer-Related Parties, to use and reproduce applicable portions of the drawings, specifications, and other documents prepared as Work Product appropriate to and for use in the execution of their Work under the Agreement. Submittals or distributions necessary to meet official regulatory requirements or for other purposes relating to completion of the Project are not to be construed as a publication in derogation of the Authorities' rights with respect to the Work Product.

c. The Developer must return the Work Product ownership of which has transferred to the Authorities to the Authorities upon its written request at the end of the Term.

d. The Developer shall execute such documents and take such further actions as may be reasonably requested by the Authorities to give effect to the foregoing.

7. WORK AT RISK AND PAYMENT OBLIGATIONS

7.1. No Entitlement for Payment for Phase Work

a. Except as expressly contemplated by Section 7.2, the Developer will perform all Phase 1 Work and Phase 2 Work at risk in consideration of its right to perform the Phase 3 Work and to negotiate and enter into an SDA.

b. Except as expressly contemplated by Section 7.2 and Section 20, the Developer is not entitled to claim or seek payment from the Authorities of any amount as a result of the Authorities making any determination not to issue a NTP, to terminate this Agreement, or to elect not to enter into an SDA.

7.2. Conditions for Authority Payment Obligations

a. The Parties agree that, subject to an issuance of an NTP for the Phase 3 Work following satisfaction of the conditions set forth in Section 3.4.d, the Authorities will pay the Developer for the Phase 3 Work out of funds identified or secured during earlier Phases of Work for such purposes as costs are incurred. The Developer acknowledges and agrees

that in receiving and expending any such payment it shall comply with the restrictions set forth in Section 5.1 with respect to the IFA Work and the IFA Project Implementation Partner.

b. As a condition precedent to either Authority assuming an obligation to pay the Developer for any portion of the Phase 3 Work:

i. any such payment obligation must be approved in writing in advance and made subject to the conditions of such approval, including:

A. that the Developer acknowledge and agree that it shall pay each of its Subcontractors the full amount to which such Subcontractor is entitled for the applicable portion of the Work completed through and including the last day of the most recently concluded month, less any retainage provided for in the Subcontract and any amount that is the subject of a good faith dispute within thirty (30) calendar days following the Subcontractor's delivery of an invoice to the Developer, and that any breach of such prompt payment requirements will subject the Developer to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code, and may result in the application of appropriate administrative sanctions.

B. that the Developer agrees to execute prompt payment certifications in form and substance acceptable to the Authorities, including affidavits of payment, conditional and unconditional waivers of liens and claims from Subcontractors at any tier, for each applicable payment the Subcontractor receives with payment releases to be in the form set forth in Civil Code Sections 8132 through 8138.

C. that the Developer provide:

1. an executed release for any Claims that arise in connection with the applicable Work that survives any final payment including an express and unconditional waiver and release sufficient to waive any rights and benefits the Developer may have pursuant to Section 1542 of the Civil Code; and

2. affidavits of prevailing wages paid, signed and submitted by the Developer and each Subcontractor required to submit such an affidavit under California Labor Code § 1775(b)(4) in the form required under Law or the Project Standards; and

D. assignment to the Authorities of all right, title and interest in and to all claims and causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15), or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services,

equipment, hardware, software or materials in accordance with this Agreement or any Subcontract.

ii. Furthermore, the Parties acknowledge that Section 9204 of the of Public Contract Code requires the Authorities to make payments (if any) to the Developer with respect to any portion of a "claim," which the Authorities identify as undisputed. If there is a dispute concerning the amount due on a certain portion of Work, CCTA will pay the undisputed amount. Upon resolution of any such dispute, each Party shall promptly pay to the other any amount owing.

7.3. Pricing for Phase 3 Work and Systems Pre-Development Agreement (SDA) Work

7.3.1. Open Book Cost Estimating

a. The Developer must conduct the development and refinement of any Phase 3 Work or SDA Work cost estimates, including as such are incorporated in the Phase Deliverables, using a transparent "open book" process under which:

i. the Authorities and the Developer Entity will meet as needed to review the status of the draft cost estimates, including detailed line item components and supporting data and information.

ii. the Authorities may at any time indicate to the Developer ways in which the draft cost estimates might be improved, including opportunities for the Authorities to furnish services, property, or assistance, access to improved information, changes in scope or schedule, and enhancing competition including pursuant to Section 7.4.

b. The Authorities shall be entitled to seek, at its cost and expense, an independent cost estimate to verify elements or components of any Developer cost estimate.

7.4. Competitive Solicitations

7.4.1. Developer Managed Competitive Solicitations

a. The Developer will in consultation with the Authorities' use reasonable efforts to identify categories of Phase 3 Work (for certainty, excluding self-performed work and any work to be self-funded by the Developer or a Key Team Member) and future SDA Work to be subcontracted that can or, pursuant to the following Section 7.4.1.b, must be competitively bid.

b. The Developer itself, or through a Key Team Member, will solicit bids from Subcontractors to perform portions of the Work or any future SDA Work:

i. pursuant to any approved SDA Schedule and Workplan.

ii. to the extent such must be competitively bid in order to comply with Law, permits, any contractual commitment, or any funding requirement.

c. The bidding procedures for any such procurement will be consistent with public bidding practices applicable to federally funded Authority procurements, as determined by the Authorities in their reasonable discretion. All bidding procedures and documents will be subject to review and comment by the Authorities.

d. Notwithstanding the foregoing, the Authorities will be entitled to elect to competitively procure categories of future SDA Work (excluding any such work to be undertaken under the authority of the IFA) on behalf of the Developer and/or the Project as a condition precedent to entry into the SDA.

PART C: CHANGES AND SUPERVENING EVENTS

8. CHANGES

8.1. Process for Change Proposals

a. The Authorities may in their discretion initiate a change in the Work (by way of an increase or reduction) relative to what is otherwise permitted or required. The Developer shall promptly thereafter present the Authorities with a Change Proposal for such changed Work including the information set forth in Section 8.2.b

b. The Authorities will provide the Developer, upon request, with any supporting information and documentation that the Developer may require to assess the resulting cost, performance, compliance and/or schedule impacts of the proposed changed Work.

c. Subject to Section 8.3, a Change Proposal will not be effective or implemented without the Developer's written acceptance and execution of the Change Order.

8.2. Developer-Initiated Changes

a. The Developer may request a change in the Work at any time relative to what is otherwise permitted in this Agreement by submitting, at its own cost, a Change Proposal to the Authorities for their consideration.

b. The Change Proposal submitted to the Authorities shall include all supporting information and documentation the Authorities require to assess the resulting cost (additive or deductive), performance, compliance, and/or schedule impacts of the proposed changes, including:

i. any amendments to this Agreement required to implement the Change Proposal;

ii. an analysis of any adverse schedule or cost impacts from the Change Proposal, including changes to the timing of required funding;

iii. identification and analysis of any other reasonably anticipated impacts on the Work arising from the Change Proposal; and

iv. any other supporting information and documentation as the Authorities may reasonably require.

c. Nothing in this Section 8.2 is intended to limit the discretion of the Parties to consult to define the scope of a potential change in advance of the submittal of any Change Proposal.

d. No Developer-initiated Change Proposal will be effective or implemented without the execution of a Change Order or other written memorandum by the Authorities, provided that Developer shall not be permitted to commence or continue with any portion of the Work that is the subject of a proposed reductive change in the Work.

8.3. Memorandum Documenting Change Proposal

If the Authorities and Developer agree on the terms of any Change Proposal, they will memorialize their agreement in a written acknowledgement of the Change Proposal (a Change Order), in either case in a form to be prepared by the Authorities (and reasonably acceptable to the Developer) setting out the details of such agreement.

9. SUPERVENING EVENTS

9.1. Potential Supervening Events

a. For purposes of this Agreement (a Supervening Event) means any of the following conditions or circumstances (unless and to the extent such conditions or circumstances result from, or have not been mitigated due to, a Developer Fault Event, which is not otherwise already expressly taken into account in the description of the relevant event including, with respect to site conditions, with respect to Developer's failure to undertake required due diligence), in which case the underlying conditions or circumstances will not qualify as a Supervening Event:

Event	**Definition / Description**
(1) Authority-Caused Events	Each of: (a) a material breach of this Agreement, or of Law, by either Authority that is not otherwise a Supervening Event. (b) an Authority-Initiated Change documented in a Change Order.
(2) Force Majeure Event	(a) Any of the following directly affecting the United States: i. war, civil war, invasion or armed conflict. ii. act of terrorism or sabotage. iii. blockade or embargo. (b) Any of the following directly affecting the County: i. earthquake ii. tidal wave or flood iii. tornado or named windstorm

Event	Definition / Description
	iv. any other unanticipated abnormal inclement weather conditions. (c) Nuclear or chemical contamination or emissions (including, as applicable associated, radiation) directly affecting Contra Costa County. (d) Any labor dispute, including a strike, lockout or slowdown, generally affecting the construction or public transit service industry in State or a significant sector of it; and/or any pandemics, or epidemics in the State, recognized by the World Health Organization or the Centers for Disease Control and Prevention to arise from communicable diseases or the California Department of Public Health to arise from communicable diseases, provided that COVID-19 will not qualify as a Supervening Event except with respect to any effects of or responses to COVID-19 that had not occurred or were not foreseeable at the Effective Date.
(3) Other Supervening Events	(a) Any other condition or event: i. which is not in nature or substance similar or equivalent to another Supervening Event (or an event that is excluded from treatment as a Supervening Event due to how any other specific Supervening Event is defined). ii. which was not disclosed to or known by the Proposer or a Developer-Related Party. iii. which could not have reasonably been known, identified, discovered, observed or anticipated by the Proposer or any Developer-Related Party undertaking required due diligence prior the Effective Date. Notwithstanding the foregoing and without limiting its right to claim any other applicable Supervening Event, the Developer will not be entitled to claim another Supervening Event to relieve itself of any specified risk, which it expressly assumed under this Agreement.

9.2. Notice of Claims Process

a. The Developer will provide written notification to the Authorities within fifteen (15) days upon discovering any Supervening Event, which it believes has occurred and will result in submission of a Supervening Event claim.

b. As a condition to the Developer being entitled to any relief pursuant to Section 9.2.d, within one hundred twenty (120) days following the date on which the Developer first became aware of the Supervening Event, the Developer must submit a detailed claim regarding the event in form and substance reasonably acceptable to the Authorities.

c. The Authorities will, after receipt of any Supervening Event claim or in advance of an anticipated claim, be entitled to require the Developer to provide such further supporting particulars as the Authorities may reasonably consider necessary by giving the Developer notice of such requirements.

d. Upon final agreement between the Parties, such agreement not to be unreasonably withheld, as to any relief to which the Developer is then entitled in respect of any Supervening Event, the Parties will execute a Change Order or other written memorandum (or, with respect to any Supervening Event that was continuing when a prior such memorandum was executed, a written addendum to such prior memorandum) in a form to be prepared by the Authorities (and reasonably acceptable to the Developer) setting out the details of such agreement.

9.3. Duty to Mitigate

a. Without modifying its other obligations pursuant to this Agreement, the Developer will use reasonable efforts to eliminate or mitigate the adverse impacts of the Supervening Event and, except as expressly provided in this Agreement, continue to perform its obligations under this Agreement notwithstanding the Supervening Event and, to the extent such performance has been affected by the Supervening Event, to resume performance of the affected Work as soon as practicable and in all events promptly after the cessation or mitigation of the Supervening Event.

b. The Developer will not be entitled to any relief to the extent the associated performance disruption or cost would have been avoided by its compliance with the foregoing mitigation obligation.

9.4. Developer Rights with respect to Supervening Events

9.4.1. Sole Entitlement

The Developer acknowledges and agrees that the Developer's right to claim an extension of time, relief from performance of its obligations, or other relief under this Agreement or to otherwise make any Claim in connection with any Supervening Event is as set out in Section 9.2.

9.4.2. Relief

Subject to the Developer's compliance with its obligations pursuant to Section 9.3 and resolution of any Supervening Event claim, the Developer will be relieved from the performance of its obligations pursuant to this Agreement, including as applicable, relief provided through the extension of any deadline, to the extent that the Developer's inability to perform such obligations is due to such Supervening Event.

PART D: COMPLIANCE

10. DBE, LABOR, AND WAGE PROVISIONS

a. All future SDA Work and, at the Authorities' election, any Phase 3 Work for which payment is sought by the Developer from the Authorities pursuant to Section 7.2, may be subject to DBE goals consistent with the requirements of grant funding sources. If the Authorities establish a DBE goal, the Developer shall use good faith efforts (as defined under 49 CFR Part 26, Appendix A) to achieve the relevant DBE goal.

b. Furthermore, the Authorities may require any SDA to include provisions addressing compliance with Laws and programs regarding labor, wage, workforce, and related issues.

11. FEDERAL AND STATE REQUIREMENTS

The Developer shall comply with, and require its Subcontractors to comply with, all State and federal requirements applicable to the Work and the Project, whether or not specifically listed in this Agreement, pursuant to Law, the Project Standards, and any Permit, including the federal requirements set out in Exhibit 7.

PART E: PROJECT MANAGEMENT AND PUBLIC OVERSIGHT

12. RECORD KEEPING AND INFORMATION SHARING

12.1. Project Records

a. The Developer will (and will require that each of its Subcontractors and each of their respective Subcontractors will) at all times create and maintain Project Records. Such Project Records shall be maintained until at least four (4) years following the Expiry Date (or, if earlier, on the Termination Date),

b. The Developer will provide access to Project Records at location(s) in Contra Costa County during normal business hours (and, upon reasonable request, at times outside normal business hours) and upon reasonable notice, unless the Authorities have a good faith suspicion of fraud in which case no prior notice will be required, and otherwise in accordance with the following, which are incorporated herein by reference 49 U.S.C. 5325, 2 CFR part 1201, and 49 CFR 633.17, as applicable, and any other applicable Law.

c. The Developer agrees to cooperate with the authorized representatives of the Authorities, who may inspect and audit all Project Records from date of this Agreement through and until the expiration of three (3) years after the later of the Expiry Date or final payment under the Agreement.

12.2. Conferences, Meetings, Presentations, and Reports

12.2.1. General Requirements

a. The Developer shall, on no less than a monthly basis, provide written progress reports on the status of its compliance with the SDA Schedule and Workplan and otherwise which

describe the items of concern and the work performed on each task or sub-component of the Project, including as identified in Exhibit 3 Contract Deliverables and Deadlines.

b. The Developer will attend such conferences and meetings with representatives of the Authorities and other interested parties, and provide such reports, as described in the Agreement, or as may otherwise be required in connection with the Work and the Project.

c. The Developer will assist the Authorities in making presentations regarding progress of the Work at regular intervals. The Developer will prepare occasional presentations to other organizations as requested by the Authorities regarding progress of the Work.

12.2.2. Senior Representative and Executive Meetings

a. Within ten (10) days of the Effective Date, each Party will notify the other Party of its designated senior representatives (to include each representative, together with senior personnel assigned to and engaged on the Work) for purposes of attending meetings and/or teleconference or videoconference calls to be regularly scheduled between the Parties, no less often than on a quarterly basis and more often as reasonably requested by the Authorities.

b. Once established, the Parties shall maintain such senior representative group subject to replacement or delegation from time to time.

c. The objectives of the senior representative group are to:

i. facilitate the development of a long term, collaborative working relationship between the Parties;

ii. monitor the progress of the Work;

iii. assist with issues that may arise from time to time; and

iv. review and consider such other matters relating to the Work and the Project as are agreed between the Parties from time to time.

d. In addition to the senior representative group, each Party shall arrange for its chief executive officer (or, if not such designated executive, the equivalent) to meet with their counterparty twice per year, or at such other annual frequency as reasonably requested by the Authorities. The objectives of such meetings will be the same as those for the senior representative group meetings.

12.2.3. Development Team Meetings

a. The Parties acknowledge and agree that a development team will be established for implementing the tasks required to complete the Work on behalf of both the Developer and the Authorities.

b. The Developer's SDA Schedule and Workplan shall identify discrete workstreams in respect of the tasks to be undertaken by the development team.

c. The composition of the development team will include nominated representatives of each of the Parties. Each of the Developer and the Authorities agree to use reasonable efforts to ensure that the representatives included in development team meetings:

i. attend and actively participate in such meetings;

ii. are consistent across the relevant working group meetings (as practicable); and

iii. have specialist knowledge to effectively consider the relevant matters under consideration by the working group.

12.3. Financial Reporting

The Developer will provide, or cause to be provided, to the Authorities financial and narrative reports, statements, certifications, and budgeting information as the Authorities may reasonably request from time to time for any purpose related to the Work, the Project, or this Agreement.

13. INSPECTIONS, AUDITS, AND OVERSIGHT

a. The Authorities' personnel will have the right to enter the Developer's work locations from time to time with reasonable prior written notice. The Developer must provide proper facilities for safe access to allow proper inspection of the Work.

b. Without limiting any other Authority right under this Agreement, once in every calendar year, and at additional times if the Authorities reasonably believe that Developer is in breach of its obligations under this Agreement, the Authorities may carry out or cause the carrying out of an audit of Project Records and Developer's compliance with its obligations under this Agreement.

c. The Developer will at all times otherwise cooperate and coordinate with Authorities, Contra Costa County, California Department of Transportation, and other Governmental Authorities with jurisdiction over the Work when such are performing oversight and conducting inspections during the performance of the Work and other matters relating to the Work or the Project, including by attending meetings, providing personnel to participate in working groups, and responding to requests for information.

14. PUBLIC RECORDS AND CONFIDENTIALITY

14.1. California Public Records Act (CPRA)

a. If either Authority receive a request for public disclosure of Work or Project materials submitted by the Developer that are in such Authority's possession, the Authority will provide notice to the Developer of the request and give the Developer an opportunity to assert a claimed exception under the CPRA or other applicable Law within the time period specified in the notice issued by such Authority and allowed under the CPRA.

b. Under no circumstances will either Authority be responsible or liable to the Developer or any other Person for the disclosure of any such materials that such Authority, as applicable, determines is required by Law or is required by court order.

c. In the event of any proceeding or litigation concerning the disclosure of any material submitted by the Developer to either Authority, the relevant Authority's sole involvement will be as a stakeholder retaining the material until otherwise ordered by a court or such other authority having jurisdiction with respect to the material. The Developer will be fully responsible for defending, indemnifying, and holding the Authorities harmless, and otherwise prosecuting or defending any action concerning the materials; provided, however, that such Authority reserves the right, in its sole discretion, to intervene or participate in the litigation in such manner as it deems necessary or desirable. Except in the case of an Authority's voluntary intervention or participation in litigation, the Developer will pay and reimburse the relevant Authority for all costs, damages, judgments, and expenses the Authority incurs in connection with any litigation, proceeding, or request for disclosure.

14.2. Confidential and Sensitive Information

a. The Developer shall not release any information received from the Authorities which is identified as confidential or otherwise exempt from public disclosure at the time such information is disclosed to the Developer.

b. The Developer shall disclose such confidential or exempt information only to those employees or agents who are required to protect it against unauthorized disclosure in a manner no less protective than under this Agreement.

c. The Developer shall immediately notify the Authorities in writing of any other request for information identified by the Authorities as confidential or otherwise exempt from public disclosure and shall coordinate any response to such request with the Authorities' designated custodian of records. No response to such request or release of any such information by the Developer shall be made without the prior written approval of the Authorities.

d. Nothing herein will prevent either Party from disclosing confidential information as required by Law; provided, however, that neither Party shall disclose such information without first providing the other Party with the prior notice and opportunity to respond as required herein.

e. Notwithstanding the foregoing, the Authorities may in their discretion require the Developer, each Key Team Member and Subcontractor, which has access to personally identifiable information and/or sensitive security information to execute a confidentiality agreement in form and substance acceptable to the Authorities.

PART F: PERFORMANCE MANAGEMENT

15. RIGHTS TO INTERVENE

15.1. Refusal of Access

a. The Authorities reserve the right to refuse access to any property or facility within their control by any person:

i. if either the Authority reasonably believes that:

A. the presence or activities of such person represents a material threat or risk to the health or safety of any person, the environment or any facility, building, or structure, the community, or property;

B. such person is impermissibly under the influence of alcohol or drugs;

C. such person is acting or threatening to act in a violent, harassing, discriminatory, or illegal manner, or such person previously acted in such a manner; or

D. who previously committed any of the conduct described above.

b. The Authorities' rights under this Section 15.1 in no way relieve the Developer of any responsibility within the site of the Work or for the Work as provided for under this Agreement, and in no way will the who exercise, or failure to exercise, these rights imply any liability or responsibility of the Authorities for the Work other than as expressly provided for under this Agreement.

15.2. Suspension of Work

a. In addition to the right of the Authorities to suspend the Work under any other provision of this Agreement, the Authorities will have the right and authority to suspend, in whole or in part, the Work by written order to Developer. Any such order will state the Authorities' reasons for the required suspension of the Work, and shall not constitute a Change or the basis for a Supervening Event.

b. Upon receipt of a suspension order, the Developer will comply with its terms immediately and take all reasonable steps to eliminate or mitigate any Loss, schedule impacts, and other consequences of the suspension. The Developer will thereafter promptly resume Work upon cancellation or expiration of a suspension order. While the Work, or a portion thereof, is suspended, the Developer:

i. remains responsible for the Work and will prevent damage, loss or injury; and

ii. will continue other Work not subject to the suspension.

15.3. Intervention

a. Without limiting any other rights of the Authorities under this Agreement, the Authorities may intervene or take action with respect to the Work under this Agreement, if the Authorities reasonably believe that they need to take action as a result of:

i. an emergency having occurred and being continuing, whether declared or undeclared;

ii. any Developer Default having occurred and not having been cured;

iii. any Developer Fault Event that has caused an ongoing threat to the health or safety of any person, the environment or built improvements, the community, or property;

iv. any other failure by the Developer to comply with a material term of this Agreement (other than with respect to any breach that constitutes a failure) which failure remains uncured; and

v. there being any necessity for the Authorities to intervene or act in order to discharge a constitutional, statutory, or other legally binding duty, then, subject to prior notice (to the extent reasonably practicable under the circumstances), the Authorities may but are not required to take such action, including through direct intervention in the Work, as they deem reasonably necessary, and the Developer will use reasonable efforts to give all necessary assistance to the Authorities while it is taking such action.

b. If the Authorities takes any action pursuant to Section 15.3 (other than as a result of an emergency), any costs and expenses of Authorities incurred in taking, or as a result of taking, such action will be payable by the Developer to the Authorities, upon request.

PART G: INDEMNIFICATION, BONDING, AND INSURANCE

16. INDEMNIFICATION

16.1. No Obligation to Indemnify Developer

Without limiting the Authorities' express obligations and liabilities under this Agreement, the Authorities will not indemnify Developer and no such express obligation or liability will be construed to the contrary as an indemnity.

16.2. Developer Indemnity

a. Subject to the limitations and exclusions set out in Section 16.3, Developer, on behalf of itself and its agents and subcontractors, will, to the fullest extent permitted by Law, release, protect, defend, indemnify, reimburse, and hold harmless each Authority and its officers, directors, agents and employees (Indemnified Parties) from and against any and all Claims and/or Loss (including reasonable attorneys' fees and costs), to the extent arising from, or as a consequence of:

i. Developer's fraud, willful misconduct, criminal conduct, recklessness, bad faith, or gross negligence;

ii. any breach by Developer of this Agreement;

iii. any violation of Law;

iv. any assertions of claims for failure of payment, or failure to provide appropriate bonds, made by Subcontractors or suppliers, and against any assertions of security interests by suppliers of goods, services, or materials; including in each such case any such claims and/or losses that are in respect of:

A. death or personal injury; or

B. loss of or damage to any Indemnified Party's property (whether personal or real), equipment or facilities, or to any natural resources, including loss of use thereof; and

v. any material disruption to, or any material interruption of the performance of, public services and activities by any Indemnified Party, provided that nothing in this Section 16.2 will limit or preclude Developer's right to claim any affirmative defense permitted by Law.

16.3. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Indemnity

The foregoing indemnities are intended to operate as agreements pursuant to Section 9607(e) of the CERCLA, 42 U.S.C. § 9607(e), and Health and Safety Code Section 25364, to defend, indemnify, and hold harmless the Indemnified Parties.

16.4. Exclusions from Developer Indemnity

Developer's indemnification and hold harmless obligations pursuant to Section 16.2 will not extend to any loss or claim of an Indemnified Party to the extent that such loss or claim arises from the willful misconduct, criminal conduct, recklessness, bad faith, or negligence of such Indemnified Party or the Indemnified Party's modification and/or misuse of the Intellectual Property in violation of the terms and conditions (including the license granted) under this Agreement.

16.5. Relationship to Insurance

For certainty, the insurance coverage Developer is required to obtain and maintain, or cause to be obtained and maintained, pursuant to Section 18 may support but will not limit Developer's indemnification and defense obligations pursuant to this Agreement.

16.6. Claims by Employees

The indemnification obligations set forth in Section 16.2 will not be limited or reduced by a limitation on the amount or type of damages, compensation, or benefits payable by or for Developer or Subcontractor (or anyone directly or indirectly employed by them or anyone for

whose acts they may be liable) under workers' compensation acts, disability benefits acts, other employee benefit acts, related law, or judicial decision with respect to any such law.

16.7. Notice and Defense of Claims

16.7.1. Notice of Claims and Tender of Defense

a. If either Authority receives notice of a third-party claim or otherwise has actual knowledge of a third-party claim that it believes is within the scope of Section 16.2, such Authority will:

i. provide Developer with reasonably prompt notice and details regarding such claim; and

ii. tender to Developer Authority's defense of any such claim and use reasonable efforts to cause each other Indemnified Party to tender to Developer such Indemnified Party's defense of any such claim.

16.7.2. Tender of Defense

a. If and to the extent defense of any third-party Claim that is subject to Section 16.2 is tendered to Developer, then within thirty (30) days after the receipt of such tender, Developer will notify the Authorities and any applicable Indemnified Party whether it has tendered the matter to an insurer (if applicable). If the insurer accepts any tender of defense with respect to any such third-party Claim, the Parties will use reasonable efforts to cooperate in the defense proffered by such insurer.

b. If any such third-party Claim is not tendered to an insurer, or if an insurer has rejected the tender, Developer will promptly notify the Indemnified Party whether Developer:

i. accepts the tender of defense; or

ii. is unable to accept or rejects the tender, following which the Indemnified Party will be entitled to select its own counsel and control the defense of such Claim at Developer's cost and expense, including the right to settle the Claim in consultation with but without the consent of Developer.

c. If Developer accepts tender of defense, then either:

i. if Developer has confirmed the claim is subject to full indemnification pursuant to Section 16.2 without any reservation of rights to deny or disclaim full indemnification, Developer will have the right to select legal counsel for the Indemnified Party with the prior written consent of such Indemnified Party; and

ii. if Developer is asserting any reservation of rights to deny or disclaim full indemnification, the Indemnified Party will have the right to select its own legal counsel. Furthermore, in each case Developer will be responsible for all costs and expenses related to such defense and each such counsel.

d. Notwithstanding any Developer acceptance of tender of defense, Developer acknowledges and agrees that, subject to the following, each Indemnified Party retains all rights with regard to settlement of any claim that is subject to Section 16.2, and Developer (or counsel appointed by Developer or its insurer) will seek the consent of such Indemnified Party to any settlement terms and conditions.

e. Developer's indemnification obligations hereunder will survive the termination or expiration of this Agreement.

17. BONDING AND SECURITY

As a condition to authorization to undertake any SDA Work, Developer will be required to obtain from a surety authorized to issue surety bonds in the State, or any other legally authorized issuer or provider of security, payment, performance, or other bonds or security, payment and performance security in an amount equal to one hundred percent (100%) of the estimated cost to complete the authorized SDA Work. The Developer shall provide such bonds or security to the Authorities from a surety or other provider of security, at such time and in such form, as the Authorities may reasonably require, as more particularly described in the SDA.

18. INSURANCE

18.1. General Requirements

Without limiting the indemnification obligations of the Developer under this Agreement, the Developer will purchase and continuously maintain in full force and effect the insurance coverages specified in Exhibit 6. Except as otherwise set forth in Exhibit 6, coverage will be maintained from and after the Effective Date through the Expiry Date.

18.2. Inadequacy and Unavailability of Required Insurance Coverages

If the Developer demonstrates to the Authorities' reasonable satisfaction that it has used diligent efforts in the relevant insurance and reinsurance markets to procure the required insurance coverages specified in Exhibit 6, and if despite such diligent efforts and through no fault of the Developer any of such coverages (or any of the required terms of such coverages, including policy limits) become completely unavailable or unavailable at commercially reasonable rates from insurers meeting the requirements specified in Exhibit 6, the Authorities will consider in good faith alternative insurance packages and programs that provide coverage as comparable to that contemplated in Exhibit 6 as is possible under the-existing market conditions.

PART H: DEFAULTS, REMEDIES, TERMINATION

19. DEFAULTS; REMEDIES

19.1. Occurrence of Developer Default

The occurrence of any one of the following events will constitute a "Developer Default":

a. the Developer abandons all or a material part of the Work, which abandonment shall occur if Developer:

i. expresses an intent not to perform, or continue to perform, a material part of the Work;

ii. fails to perform a material part of the Work for a continuous period of sixty (60) days except to the extent that such failure is substantially consistent with the then-current SDA Schedule and Workplan and does not otherwise constitute a breach of this Agreement; or

iii. refuses to negotiate with respect to a SDA or fails to enter into any agreed form of SDA;

b. the Developer fails to achieve any milestone by a date specified as a potential Developer Default under the terms of the then-current SDA Schedule and Workplan;

c. the Developer fails to pay an amount owing to a Subcontractor on the date due for such payment, except to the extent that the Developer is disputing such payment in good faith;

d. either:

i. the Developer is Insolvent; or

ii. any Key Team Member whose Work is not completed at the time of such occurrence is Insolvent, unless within ninety (90) days of such occurrence such Key Team Member is replaced with an entity that is approved by the Authorities, such approval not to be unreasonably withheld or delayed if the replacement Key Team Member satisfies the qualifications set forth in the RFP;

e. issuance of any final judgment holding Developer or any of its Key Personnel liable for an amount in excess of $50,000 based on a finding of intentional or reckless misconduct or violation of a State or federal false claims act, unless within ninety (90) days of such occurrence such Key Personnel is replaced with an entity that is approved by the Authorities;

f. after exhaustion of all rights of appeal, there occurs any disqualification, suspension, or debarment from bidding, proposing, or contracting with any state-level, interstate, or Federal Governmental Authority (distinguished from ineligibility due to lack of financial qualifications) of:

i. the Developer; or

ii. any other Developer-Related Party whose work is not completed at the date of the relevant exclusion and that remains a Developer-Related Party ninety (90) days after the date of the relevant exclusion;

g. the Developer fails to timely obtain and maintain any bond or insurance policy required by Law;

h. the Developer fails to make any payment to the Authorities pursuant to or in relation to this Agreement when due (unless such payment is the subject of a good faith Dispute);

i. any representation or warranty made by Developer pursuant to this Agreement, or in any certificate, Exhibit, report, instrument, agreement, or other document delivered by or on behalf of Developer to the Authorities pursuant to this Agreement, is false, misleading or inaccurate in any material respect when made or omits material information when made; or

j. any other breach by Developer of a material obligation under this Agreement, including any written repudiation of this Agreement, other than any breach that:

i. is a breach of the type referred to in clauses a through i above; or

ii. arises due to a Supervening Event to the extent Developer is entitled to relief under this Agreement as a result of such event.

19.2. Notice of Developer Default and Cure Period

a. Developer will use reasonable efforts to promptly notify the Authorities upon becoming aware that a Developer Default is imminent, has occurred, or is continuing.

b. If any Developer Default occurs, subject to Section 19.3, the Authorities may notify Developer that Developer is in default and include in such notice the circumstances that the Authorities believe to have triggered such default.

c. Except as follows, the cure period for any Developer Default is thirty (30) days after the date on which the Authorities delivers notice to Developer of the occurrence of the relevant Developer Default, provided that if the Developer Default cannot be cured within the specified cure period, and the Developer reasonably requests additional time to cure (and there is a prospect of cure during such period), the Authorities will grant an extended cure period in writing, which grant may be made subject to such conditions as Authorities may require in their reasonable discretion, provided further that no notice and opportunity to cure is required for any Developer Default that by its nature cannot be cured.

d. If the Developer has knowledge that a relevant Developer Default has occurred and fails to notify the Authorities of the relevant Developer Default, then any requirement of prior notice of Developer Default from the Authorities to Developer will be automatically waived, and any applicable cure period shall run from the date the Developer Default first occurred.

e. Failure to provide notice to any surety will not preclude the Authorities from exercising its remedies against Developer.

19.3. Authorities' Remedies upon Developer Default

a. If any Developer Default occurs and has not been cured by the expiry of the applicable cure period (if any):

i. the Authorities may, in their discretion, terminate the Agreement, in whole or in part, pursuant to Section 20.2; and

ii. the Authorities may in their discretion exercise any rights and remedies available to it (under this Agreement, at Law or in equity, or otherwise) for so long as such Developer Default continues uncured.

b. Subject to Section 20.1, the foregoing remedies under the terms of this Agreement are not exclusive of any other remedy. Each and every remedy is cumulative and in addition to any other remedy, existing now or hereafter, at law, or in equity.

19.4. Occurrence of Authority Default

The occurrence of any one of the following events will constitute an "Authorities Default":

a. the Authorities fail to pay the Developer any amount due and owing under this Agreement, provided that the Developer notified the Authorities of such failure, and such failure continued without dispute for a further ninety (90) days; or

b. the Authorities fail to perform any of their obligations under the Agreement, and such failure materially frustrates the Developer's ability to perform any material portion of its obligations to perform the Work; provided that:

i. the Developer has delivered notice of the occurrence of the Authorities Default to the Authorities; and

ii. such Authorities Default remains uncured for at least thirty (30) days; provided that if the Authorities Default is capable of being cured, but cannot be cured within such sixty thirty (30) days, the Authorities are diligently pursuing such cure and the Authorities reasonably request additional time to cure, the Developer shall grant an extended cure period in writing as may reasonably be required to effect such cure.

19.5. Developer Remedies upon Authority Default

a. If any Authority Default occurs and has not been cured by the expiry of the applicable cure period, the Developer may, in its discretion: (i) terminate the Agreement by giving notice to the Authorities pursuant to Section 20.4; and/or (ii) exercise any rights and remedies available to it under this Agreement for so long as such Authority Default continues uncured, including the right to waive such Authority Default.

b. Any termination by the Developer under Section 19.5.a shall be deemed to be a termination for failure to proceed in accordance with Section 20.4.

20. TERMINATION

20.1. Exclusive Rights and Remedies

a. This Section 20, together with the other provisions of this Agreement expressly referred to in this Section 20, contain the entire rights of the Authorities and the Developer regarding termination of this Agreement.

b. Notwithstanding anything to the contrary, a termination of this Agreement in accordance with this Section 20 will not waive any right or claim to damages that the Authorities may have and the Authorities may pursue any cause of action that it may have under the Agreement.

20.2. Termination Due to Developer Default

a. If a Developer Default occurs and has not been cured within the applicable cure period (if any), the Authorities may, in their discretion, terminate this Agreement at any time that such default is continuing by delivering to the Developer a termination notice to such effect.

b. Any such termination for Developer Default will be effective immediately on the date of the Termination notice, or on such other date as the Authorities may specify in such notice.

c. Following termination, the Authorities shall have no obligation to pay the Developer any amount (and Developer will not be entitled to any payment). Anything contained in this Agreement to the contrary notwithstanding, a termination for Developer Default will not waive any right or claim to damages, with respect to indemnification, or otherwise, that the Authorities may have, and the Authorities may pursue any cause of action that it may have under this Agreement.

20.3. Termination for Convenience

a. The Authorities may terminate this Agreement at their convenience, in whole or in part, at any time. If the Authorities decide to terminate this Agreement at their convenience, they will send a written notice of termination for convenience to the Developer specifying the extent to which performance of Work under this Agreement is terminated.

b. Any such termination for convenience will be effective thirty (30) days from the date of the termination notice, or on such other date as the Authorities may specify in such notice.

c. Developer will then restrict its activities, and those of its Subcontractors, to winding down its Work.

20.4. Termination Due to Failure to Proceed

a. Either of the Authorities or Developer may terminate this Agreement at any time that any of the following circumstances has occurred and is continuing (without regard to whether such arises due to or during a Force Majeure Event) by delivering a termination notice documenting that:

i. the Authorities have determined through the environmental process that the benefits of the Project do not outweigh its environmental impacts, or that the Initial Segment or any other material element of the Project cannot proceed substantially in the form proposed by Developer through the Proposal and the Phase Deliverables, including absent additional or supplemental evaluations,

studies, or other work under NEPA, CEQA, or Law that, in the Authorities' discretion, are impractical in light of the purpose and intent of this Agreement;

ii. one or more Phase Deliverables document that the Initial Segment or any other material element of the Project is not financially feasible, does not meet Developer's Proposal, otherwise requires a material subsidy, funding, financing, or other payment, or other form of commitment and support from the Authorities or another Governmental Authority, and the Authorities or such Governmental Authority have not agreed to provide the same;

iii. the Phase Deliverables document that the Initial Segment or any other material element of the Project cannot be developed in accordance with reasonably acceptable commercial terms which conform to this Agreement and the Developer's proposal;

iv. the occurrence of a change in law that prohibits or has the effect of prohibiting prosecution of any material portion of the Work or materially and adversely affects a Party's rights or performance under this Agreement;

v. a temporary restraining order, injunction or other form of legal order has been issued by a court that prohibits or has the effect of prohibiting prosecution of any material portion of the Work or materially and adversely affects a Party's rights or performance under this Agreement;

vi. any Force Majeure Event has caused one or both Parties to be unable to comply with its or their material obligations with respect to all or a material portion of the Work and such event and inability has continued for a continuous period of at least one hundred eighty (180) days;

vii. a failure by the Developer to complete the applicable bus testing requirements for the AV proposed for use in the AV Service on the Initial Segment, or to determine that no such testing is required, in either case in accordance with Section 3.3.1.c.ii.E within six (6) months from issuance of the NTP for the Phase 3 Work (unless otherwise mutually extended by the Parties);

viii. the NTP for the Phase 3 Work has not been issued by the date that is eighteen (18) months following the Effective Date, unless such date is extended by the mutual written consent of the Parties; or

ix. despite the Authorities and the Developer negotiating in good faith, the parties are unable to agree to the form of the SDA (including, without limitation, any technical provisions) by the date that is eighteen (18) months from the issuance of the NTP for the Phase 3 Work (unless otherwise mutually extended by the Parties).

b. Any such termination due to failure to proceed will be effective thirty (30) days from the date of the termination notice.

c. Developer will then restrict its activities, and those of its subcontractors, to winding down its Work.

20.5. Payment Upon Termination

a. Following termination, the Authorities shall have no obligation to pay the Developer any amount (and Developer will not be entitled to any payment), except to the extent the Authorities have previously committed to pay the Developer for portions of the Phase 3 Work pursuant to Section 7.2, in which case, unless terminated due to a Developer Default, the Authorities will pay the Developer an amount representing the value of the Phase 3 Work actually and satisfactorily completed prior to termination. Under no circumstances, will such amount exceed the total cost of such Phase 3 Work provided for in the Notice to Proceed with Phase 3 Work.

b. Under no circumstances is the Developer entitled to anticipatory damages, unearned profits, punitive, exemplary, special, incidental, or consequential damages as a result of a termination or partial termination for convenience.

c. Anything contained in this Agreement to the contrary notwithstanding, a termination for convenience will not waive any right or claim to damages, with respect to indemnification, or otherwise, that the Authorities may have, and the Authorities may pursue any cause of action that it may have under this Agreement.

21. POST-TERMINATION OR EXPIRY ASSIGNMENT AND TRANSFERS

a. Without limiting its other obligations under this Agreement, on the Phase 3 Expiry Date (or, if earlier, on the Termination Date), Developer will, unless the Authorities elect in writing to the contrary, assign and transfer to the Authorities, and/or any Person designated by the Authorities, for no additional payment:

i. all third-party and funding agreements with Governmental Authorities relating to the Work and the Project;

ii. all Permits;

iii. all Project Records and other Work Product consistent with Section 6; and

iv. anything else which pursuant to this Agreement or a subsequent Submittal the Developer is required to assign and/or transfer to the Authorities.

b. The Developer will not take any action (or refrain from taking any action), or permit any Subcontractor to or refrain from the same, in a manner that is calculated or intended to directly or indirectly prejudice or frustrate any of the activities or rights of the Authorities following termination of this Agreement, including their ability to continue to proceed with the Project.

PART I: LIMITATION ON LIABILITIES

22. REMEDIES

22.1. Developer's Sole Remedies

Developer's sole remedy in relation to matters for which an express right or remedy is stated in this Agreement, including as the result of the occurrence of any Supervening Event, will be that right or remedy and Developer will have no additional right or remedy however arising.

22.2. No Double Recovery

Notwithstanding any other provision of this Agreement, no Party will be entitled to recover compensation under this Agreement or any other agreement in relation to the Work with respect to any Loss that it has incurred to the extent that it has already been compensated with respect to that loss pursuant to this Agreement or otherwise.

22.3. Non-financial Remedies

Nothing in Sections 22.1 and 22.2 will prevent or restrict the right of the Authorities or Developer to seek any non-financial remedies from a court with jurisdiction pursuant to this Agreement.

22.4. Available Insurance

The Developer will not be entitled to any payment or credit (or any portion of either thereof) which would have been due, or from which it would have otherwise received a benefit, under this Agreement to the extent that it is (or should have been) able to recover the amount or receive the benefit of such payment or credit (or such portion) under any Available Insurance.

22.5. Limitation on Liability

a. The Developer's total aggregate liability to the Authorities and any Authority indemnified Party under the Agreement, including for default, breach of contract, negligence, any liquidated damages (howsoever described), pursuant to any indemnity obligations related to Claims and/or Losses suffered by any Indemnified Parties, or otherwise in connection with the Project, will not exceed three million dollars ($3,000,000).

b. This limitation on liability will not apply:

   i. to Losses to the extent that such Losses are required to have been covered by insurance pursuant to this Agreement, or are otherwise covered by the proceeds of insurance actually carried by or insuring the Developer under policies solely with respect to the Project, regardless of whether such policies are required pursuant to this Agreement;

   ii. under any indemnity pursuant to this Agreement to the extent such indemnity relates to a Claim asserted and/or Losses suffered by any third party (other than an Authority Indemnified Party), or Claims arising from death or bodily injury; arising out of fraud, willful misconduct, criminal conduct, recklessness, bad faith, or gross negligence (including that of any Developer-Related Party); or

   iii. to costs, liabilities or obligations arising from the Developer's abandonment of the Project.

23. LIABILITY

23.1. Waiver of Consequential Damages

a. Neither Party will be liable to the other for any punitive, indirect, incidental, consequential or special damages of any nature, whether arising out of a breach of this Agreement, tort (including negligence), or other legal theory of liability, including loss of bonding capacity, loss of bidding, loss of business or contracting opportunities, or other impact costs.

b. The limitation set out in Section 23.1.a will not apply to:

i. any amounts expressly payable pursuant to this Agreement or any SDA, including as liquidated damages, performance deductions, or the equivalent, or any amounts entitled to be offset;

ii. Developer's liability for:

A. Claims and/or Loss that are in respect of death or personal injury;

B. Claims and/or Loss (including defense costs) to the extent that they are required to have been covered by Available Insurance; and

C. amounts payable by Developer under an indemnity pursuant to this Agreement (but only to the extent such indemnity relates to a Claim asserted and/or Loss suffered by any person or entity other than the Authorities, and is not otherwise a type of liability listed under A. or B. above); and

iii. any Party's liability for Loss arising out of fraud, willful misconduct, criminal conduct, recklessness, bad faith, or gross negligence on the part of the relevant Party (including, with respect to Developer, that of any other Developer-Related Party).

23.2. No Personal Liability

a. Representatives of the Authorities are acting solely as agents and representatives of Authorities, when carrying out the provisions of or exercising any right under this Agreement. They shall not be liable either personally or as employees of Authorities for actions in their ordinary course of employment.

b. No agent, consultant, officer, or authorized employee of the Authorities will be responsible either personally or as an agent, consultant, officer or employee, or board member, for any liability arising under this Agreement, it being understood that in such matters they act as representatives of the Authorities.

23.3. Governmental Immunity

The Parties acknowledge and agree that the each Authority and its officials, officers and employees are relying on, and do not waive or intend to waive, by any provision of this

Agreement, the monetary limitations or any other rights, immunities and protections provided by Law, or otherwise available to each Authority and its officials, officers and employees.

PART J: GOVERNING LAW, JURISDICTION, AND DISPUTE RESOLUTION

24. GOVERNING LAW

This Agreement and the rights of all Parties hereunder will be construed and enforced in accordance with the laws of the State of California.

25. CONSENT TO JURISDICTION; DISPUTE RESOLUTION

a. The Parties should initially attempt to reach an amicable settlement of any dispute prior to referring such dispute for resolution pursuant to the following procedures.

b. Either Party may formally initiate a dispute by delivering a notice to the other Party of the matter requiring resolution. Following issuance of such notice, the dispute will be initially decided by a committee consisting of the Authorities' designees, who may consider written or verbal information submitted by either Party in accordance with procedures established by such committee. Following the committee's issuance of its decision, either Party may seek further resolution through a court proceeding, provided that at any time, including prior to the committee's issuance of its decision, either Party may avail itself of any remedy under Law or contract, including by commencing court proceedings with respect to any dispute, if necessary to preserve such Party's rights under any applicable statute of limitations.

c. The Parties consent to the jurisdiction of the Superior Court of Contra Costa County and to the Northern District of California. Any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be adjudicated exclusively by such courts.

d. The Parties acknowledge that the Work does not include any element which would be considered a "public works project" for purposes of Public Contract Code § 9204, with any such Work being reserved for incorporation in a future SDA.

26. JOINDER

a. Notwithstanding anything herein to the contrary, the Developer agrees to be joined in any proceeding (including, but not limited to arbitration and litigation) where an Authority is a party where the Developer's acts, omissions, or negligence are an issue. The Developer agrees to such joinder regardless of whether it requires the Developer to participate in litigation outside the agreed-upon venue and waives any objection to personal jurisdiction or inconvenient forum related to same.

b. Except with respect to the foregoing, no proceedings to resolve any Dispute arising out of or relating to this Agreement will include, by consolidation or joinder or in any other manner, any additional person, including any other Key Team Member or Subcontractor,

not a Party to the Agreement, except with the written consent of the Authorities and any other person sought to be so joined.

27. CONSENT TO SERVICE OF PROCESS

The Developer irrevocably consents to service of process by notice as provided for in Section 28.

PART K: MISCELLANEOUS

28. NOTICE

28.1. Methods of Notice Submission

a. Unless the context otherwise requires:

i. any reference to a "notice" in this Agreement means a notice, request, demand, instruction, Submittal, or other communication;

ii. any such notice must be made in writing;

iii. any such notice must be delivered by certified mail, return receipt requested, recognized overnight mail or courier service, with delivery receipt requested, and by email (at the sender's discretion, delivery receipt requested), in each case to the following addresses or to such other address as may from time to time be specified in writing by such Person without the need for an amendment to this Agreement:

A. with respect to the Developer as recipient, to Developer's Representative at the following address:

[ ]

with respect to CCTA as recipient, at the following address:

Contra Costa Transportation Authority

2999 Oak Road, Suite 100

Walnut Creek, CA 94597

Attention: Stephanie Hu, Director, Projects

with respect to ECCTA as recipient, at the following address:

Eastern Contra Costa Transit Authority

801 Wilbur Avenue

Antioch, CA 94509

Attention: Rashidi Barnes, Chief Executive Officer

with copy to the following if such notice regards any Claim, Dispute, termination or default:

Contra Costa Transportation Authority

2999 Oak Road, Suite 100

Walnut Creek, CA 94597

Attention: Brian Kelleher, Chief Financial Officer

Eastern Contra Costa Transit Authority

801 Wilbur Avenue

Antioch, CA 94509

Attention: Rashidi Barnes, Chief Executive Officer

b. Notwithstanding the foregoing, any service of process must at all times be physically delivered.

28.2. Time and Date of Notice Submission

Notices will be deemed effective:

a. if delivered by email or equivalent digital means, when recorded as delivered;

b. if delivered by mail or courier, three (3) Business Days after mailing in accordance with this Section;

c. if delivered personally, upon receipt,

d. in each case where delivery on a Business Day before or at 4:00 pm pacific time will be deemed to be delivery on such Business Day, and delivery after 4:00 pm pacific time will be deemed to be delivery on the following Business Day.

28.3. Paper Waste Reduction Policy

The Developer shall utilize double-sided printing and recycled paper for all Project Records, Notices and correspondence placed on standard Letter sized paper (ANSI A - 8.5”x11”) or equivalent whenever practicable. The Developer shall endeavor to utilize electronic correspondence except where written notice is expressly required under the terms of this Agreement, in which case the Developer shall comply with the notice requirements set forth above.

29. PARTIES TO CONTRACT

29.1. Binding Effect; Successors and Assigns

This Agreement will be binding upon and inure to the benefit of the Authorities and the Developer and each of their respective permitted successors and assigns.

29.2. Assignments and Transfers by Authorities

Each Authority may assign, transfer, mortgage, pledge and/or encumber its interests in, or rights or obligations under, this Agreement, any bond, and/or the Insurance Policies to:

a. the other Authority;

b. Contra Costa County;

c. subject to Section 2.2.1.b, any Person engaged by it to complete the Work following the occurrence of a Developer Default; or

d. otherwise, with the prior written consent of the Developer, which consent will not be unreasonably withheld.

29.3. Assignments and Transfers by Developer

29.3.1. Developer

a. The Developer will not directly or indirectly sell, assign, convey, transfer, pledge, mortgage, sublease, or otherwise encumber any of Developer's interest in and to this Agreement in whole or in part, except for Permitted Transfers.

b. Any sale, assignment, conveyance, transfer, pledge, mortgage, sublease, or encumbrance made in violation of the foregoing provision will be null and void ab initio and, in the Authorities' discretion, constitute a Developer Default for breach.

c. In no case will the Authorities' approval of any sale, assignment, conveyance, transfer, pledge, mortgage, sublease, or encumbrance as described above relieve the Developer, or any guarantor or surety, from its or their obligations or liabilities under or in relation to this Agreement.

29.4. Limitation on Third-Party Beneficiaries

a. The Parties agree that this Agreement is solely for the benefit of the Parties and nothing herein is intended to create any third-party beneficiary rights for third parties.

b. Notwithstanding the foregoing, the duties, obligations, and responsibilities of the Parties with respect to third parties will remain as imposed by Law.

29.5. Independent Developer

a. The Developer must perform the Work under this Agreement as a non-exclusive independent contractor, and nothing herein is intended or will be construed to create any partnership, agency, or joint venture relationship between Authorities and the Developer.

b. Neither the Developer nor its Subcontractors, or the employees of any of them, will be deemed for any purpose to be employees or agents of the Authorities. The Developer is not authorized to act as the Authorities agent and will have no authority, expressed or

implied, to act for or bind the Authorities' unless otherwise expressly set forth for a particular purpose in a separate writing by the Authorities.

30. CONSTRUCTION OF CONTRACT

30.1. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Transmission by electronic mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart, to be followed thereafter by an original of such counterpart. The Parties, in the manner specified by the Authorities, may sign this Agreement digitally.

30.2. Entire Contract

This Agreement, including each Exhibit, constitutes the entire agreement between the Developer and the Authorities with regard to its subject matter, and no other oral or written understandings, representations, inducements, consideration, promises, or interpretations are part of this Agreement.

30.3. Severability

If any provision of this Agreement is held or deemed inoperative or unenforceable because it conflicts with any other provision or provisions hereof, or any constitution, statute, ordinance, rule of Law, public policy, or any other reason, the circumstances will not render the provision in question inoperative or unenforceable in any other case or circumstances, or render any other provision herein contained invalid, inoperative, or unenforceable to any extent. The invalidity of any one or more phrases, sentences, clauses, or Sections contained in this Agreement will not affect the remaining portions of this Agreement or any part thereof.

30.4. Amendments and Waivers

a. Subject to the following with respect to waivers, no changes, amendments, modifications, cancellation, or discharge of this Agreement, or any part thereof, will be valid unless in writing and signed by the authorized representatives of the Parties hereto, or their respective successors and assigns, in accordance with Law.

b. Whenever under this Agreement, the Authorities by a proper power waive the Developer's performance in any respect, or waives a requirement or condition to either Authorities' or the Developer's performance, pursuant to Section 2.2 of Exhibit 1 the waiver so granted will only apply to the particular instance and will not be deemed a waiver forever or for subsequent instance of the performance, requirement, or condition. Pursuant to Section 2.2 of Exhibit 1, no such waiver will be construed as a modification of this Agreement, regardless of the number of times the Authorities may have waived the performance, requirement, or condition.

30.5. Survival

The following provisions of this Agreement will survive the expiration or earlier termination of this Agreement and/or completion of the Work:

a. Section 2.2.1.b regarding exclusivity;

b. Section 6.1 regarding intellectual property;

c. the Developer obligations regarding retention of Project Records contained in Section 12.1;

d. Section 14 regarding records and confidentiality;

e. the Developer obligations regarding insurance, bonds, and security in Section 18;

f. Section 16 regarding indemnification;

g. Sections 20 and 21 regarding termination and handover;

h. Sections 22 and 23 regarding remedies and limitations on liability;

i. Section 24 and 25 regarding governing law and disputes;

j. Exhibits 1, 2 and 3; and

k. any Developer liability or obligations to the Authorities arising from a Developer Fault Event.

31. MISCELLANEOUS

31.1. Taxes

31.1.1. Tax Treatment

a. Neither the Developer nor any other Developer-Related Party will be treated as or deemed to be the legal, tax or equitable owner of the viable initial segment or any part thereof, or any facility, building, and structure thereon or on any part thereof.

b. The Authorities take no position, and bear no responsibility or liability, for the Developer's elected tax treatment of any interest in the Work or the Project.

31.1.2. Developer Tax Obligations and Liabilities

a. THE DEVELOPER IS SOLELY RESPONSIBLE FOR THE WITHHOLDING OR PAYMENT OF ALL APPLICABLE FEDERAL, STATE, AND LOCAL PERSONAL INCOME TAXES, SOCIAL SECURITY TAXES, UNEMPLOYMENT AND SICKNESS DISABILITY INSURANCE, AND OTHER PAYROLL TAXES WITH RESPECT TO THE DEVELOPER'S EMPLOYEES. NEITHER THE DEVELOPER NOR ITS SUBCONTRACTORS, OR THE EMPLOYEES OF ANY OF THEM, SHALL BE ELIGIBLE FOR ANY RETIREMENT, PENSION (THROUGH PERS OR OTHERWISE), OR OTHER EMPLOYMENT BENEFITS AVAILABLE TO EMPLOYEES OF THE AUTHORITIES.

b. As such, the Developer will pay or cause to be paid, prior to delinquency, all Taxes in each case in respect of the Developer's performance of the Work under this Agreement, and any other Developer-Related Party interest in any of the foregoing. The Authorities will

not in any case be responsible for any Taxes levied on the Developer or on any other Developer-Related Parties. The Developer accepts sole responsibility for, and agrees that it will have no right to claim, a Supervening Event or to any other claim for relief due to, its misinterpretation of Laws in relation to Taxes or incorrect assumptions regarding applicability of Taxes.

31.2. Further Assurances

a. Prior to the Effective Date and in accordance with the RFP, the Developer disclosed to the Authorities in writing all organizational conflicts of interest (as described in the RFP) of which it was aware and, since such date, the Developer has not obtained knowledge (having made reasonable inquiries to obtain such knowledge) of any additional such organizational conflict of interest, and there have been no Organizational Changes (as such term is defined in the RFP) that have not been approved pursuant to the terms of the RFP.

b. In connection with this Agreement, the Developer has not committed or caused, and will not commit or cause, a violation of:

   i. Government Code Sections 1090 through 1099, 84308, and/or 87100 through 87105; or

   ii. California Code of Regulations Sections 18438.1 through 18438.8.

c. The Developer has not, in the past three (3) years, been convicted of or had a civil judgment rendered against it for:

   i. commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (e.g., federal, state or local) transaction or public contract;

   ii. violation of federal or state antitrust statutes; or

   iii. commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, and the Developer is not presently indicted for or otherwise criminally or civilly charged by a Governmental Entity with commission of any of the foregoing offenses.

d. The Developer has not, in the past three (3) years, had one or more public transactions (federal, state or local) terminated for cause or default.

e. Developer has fully complied with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require that each of its Subcontractors and each of their respective Subcontractors will comply with the same.

31.3. Costs

a. Each Party is responsible for paying its own costs and expenses incurred in connection with the negotiation, preparation, execution, and delivery of this Agreement.

b. b. Except as otherwise provided in this Agreement, each Party will perform its obligations in accordance with this Agreement at its own cost and risk.

31.4. No Personal Liability of Government Officials

a. Authorities' representatives are acting solely as agents and representatives of CCTA or EECTA as the case may be, when carrying out the provisions of or exercising any right under this Agreement. They will not be liable either personally or as employees of the Authorities for actions in their ordinary course of employment.

b. No agent, consultant, officer, or authorized employee of the Authorities nor any member of CCTA or EECTA of Directors, will be responsible either personally or as an agent, consultant, officer or employee, or board member, for any liability arising under this Agreement, it being understood that in such matters they act as representatives of Authorities.

31.5. News and Media

All media and other inquiries concerning the Work and Project will be directed to the Authorities. The Developer will not make any statements, press releases, or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, without the Authorities' prior written consent. However, Developer may communicate directly with public agencies when required to do so as part of the services to be performed hereunder.

31.6. Signature Warranty

Each signatory to this Agreement warrants that the signatory has necessary Authority to execute this Agreement on behalf of the entity represented.

[Signatures on Next Page]

IN WITNESS WHEREOF, the Parties have entered into this Agreement No. 656 as of the date set forth below:

[INSERT DEVELOPER NAME]

_____
[First Last Name, Title] Date

CONTRA COSTA TRANSPORTATION AUTHORITY

_____
Federal Glover, Chair Date

ATTEST:

_____
Tarienne Grover Date
Clerk of the Board

APPROVED AS TO FORM:

_____
Fennemore Wendel Date
Authority Counsel

EASTERN CONTRA COSTA TRANSIT AUTHORITY

_____
Anissa Williams, Chair Date

APPROVED AS TO FORM:

_____
Eli Flushman Date
General Counsel

CONTRA COSTA transportation authority

TRI DELTA TRANSIT

EXHIBIT 1 – RULES OF INTERPRETATION AND CONSTRUCTION

1. RULES OF INTERPRETATION

1.1. Headings and Other Internal References

a. Headings are inserted for convenience only and will not affect interpretation of this Agreement.

b. Except as the context may otherwise provide, the words "herein", "hereof" and "hereunder", and words of similar import, will be construed to refer to this Agreement in its entirety and not to any particular provision of it.

c. Except as otherwise expressly provided or as the context may otherwise provide, a reference to any section within this Agreement (including in Annex A and the Exhibits) is a reference to such Section of this Agreement (excluding the Exhibits).

d. Except as otherwise expressly provided or as the context may otherwise provide, a reference to "Section X" made within any Exhibit, which does not specify whether such references this Agreement or an Exhibit will be construed as a reference to the Exhibit in which such reference is made.

1.2. Common Terms and References

a. The singular includes the plural and vice versa.

b. Words preceding "include", "includes", "including" and "included" will be construed without limitation by the words that follow.

c. The verb "will" has the same meaning and effect as the verb "will."

d. The word "promptly" means as soon as reasonably practicable in light of then-prevailing circumstances.

1.3. References to Agreements, Documents, Law, Permits and Permits

Except as otherwise expressly provided in this Agreement, a reference:

a. to an agreement or other document will be construed to be a reference to such agreement or other document (including any schedules, annexes or Exhibits thereto) as it may be amended, modified or supplemented from time to time pursuant to its terms; and

b. to any Law or permit will be construed as a reference to such Law or permit as amended, replaced, consolidated or re-enacted (as applicable) from time to time.

1.4. References to Persons

Except as otherwise expressly provided in this Agreement:

a. a reference to a person includes such person's permitted successors, assigns and transferees; and

b. the words “they”, “them”, “themselves” and “their” when used to refer to a single person or a grammatically singular antecedent will be construed to mean an individual regardless of gender identity.

1.5. Professional Language and Terms of Art

Except as otherwise expressly provided in this Agreement or as the context may otherwise provide:

a. words and phrases not otherwise defined herein:

i. that have well-known insurance, engineering, construction, or specialized technical industry meanings will be construed pursuant to such recognized meanings where such meaning would be contextually appropriate; and

ii. of an accounting or financial nature will be construed pursuant to the Generally Accepted Accounting Principles (GAAP), in each case taking into account the context in which such words and phrases are used;

b. all statements of, or references to, dollar amounts or money, including references to “$” and “dollars”, are to the lawful currency of the United States of America;

c. all references to digital or electronic media or communications, including similar or equivalent technology or services, that are used to facilitate the storage or dissemination of data or information as of the Effective Date, will be deemed to also reference any successor forms of technology that serve the same or equivalent purposes which come into existence or widespread use after the Effective Date; and

d. without limiting any other express obligations of the Authorities to pay for the Phase 3 Work, all references to reimbursement of another Person’s “cost and expense” or “costs and expenses” will be deemed to be references to reimbursement of all relevant third-party fees, costs, and expenses incurred by such Person, including for those of external legal counsel and other external advisors, provided that with respect to an Authority its “costs and expenses” will also include reasonable internal costs in the event such are incurred as a result of a Developer Fault Event.

1.6. Deadlines Occurring on Calendar Days

Whenever this Agreement requires either Party to make any payment, or provide or deliver any approval, consent, or like assent, notice, Submittal, comment or any information or material, or otherwise complete any action or performance, in each case on or no later than a date that is not a Business Day, then such deadline will automatically be extended to the next Business Day to occur after such date.

2. CONSENTS AND RELIANCE

2.1. Exercise of Discretion and Default Standards for Consents and Approvals

a. Except as otherwise expressly provided in this Agreement, where this Agreement provides that any consent, approval or like assent is to be made or given in the

"discretion" of a Person, it will be made or given only in the sole and absolute discretion of such Person (which discretion includes the ability to refrain from giving, or to impose conditions on, such consent, approval or like assent).

b. Where this Agreement provides that any matter or information will be submitted to the Authorities for their approval, then the Authorities will give their determination in writing and may reject such submission in its discretion. Furthermore, any failure by the Authorities to respond within the time period provided in this Agreement will be deemed a rejection of such submission by the Authorities and not a breach of any Authority obligation to respond.

c. Where this Agreement requires one Party to provide a consent, approval or like assent to the other Party (excluding any waiver, for which purposes Section 30.4 of the Agreement will apply, and any matter or submission expressly requiring approval) and no express standard for such consent, approval or like assent is given (including through the use of the defined term approval), then such consent, approval or like assent will be in writing, will not be unreasonably withheld, and:

   i. with respect to the Authorities, will be in their discretion.

2.2. Limited Developer Reliance

a. The Developer may rely on approvals, any other consent, approval, or like assent, and any notice, from the Authorities only for the limited purpose of establishing that the approval, or any other consent, approval or like assent, occurred, or any notice was given. Any such approvals, any other consent, approval, or like assent, and any notice, by the Authorities, is otherwise for the sole benefit of the Authorities.

b. Except as otherwise expressly provided in this Agreement, no:

   A. approval, other consent, approval or like assent, or notice;

   B. comment, responses, review, oversight, check, test, inspection, certification, concurrence, verification, or oversight;

   C. Change Order or agreement to resolution of a Supervening Event claim; or

   D. Payment, or the absence of any of the foregoing, will in any case be deemed or construed as:

      1. any kind of representation or warranty, express or implied, by the Authorities, or be relied upon by the Developer in determining whether the Developer has satisfied the requirements of this Agreement;

      2. acceptance of materials or Work as satisfying the requirements of this Agreement or an professional approval by the Authorities; and

3. a detailed review or checking of design, details, or accuracy of the Developer's work.

i. will relieve the Developer from, or diminish the Developer's liability for, the performance of its obligations under this Agreement;

ii. will relieve any guarantor or surety from, or diminish guarantor or surety's liability for, the performance of its obligations under, respectively, a guaranty or the bonds;

iii. will estop or prevent the Authorities from subsequently exercising its rights under this Agreement without being bound by the manner in which they previously exercised (or refrained from exercising) such rights;

iv. will prejudice the Authorities' rights against the Developer, whether under this Agreement, including any cause of action it may have arising out of this Agreement, or Law;

v. will constitute a waiver of any rights under this Agreement of any legal or equitable right of the Authorities or of any other Person; and

vi. be asserted by the Developer against the Authorities as a legal or equitable defense to, or as a waiver of or relief from, the Developer's obligation to fulfill the requirements of the Agreement.

c. To the maximum extent permitted by Law, the Developer hereby releases, acquits, and discharges the Authorities from any and all duty and obligation to cause the Work or the Project to satisfy the standards and requirements of this Agreement.

3. SUBMITTALS

3.1. General Rules Regarding Submittals

3.1.1. Developer's Preparation of Submittals

a. Whenever this Agreement requires Developer to make a Submittal to the Authorities, the Developer will deliver such Submittal in form and substance reasonably acceptable to the Authorities (unless otherwise expressly provided in this Agreement) and to the individual or organization, if any, appointed by the Authorities to act on behalf of itself.

b. Subject to the restrictions in this Section 3.1 regarding third-party Submittals that must be first submitted to the Authorities, if Developer provides a third-party with a Submittal or other notice, application, or other communication relating to the Project, Developer must submit a duplicate thereof to the Authorities. The Developer will also provide the Authorities with copies of all correspondence or communications by or between it and third-parties relating to the Project. For certainty, for purposes of this Section "third-parties" do not include Developer-Related Parties.

c. The Developer will give the Authorities specific written notice of any proposed modification of the Agreement requirements or Project Standards any variations that a

Submittal may have from the requirements of the Agreement or Project Standards, as duly modified.

d. Each Submittal will bear a stamp or specific written certification by Developer that it has satisfied its obligations under the Agreement with respect to preparation of the Submittal.

e. Developer will direct specific attention, in writing, to revisions on resubmitted Submittals.

3.1.2. Authority's Review of Submittals

a. Whenever the Authorities are entitled to review and comment on, to affirmatively approve, or take other action with respect to a Submittal or resubmission of a Submittal, the Authorities will respond in writing and indicate whether the Authorities approve or reject the Submittals. The Authorities may also include comments (including requests for information) regarding the approved or rejected Submittal.

b. The Authorities' approval or rejection of a Submittal will not extend to the means, methods, techniques, sequences, procedures, incident thereto.

c. The Authorities review, comments, approval, or rejection, of Submittals will be subject to Section 2.2 of this Exhibit 1.

d. For tasks where Authorities have agreed to compensate Developer pursuant to the terms of this Agreement, any such tasks performed or expenditures incurred by Developer relating to a Submittal prior to the Authorities' approval of such Submittal will be at the sole risk and expense of Developer.

e. In reviewing, approving, rejecting, accepting, or commenting on any Submittal, the Authorities do not assume responsibility for any deficiencies in the Submittal, or for feasibility, cost, or schedule problems that may arise in connection with the Submittal.

3.1.3. Third-Party Submittals

a. In the event Developer is to deliver a Submittal to a third-party, and unless such requirement is otherwise waived by the Authorities with respect to a particular Submittal or third-party, the Developer will first submit the proposed Submittal to the Authorities for initial review. The Authorities will, upon approval, distribute such Submittals to the appropriate third-parties.

b. For any third-party not listed in paragraph "a" above, Developer will coordinate with such third-party to determine its Submittal requirements and timing, and provide the Authorities with concurrent notice, including a full and complete copy of such Submittal, at the time of delivering the Submittal to any such third-party.

c. With respect to all third-party Submittals, Developer will promptly notify the Authorities of all correspondence or comments received from such third-party in relation of a Submittal.

3.1.4. Review Periods

a. Whenever the Authorities are entitled to review and comment on, to affirmatively approve, or take other action with respect to a Submittal or resubmission of a Submittal, unless otherwise expressly provided in this Agreement to the contrary, the Authorities will have twenty one (21) days to review, subject to modification of such timeline by mutual agreement.

b. If a Submittal requires the review and approval of both the Authorities and a third-party, the review period for the Authorities and such third-party will not be calculated concurrently.

c. In the event of a conflict between the applicability of a review periods for any Submittal, the Authorities will be entitled to a longer review period. The review periods set forth in paragraph "a" will renew for each re-Submittal.

d. The Authorities may extend the Submittal review periods set forth herein for a reasonable period of time under the following circumstances: Authority is in receipt of more than five (5) simultaneous Submittals.

3.2. Special Provisions for Design Submittals

3.2.1. Additional Provisions

The provisions set out in this Section 3.2 of Exhibit 1 supplement but do not replace the provisions set out in Section 3.1 of Exhibit 1 with respect to design Submittals.

3.2.2. Design Statements

a. In addition to any other requirements of this Agreement, the Developer will prepare and submit a design statement as its first step in the commencement of any design Work to the Authorities for review and comment.

b. All design Work may be described in a single design statement, or individual design statements may be prepared to address different portions of the Work. Each design statement will contain the design methodology and approach, key assumptions, and a description of the design methods to be used.

3.2.3. Design Criteria Report

a. To the extent not otherwise provided or specified, the Developer will develop design criteria for all elements of the Initial Segment.

b. The resulting "Design Criteria Report" is a report that will identify how the requirements of this Agreement have been interpreted in terms of the configuration, performance, and all other requirements. The Developer will prepare and submit the Design Criteria Report to the Authorities for review and comment.

3.2.4. Basis of Design Report

a. The Developer will create and maintain a comprehensive Basis of Design Report (BODR) for any design Work.

b. The BODR is a report that addresses the following as applicable to each design unit:

i. design methodology and approach;

ii. key assumptions;

iii. identify applicable design criteria, considerations, influences, and factors;

iv. identify concurrent design activities;

v. identify construction approach, including sequence, phasing and staging (if applicable).

vi. identify critical long lead items that require advance procurement; and

vii. identify any deviations from any approved environmental documentation and any revisions to those approvals.

c. The first Submittal related to design of any Element will include a BODR.

4. RESOLUTION OF CONFLICTS

4.1. Standards for Resolving Conflicts and Inconsistencies

a. If there is any conflict, ambiguity, or inconsistency between or among any provision(s) of the Agreement that cannot be reconciled by reading all relevant provisions of the Agreement as mutually explanatory of one another, then the order of precedence will be as follows:

i. a Change Order or written amendment to this Agreement signed by both Parties, but only with respect to such portion of the Agreement that it expressly modifies;

ii. this Agreement (including for such purposes Exhibits 1 and 2);

iii. all other Exhibits;

iv. the Proposal provided that in the event of any conflict, ambiguity or inconsistency between or among the provisions of this Agreement (including any referenced Project Standard) with an equal order of precedence which cannot otherwise be resolved, the most stringent requirement will take precedence;

v. except as otherwise expressly provided in this Agreement, where this Agreement cites any external document to define requirements of this Agreement, the cited portion of the applicable external document will:

A. be deemed incorporated into this Agreement to the extent it is so cited; and

B. have the same order of priority as the part of this Agreement where the citation is made;

vi. on plans, working drawings and standard plans, written or calculated dimensions take precedence over scaled dimensions;

vii. notwithstanding anything to the contrary contained in this Agreement, in the event of any conflict, ambiguity or inconsistency between or among any applicable requirement under Law and any other requirement of this Agreement, the applicable requirement under Law will take precedence; and

viii. additional or supplemental requirements that Developer is required to comply with pursuant to this Agreement (including such requirements pursuant to any of the Project Standards) with a lower order of precedence relative to other parts of this Agreement as determined pursuant to this Section 4 will be given effect except to the extent such requirements conflict or are inconsistent with, or otherwise create an ambiguity in relation to, the provisions contained in a part of this Agreement with a higher order of precedence.

b. Subject only to Developer's express rights under this Agreement, omissions or the misdescription of details of Work in this Agreement which omissions or details are necessary to carry out the intent of the Agreement, or that are customarily performed by a Developer in accordance with the Standard of Care, will not themselves relieve Developer from the obligation to perform such omitted Work or otherwise entitle Developer to additional time for performance or any compensation.

4.2. Special Provisions with Respect to Proposal and Design

a. Incorporation into this Agreement of any part of the proposal will not:

i. limit, modify, or alter the Authorities' rights to review and approve any Submittal;

ii. be deemed as acceptance or approval of any part of the same by the Authorities as conforming with the requirements of this Agreement; and

iii. waive application of Section 4.1.

b. If any part of the Proposal and/or any approved design package and/or any approved Submittal includes statements, terms, concepts or designs that can reasonably be interpreted as commitments or offers acceptable on award of this Agreement or approval of the design package or Submittal:

i. to provide higher quality items, materials, designs, or products than otherwise required by this Agreement;

ii. to adhere to more stringent requirements than otherwise required by this Agreement; and

iii. to perform services or meet standards in addition to or better than those otherwise required under this Agreement, then Developer's obligations

hereunder will include compliance and performance in accordance with such statements, terms, concepts, and designs.

c. The Developer is responsible for any omissions from any approved design package or Submittal and for any misdescription by it of details of Work that are necessary to carry out the intent of this Agreement.

EXHIBIT 2 – DEFINITIONS AND ABBREVIATIONS

"ADA"	means the Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990) including all amendments thereto, implementing rules, regulations, and guidelines.
"Affiliate"	means in relation to any Person: a. any other Person having control over that Person; b. any other Person over whom that Person has control; c. any Person over whom any other Person referred to in a. above also has control; or d. any Guarantor for that Person, in each case where "Control" of a Person by another Person means that other Person (whether alone or with others, and whether directly or indirectly at any tier): (i) holds the majority of voting rights in the controlled Person; (ii) has the right to appoint the majority of the board of directors (or equivalent) of that controlled Person; and/or (iii) exercises direct or indirect control over that controlled Person's affairs.
"Authority"	has the meaning given to it in the Preamble.
"Authority IP Rights Purposes"	means the purposes of: a. following the issuance of the NTP for the Phase 3 Work, and absent the occurrence of Authority Default, effecting integration of the Project with any other existing and future public transportation facilities of any mode that are or shall be connecting with, or crossing under or over, or located in proximity to, the Project, or completing, operating, modifying, expanding, maintaining and/or decommissioning the Project following the early termination date or the end of the Term; b. at all times during the Term, complying with any Law or agreement binding on either Authority; and c. at all times during the Term, performing either Authority's obligations or exercising either Authority's rights under this Agreement or any SDA, including in connection with the preparation and delivery of any document, report, submittal, application, or other deliverable in connection with the environmental review process under Section 3.3.3 or any grant,

approval, or funding application to any Governmental Authority.

"AV"	means an "autonomous vehicle" as defined in California Vehicle Code § 38750.
"AV Service"	means public transit service using the AVs carried out following completion of the Initial Segment and the SDA Work.
"Available Insurance"	means any payment or credit (or any portion of either thereof) which would have been due, or from which it would have otherwise received a benefit, under this Agreement to the extent that it is able to recover the amount or receive the benefit of such payment or credit (or such portion) under, without duplication: a. any Insurance Policy; b. any other policy of insurance that Developer has taken out and maintains; or c. any other policy of insurance that Developer is entitled to Claim under as an additional insured.
"Basis of Design Report"	has the meaning given to it in Section 3.2.4 of Exhibit 1.
"Baseline Schedule"	means the logic-based critical path schedule prepared by the Developer as a Phase Deliverable.
"Business Day"	means any calendar day that is not a Saturday, a Sunday or holiday, where a "holiday" means any Calendar Day that is declared or considered to be a holiday pursuant to State Law.
"Caltrans"	means the California Department of Transportation.
"CCTA"	has the meaning given to it in the Preamble.
"Change"	means a change (including either an increase or decrease) in the quality, quantity, methods, materials, or requirements of the Work.
"Change Order"	has the meaning given to it in Section 8.3.
"Claim"	means any claim, demand, action, cause of action, proceeding (legal or administrative), investigation, judgment, demand, suit, dispute, or liability.

"Control"	has the meaning given to it in the definition of Affiliate.
"Cost Estimate"	means the Phase Deliverable of such name.
"County"	means Contra Costa County, California.
"CPRA"	means California Public Records Act (Government Code Sections 6250 *et seq.*).
"Design Criteria Report"	has the meaning given to it in Section 3.2.3.b of Exhibit 1.
"Developer"	has the meaning given to it in the Preamble.
"Developer Default"	has the meaning given to it in Section 19.1.
"Developer Fault Event"	means an event that arises directly or indirectly as a result of any: a. breach by the Developer of this Agreement; b. act or omission, fraud, willful misconduct, criminal conduct, recklessness, bad faith, or negligence by or of the Developer or any other Developer-Related Party; c. Developer Default; d. other breach of Law or Permit by any Developer-Related Party.
"Developer-Provided Intellectual Property"	means all Proprietary Intellectual Property and Third-Party Intellectual Property.
"Developer-Related Party"	means: a. Developer; b. each other Key Team Member; c. each Subcontractor (of any tier); d. any other Persons (except either Authority) performing any of the Work for or on behalf of Developer; e. any other Persons (except either Authority, and any members of the general public) for whom Developer may be legally or contractually responsible; and

f. the employees, agents, officers, directors, representatives and consultants of any of the foregoing.

"discretion"	has the meaning given to it in Section 2.1 of Exhibit 1.
"Dispute"	means any dispute, disagreement or controversy between the Authorities and Developer concerning their respective rights and obligations under the Agreement, including concerning any Claim, alleged breach or failure to perform and remedies.
"ECCTA"	has the meaning given to it in the Preamble.
"Effective Date"	has the meaning given to it in the Preamble.
"Element"	means an individual component, system, or subsystem of the Initial Segment or the Project, as the context provides.
"Emergency"	means any non-ordinary course event affecting the Work, whether directly or indirectly, that: a. is an immediate or imminent threat, or, if not promptly addressed, a potential threat, to the health or safety of the public, the Environment, any facility, building, or structure, or the community; or b. is recognized or declared as an emergency by the Governor of the State, FEMA, the U.S. Department of Homeland Security, or any other Governmental Authority with legal authority to recognize or declare an emergency.
"Environment"	means air, soils, submerged lands, surface waters (including wetlands), groundwaters, land, stream sediments, surface, or subsurface strata, biological resources, including endangered, threatened and sensitive species, and natural systems, including ecosystems, historic, archeological, and paleontological resources.
"Environmental Decision"	means the documented final decision of the NEPA and CEQA process for the Project.
"Environmental Law"	means: a. all Law applicable to the Project or the Work now or hereafter in effect regulating, relating to, or imposing liability or standards of conduct concerning the environment or the

generation, production, emissions, discharges, storage, use, handling, transportation, treatment, disposal, remediation, Releases or threatened Releases of Hazardous Materials or other hazardous, toxic or dangerous waste, pollutants, contaminants, substances, or materials into the environment, including into the air, surface water, or ground water or onto land, and

b. any requirements and standards that pertain to the protection of the environment, or to the management of Hazardous Materials or generation, production, emissions, storage, use, handling, transportation, treatment, disposal, remediation, discharges, Releases or threatened Releases of Hazardous Materials or other hazardous, toxic or dangerous waste, pollutants, contaminants, substances or materials into the environment, contamination of any type whatsoever, or health and safety matters with respect to Hazardous Materials, set forth in any Permit, or other criteria and guidelines promulgated, pursuant to Law applicable to the Project or the Work, as each of the foregoing have been or are amended, modified, or supplemented from time to time (including any present and future amendments thereto and reauthorizations thereof), including those relating to:

   i. the manufacture, processing, distribution, use, re-use, treatment, storage, disposal, transport or handling of Hazardous Materials or other hazardous, toxic or dangerous waste, pollutants, contaminants, substances or materials;

   ii. the protection of public health, public welfare, public safety or the environment (including protection of nonhuman forms of life, land, surface water, groundwater and air);

   iii. air, soil, surface and subsurface strata, stream sediments, surface water, and groundwater;

   iv. releases of Hazardous Materials;

   v. protection of wildlife, endangered, threatened, and sensitive species, wetlands, water courses and water bodies, parks and recreation lands, cultural, historical, archeological, and paleontological resources and natural resources;

vi. the operation and closure of underground or aboveground storage tanks;

vii. health and safety of employees and other persons with respect to Hazardous Materials; or other hazardous, toxic or dangerous waste, pollutants, contaminants, substances or materials; and

viii. notification, documentation and record keeping requirements relating to the foregoing.

Without limiting the above, the term "Environmental Laws" will also include all implementing federal, state, or local regulations, guidance, and judicial interpretations thereof.

"EPA" means the United States Environmental Protection Agency.

"Excluded Work" has the meaning given to it in Section 3.3.2.a.

"Expiry Date" has the meaning given to it in Section 2.1.b.

"Feasibility Study" means the East Contra Costa County Dynamic Personal Micro Transit Feasibility Study Report, prepared by Advanced Mobility Group, dated April 12, 2021.

"FMVSS Standards" means the USDOT, National Highway Traffic Safety Administration Federal Motor Vehicle Safety Standards (FMVSS), including any approved exceptions for the AVs or AV System.

"GAAP" means Generally Accepted Accounting Principles in the United States as in effect from time to time.

"Governmental Authority" means any:

a. United States Federal, State or local government, and any political subdivision of any of them; and

b. any interstate, governmental, quasi-governmental, judicial, public, regulatory or statutory instrumentality, administrative agency, authority, body or entity of, or formed by, any such government or subdivision thereof,

in each case other than the Authorities.

"Hazardous Materials" means any hazardous waste, hazardous product, contaminant, toxic substance, deleterious substance, dangerous goods, pollutant, waste, reportable

substance, flammable materials, explosives, radioactive materials, infectious waste, environmental contaminants and any other substance, in respect of which the storage, manufacture, handling, disposal, treatment, generation, use, transport, remediation or release into or presence in the environment or human or environmental exposure is prohibited, controlled or regulated under applicable Law pertaining to the environment, including but not limited to: (a) "hazardous substances" as defined under CERCLA and "hazardous waste" as defined under the Resource Conservation and Recovery Act, 42 U.S.C.A. 6901 *et seq.*, applicable regulations promulgated thereunder; (b) the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§ 1801 *et seq.*);(c) the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §§ 6901 *et seq.*); and (d) the Water Pollution Control Act (33 U.S.C. § 1317), each as amended from time to time, and any other Environmental Law as defined herein.

"Holiday"	means any Calendar Day that is declared or considered to be a holiday by either Authority.
"IFA"	means the Infrastructure Finance Act (AB 2660) codified at Government Code § 5956, *et seq.*
"IFA Project Implementation Partner"	means the Subcontractor to the Developer performing the IFA Work as more fully described in Section 5.1, which as of the Effective Date is [*insert name*].
"IFA Work"	has the meaning given to it in Section 5.1.b.ii.
"Indemnified Party"	has the meaning given to it in Section 16.2.
"Initial Segment"	has the meaning given to it in Section 3.3.1.a.ii.
"Insolvent"	means a Person in respect of which any of the following have occurred and are continuing:

a. any of:

i. the commencement of a voluntary case under Federal bankruptcy law;

ii. the filing of a petition seeking to take advantage of any other law, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or composition for adjustment of debts;

iii. the application for or the consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of a substantial part of its property, domestic or foreign;

iv. the admission in writing of its inability to pay its debts as they become due;

v. the making of a general assignment for the benefit of creditors; or

vi. the taking of any corporate (or equivalent) action for the purpose of authorizing any of the foregoing; or

b. the commencement of a case or other proceeding against such Person in any court of competent jurisdiction seeking:

i. relief under Federal bankruptcy law or under any other law, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or adjustment of debts; or

ii. the appointment of a trustee, receiver, custodian, liquidator or the like for such Person or for all or any substantial part of their respective assets, domestic or foreign,

and with respect to i. or ii.:

iii. the petition that commenced such case or proceeding is not contested by such Person within the amount of time provided under Law; or

iv. either: (I) such case or proceeding continues without dismissal or stay for a period of 60 calendar days; or (II) an order granting the relief requested in such case or proceeding (including, an order for relief under such federal bankruptcy law) is entered and not appealed to the extent that the order for relief is stayed.

"Inspection" means the organized examination or formal evaluation of Work, including manufacturing, design, and maintenance practices, processes, and products, document control and shop drawing review, to ensure that the practices, processes, and products comply with the quality requirements contained in this Agreement.

"Intellectual Property" means all current and future legal and/or equitable rights and interests in or to know-how, patents (including applications), copyrights (including moral rights),

trademarks (registered and unregistered), service marks, trade secrets, designs (registered and unregistered), Utility models, circuit layouts, business and internet domain names, inventions, solutions embodied in technology, databases and data sets, and other intellectual activity and applications of or for any of the foregoing subsisting in or relating to the Work, the Project or Project design, and any other data including algorithms, software, source code, and source code documentation used in connection with the Project.

"ITP"	has the meaning given to it in the Recitals.
"Key Personnel"	means the individuals identified in Exhibit 5 as "Key Personnel" to fill the various job positions set out in that Exhibit, and any permitted replacement personnel filling such jobs from time to time.
"Key Subcontractor"	means any Subcontractor to a Key Team Member that is contemplated to play a material role in: (i) leading coordination of the environmental review on behalf of the Developer Team; (ii) DPMT System revenue estimation and associated financial modeling; (iii) Project design; (iv) Project construction; (v) systems integration for the Project; or (vi) operations of the Project.
"Key Team Member"	means the Developer, the System Technology Partner, the IFA Project Implementation Partner, the Non- IFA Project Implementation Partner, and any Guarantor.
"Law"	means any federal, State, or local: a. constitutional provision; b. statute, law (including common law), code, regulation, ordinance, or rule; c. binding judgment, judicial or administrative order, or decree; d. written directive, regulations, guideline, policy requirement, methodology, or other governmental restriction or requirement (including those resulting from an initiative or referendum process, but excluding those by either Authority within the scope of its administration of this Agreement); and e. similar form of decision of or determination by, or any written interpretation or administration of any of the foregoing by, any Governmental Authority, in each case that is applicable to or has an impact on the Project or the Work (where such applicability or impact will be determined by reference to the

	context in which the term Law is used), whether taking effect before or after the Effective Date, including Environmental Laws, but excluding Permits.
"Loss"	means any loss, damage, cost, expense, charge, fee, injury, liability, obligation, judgment, penalty, or fine, in each case including attorneys', accountants', and expert witnesses' fees and expenses (including those incurred in connection with the enforcement of any indemnity or other provision of this Agreement).
"Non-IFA Project Implementation Partner"	means the Subcontractor to the Developer performing elements of the Non-IFA Work as more fully described in Section 5.1, which as of the Effective Date is [*insert name*].
"Non-IFA Work"	all Work excluding the IFA Work.
"Notice to Proceed" or "NTP"	means each of the notices described as such in Section 3.4 that authorize a discrete Phase of the Work.
"Organizational Conflict of Interest"	has the meaning ascribed to it in FTA Circular 4221.1F.
"Parties"	means, collectively, the Authorities and the Developer, and "Party" means either Authority or the Developer.
"Permit"	means any consent, agreement, permit, clearance, authorization, approval, certification, notification, ruling, exemptions, variance, registration, filing, decision, order, license, right-of-way agreement, concession, grant, registration, franchise or qualification required or advisable under the applicable circumstances to be issued by, granted by, or made with any Governmental Authority or utility owner, or railroad in connection with the Work or the performance of any of the Developer's obligations under this Agreement.
"Permitted Transfer"	means any one of the following classes of transfer: a. a transfer to a subsidiary Affiliate of the Developer with the means, methods, and resources to perform the Work and satisfy its obligations under the Agreement; b. a transfer of interests or reorganization within a group of Persons, including the Developer, under common Control so long as there is no substantive change in the individual, entity or group of entities that ultimately have (individually or collectively) Control of the Developer;

c. a transfer of interests between trusts or managed funds that are under common beneficial ownership or control or the general partner or the manager (or the parent company of such general partner or manager) and any managed funds under common beneficial ownership or control with such general partner or manager (or parent company of such general partner or manager);

d. the creation of a trust or any other transaction or arrangement that is solely a transfer of all or part of the Developer's economic interest pursuant to this Agreement to another entity;

e. a bona fide open market transaction in securities effected on a recognized public stock exchange, excluding such transactions involving an initial public offering of the Developer (whether through a direct offering or an offering of an intermediate holding company).

"Person"	means any of a natural person, a corporation, a limited liability company, a trust, a partnership, a limited liability partnership, a joint stock company, a consortium, a joint venture, an unincorporated association, or any other entity recognized as having legal personality under the laws of the State, in each case as the context may require.
"Phases"	means each of Phase 1, Phase 2, and Phase 3.
"Phase 1"	means the period from the Authorities' issuance of a Notice to Proceed for Phase 1 Work until the earlier of issuance of the Notice to Proceed for Phase 2 Work and the early termination of this Agreement in accordance with its terms.
"Phase 1 Report"	means the Phase Deliverable of such name.
"Phase 1 Work"	has the meaning given to it in Section 3.3.1.a.
"Phase Deliverables"	has the meaning given to it in Exhibit 4.
"Phase 2"	means the period from the Authorities' issuance of a Notice to Proceed for Phase 2 Work, to the earlier of issuance of the Notice to Proceed for Phase 3 Work and the early termination of this Agreement in accordance with its terms.

"Phase 2 Work"	has the meaning given to it in Section 3.3.1.b.
"Phase 3"	means the period from the Authorities' issuance of a Notice to Proceed for Phase 3 Work, to the earlier of execution of an SDA and the early termination of this Agreement in accordance with its terms.
"Phase 3 Work"	has the meaning given to it in Section 3.3.1.c.
"Prohibited Act"	means, regardless of whether or not it is a criminal offence pursuant to Law: a. offering, giving, or agreeing to give any bribe, gift, or consideration of any kind as an inducement, commission or reward to any Governmental Authority (including the Authorities) or any public official, civil servant, officer, director, agent, or employee of any such Governmental Authority: i. for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other related contract with either Authority or any other Governmental Authority; ii. for showing or not showing favor or disfavor to any Person in relation to this Agreement or any other related contract with either Authority or any other Governmental Authority; or b. defrauding or attempting or conspiring to defraud either Authority or the County or any division, subdivision, or agency of the Authority or the County].
"Project"	has the meaning given to it in the Recitals.
"Project Records"	means the full and complete records, books, documents, papers, databases, files, and other documentation of information relating to the Project the Work and Developer's performance of its obligations under this Agreement and the Subcontracts and each Subcontractor's performance under the Subcontracts to which it is a party, including: a. as required by Law to the extent it is applicable to Project Records in the custody of Developer-Related Parties as a matter of Law; b. pursuant to the Standard of Care;

c. pursuant to GAAP, as applicable;

d. in accordance with Sections 6 and 14 of this Agreement;

e. as otherwise required by the provisions of this Agreement; and

f. copies of:

i. all Subcontracts; and

ii. all notices, correspondence, submissions, change, purchase or work orders, or other documents and materials expressly referenced as work product in this Agreement and each Subcontract.

"Project Standards"	means: a. any standards and specifications expressly referenced in this Agreement; and b. any standards and specifications that apply to the Work (excluding, for certainty, any Laws, or Permits), including as a result of the Developer's methods of performing the Work or as identified by the Developer in any approved Phase Deliverable, each in the form published or otherwise in effect as of the Effective Date or, if later, the effective date of any Notice to Proceed, and as modified by the express terms of this Agreement.
"Proposal"	means the binding proposal submitted by or on behalf of the Developer in accordance with the RFP, extracts of which are attached as Exhibit 8.
"Proposer"	has the meaning given to it in the Recitals.
"Proprietary Intellectual Property"	means Intellectual Property, excluding Work Product, that is patented or copyrighted by any Developer-Related Party prior to the Effective Date, or, if not patented or copyrighted, was created prior to the Effective Date and held and managed as a trade secret or confidential, proprietary information by the relevant Developer-Related Party.
"Relevant Obligation"	means any obligation that either Authority owed to such third party pursuant to this Agreement.
"Required Due Diligence"	means that due diligence pursuant to the Standard of Care regarding the Work and the Project that the Developer is required or commits to perform pursuant to this Agreement.

"RFP"	has the meaning given to it in the Recitals.
"SAE Level"	means one of six levels of driving autonomy ranging from 0 (fully manual) to 5 (fully autonomous) as defined by the Society of Automotive Engineers and adopted by USDOT, or any successor system adopted by USDOT.
"SDA"	means any future negotiated and agreed system development agreement among the Authorities and the Developer (and/or the IFA Project Implementation Partner) which agreement shall be a successor to this Agreement and provide for performance of the SDA Work.
"SDA Work"	the SDA work is anticipated to include: a. completion of final design of a viable initial segment of the SPMT system as initially identified during the Phase 1 Work and refined through the Phase 2 Work and the Phase 3 Work; b. obtaining Permits required for the design, construction, and operation of the initial segment (excluding any permits to be obtained by the Authorities pursuant to this Agreement or the SDA); c. assisting the Authorities in acquisition of any right-of-way identified as necessary during the performance of the Work under this Agreement; d. commencement and completion of construction of such initial segment; e. commencement of operations of such initial segment; f. progression of planning, design, construction, and operations of the remaining segments of the Project system.
"SDA Schedule and Workplan"	means the Phase Deliverable of such name provided and approved in accordance with Exhibit 4.
"Standard of Care"	means that degree of skill, care, prudence, and practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced professional designer, engineer, constructor, manufacturer, installer, maintainer,, or operator, as applicable, engaged in the same type of activity in North America as that of Developer, or any other Person to which such term relates, seeking to comply with all Law and the same type of obligations and responsibilities in North America as the obligations and

	responsibilities of Developer under this Agreement and/or the obligations and responsibilities of such Person under the same or similar circumstances.
"State"	means the State of California.
"Subcontract"	means any contract (at any tier) entered into by Developer, Key Team Member, or any subcontractor of any of them of any tier, in connection with the carrying out of the Work or any of Developer's other obligations under this Agreement.
"Subcontractors"	means any party, other than Developer, to a Subcontract.
"Submittals"	means any written document, drawing, report, plan, request, or other material or information, regardless of form and including any draft, required pursuant to this Agreement to be delivered, submitted, or resubmitted to the Authorities, as applicable, for approval, acceptance, any other consent, approval, or like assent, or information, excluding notices, correspondence, and invoices by Developer seeking payments pursuant to this Agreement.
"Supervening Event"	has the meaning given to it in Section 9.1.
"System Technology Partner"	means the Subcontractor to the Developer providing the systems supply, development and integration services for the Project as more fully described in Section 5.1, which as of the Effective Date is [*insert name*].
"Taxes"	means any Federal, State, local or foreign income, margin, gross receipts, sales, use, excise, transfer, consumer, license, payroll, employment, severance, stamp, business, occupation, premium, windfall profits, environmental (including taxes under Section 59A of the Internal Revenue Code of 1986), customs, permit, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, duty, fee or charge imposed, levied, collected, withheld or assessed at any time, whether direct or indirect, relating to, or incurred in connection with or by, the Project, the Work, other compensation or act, business, status or transaction of any Developer-Related Party, any User or Person, including any interest, penalty or addition thereto, in all cases whether disputed or undisputed.
"Term"	has the meaning given to it in Section 2.1.b.

"Termination Date"	means the effective date of any early termination of this Agreement pursuant to Section 20.
"Third-Party Intellectual Property"	means any Intellectual Property used or applied by Developer or any Developer-Related Party in connection with the Project or the Work which is owned by any Person other than the Authority or a Developer-Related Party.
"Tri Delta Transit"	means ECCTA.
"Unreasonably Withheld"	means with respect to any consent or assent that it will not be unreasonably withheld, delayed or made subject to the imposition of unreasonable conditions by such Person (where conditions that are necessary for a Party to comply with Law, a Permit or a binding agreement are not inherently unreasonable), and "unreasonably withhold" will be similarly construed.
"User(s)"	means any user of the Initial Segment or Project, as the context provides, and the AV Service.
"Utility"	means a privately, publicly or cooperatively owned line, facility and/or system for producing, transmitting or distributing communications, data, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, or any other similar commodity including: a. the necessary appurtenances to any such line, facility, and/or system; and b. any service line connecting directly to any such line, facility, and/or system, regardless of the ownership of such service line.
"Work"	means all of the work to be undertaken by the Developer as set out in Section 3 and otherwise in this Agreement including Phase 1 Work, Phase 2 Work, and Phase 3 Work, and excluding Excluded Work.
"Work Product"	has the meaning given to it in Section 6.3.a.

CONTRA COSTA transportation authority

TRI DELTA TRANSIT

EXHIBIT 3 – REPRESENTATIONS AND WARRANTIES

1. DEVELOPER REPRESENTATIONS AND WARRANTIES

The Developer hereby represents and warrants to the Authorities that each of the following representations and warranties made by it and set out below are true and correct as of the Effective Date. Each such representation and warranty will be deemed repeated as of the effective date of any Notice to Proceed.

1.1. Organization, Power, and Authority

a. The Developer is [name], a [type of entity], with all requisite power to own its properties and assets and carry on its business as now conducted or proposed to be conducted under this Agreement.

b. The Developer is duly qualified to do business in the State, and is in good standing in the State and, as applicable, its state of formation or incorporation.

c. As of the Effective Date, the Developer has full power, right, and authority to execute and deliver and perform this Agreement, and to perform all of the Developer's obligations provided for under this Agreement.

1.2. Authorization and Due Execution

a. Each Person executing this Agreement on behalf of the Developer has been duly authorized to execute and deliver this Agreement on behalf of the Developer

b. The execution, delivery, and performance of this Agreement by the Developer has otherwise been duly authorized by all necessary action of the Developer.

c. This Agreement has been (or, at the time of execution and delivery, will have been) duly and validly executed and delivered by the Developer.

1.3. No Conflicts

The execution, delivery, and performance by the Developer of this Agreement does not and will not contravene, or result in breach or default under, any:

a. Law applicable to the Developer that is in effect on the date of execution and delivery of this Agreement;

b. organizational, corporate, or other governing documents of the Developer; or

c. agreement, instrument, permit, approval, judgment or decree to which the Developer is a party or is bound.

1.4. No Breach; No Litigation

a. The Developer has not received any communication or notice (written or oral) that alleges the Developer is not in full compliance with all Law, or Permit in connection with the Project, and, to the knowledge of the Developer, there are no circumstances that may prevent or interfere with full compliance in the future.

b. There is no action, suit, proceeding, investigation, or litigation pending and served on the Developer that challenges:

i. the Developer's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement;

ii. the Developer's assets, properties, or operations, as they relate to the Project; or

iii. the authority of the Developer's official to execute this Agreement,

and the Developer has disclosed to the Authorities any pending and un-served or threatened action, suit, proceeding, investigation, or litigation with respect to such matters that the Developer is aware of or should be aware of after reasonable inquiry and investigation.

1.5. Debarment; Anti-money Laundering

a. None of the Developer, any of its principals (being any officer, director, or other direct or indirect owner, partner, employee (including Key Personnel) or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Developer) or, to the Developer's knowledge after reasonable inquiry, any of its Subcontractors engaged as of the Effective Date, are presently disqualified, suspended or debarred from bidding, proposing or contracting with any local, state-level, interstate or federal Governmental Authority.

b. Furthermore, none of the Developer, nor any of its Subcontractors engaged as of the Effective Date, are listed on any of the following lists or their successors: the Specially Designated Nationals List; the Denied Persons List; the Unverified List; the Entity List or the Debarred List; the General Service Administration's System for Award Management; or any other list of Persons with which either Authority or the State may not do business pursuant to Law.

c. The Developer is not in violation of:

i. any applicable United States anti-money laundering laws, including those contained in the Bank Secrecy Act and the regulations promulgated thereunder;

ii. any applicable economic sanction laws administered by Office of Foreign Assets Control of the United States Department of the Treasury (OFAC) or by the United States Department of State; or

iii. any applicable United States anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal.

d. The Developer is not a Person:

i. that is charged with, or has reason to believe that he, she or it is under investigation for, any violation of any such laws;

ii. that has been convicted of any violation of, has been subject to civil penalties pursuant to, or had any of its property seized or forfeited under any such laws;

iii. that is owned, controlled by, or affiliated with any Person identified in the foregoing clauses; or

iv. that is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions, money laundering and anti-corruption laws of the United States and the jurisdiction where the Person resides, is domiciled or has its principal place of business.

1.6. Additional Legal Assurances

a. Prior to the Effective Date and in accordance with the RFP, the Developer disclosed to the Authorities in writing all organizational conflicts of interest (as described in the RFP) of which it was aware and, since such date, the Developer has not obtained knowledge (having made reasonable inquiries to obtain such knowledge) of any additional such organizational conflict of interest, and there have been no organizational changes in the Developer or changes in its Key Team Members that have not been approved by the Authorities

b. In connection with this Agreement, the Developer has not committed or caused, and will not commit or cause, a violation of: (A) Government Code Sections 1090 through 1099, 84308, or 87100 through 87105; or (B) California Code of Regulations Sections 18438.1 through 18438.8.

c. The Developer has not employed nor retained any company or person, other than a bona fide employee working solely for the Developer, to solicit or secure this Agreement. Further, the Developer has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for the Developer, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

d. The Developer has not, in the past three (3) years, been convicted of or had a civil judgment rendered against it for:

i. commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (e.g., federal, state or local) transaction or public contract;

ii. violation of federal or state antitrust statutes; or

iii. commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property,

and the Developer is not presently indicted for or otherwise criminally or civilly charged by a Governmental Entity with commission of any of the foregoing offenses.

e. The Developer has not, in the past three (3) years, had one or more public transactions (federal, state or local) terminated for cause or default.

2. AUTHORITY REPRESENTATIONS AND WARRANTIES

Each Authority represents, warrants, and covenants, in each case only on behalf of itself, that:

a. as of the Effective Date, the Authority has full power, right, and authority to execute, deliver, and perform this Agreement and to perform all of the Authority's obligations provided for under this Agreement;

b. each person executing this Agreement on behalf of the Authority has been duly authorized to execute and deliver this Agreement on behalf of the Authority; and

c. this Agreement has been (or will be) duly executed and delivered by the Authority.

EXHIBIT 4 – PHASE WORK

PART A: PHASE DELIVERABLES AND DEADLINES

The "Phase Deliverables" are comprised of the following. Unless otherwise expressly provided, each Phase Deliverable is subject to the Authorities' approval, not to be unreasonably withheld.

1. SDA SCHEDULE AND WORKPLAN

a. Requirements:

i. The SDA Schedule and Workplan[2], and any update thereto, will include the following (in an order and format to be proposed by the Developer and agreed by the Authorities, acting reasonably):

A. identify the Developer's proposed supplements or modifications to the scope of Work, segmented by Phase;

B. identify the Developer's proposed supplements or modifications to the Project;

C. a work performance and management plan which describes the overall approach for the performance of the Work, segmented by Phase, and the development of the Project under the terms of this Agreement, through an anticipated SDA;

D. document the Developer's proposed approach, means, methods, and specifications for proceeding with each discrete element of the Work, segmented by Phase;

E. identification, timing, and tracking for all anticipated Submittals, Permits, and applications for funding or financing of the Work or the Project;

F. a schedule for future updates to the SDA Schedule and Workplan;

G. a schedule for the performance of the Work, segmented by Phase, and summarizing each grouping of activities and workstreams, including anticipated durations and the identification of milestones;

H. identification and description of the Developer's then current organizational structure, including with respect to Key Team Members, Key Personnel, and any Subcontractors, and the division of responsibility among the same with respect to the performance of the Work, segmented by Phase and identification of the segregation of IFA Work in accordance with this Agreement;

[2] The SDA Schedule and Workplan shall be consistent with all relevant provisions incorporated into the Proposal Extracts.

I. describe how the Developer plans to collaborate and coordinate with the Authorities with respect to the performance of the Work, segmented by Phase, and identification of any required Authority assistance;

J. a summary of the outcomes, including anticipated challenges, of the performance of the Work, segmented by Phase, and including discussion of the diligence, planning, funding, environmental, design, regulatory, scoping, and subcontracting processes and other Work activities undertaken to date;

K. response to all prior comments made by the Authorities on any previously submitted SDA Schedule and Workplan;

L. include contingencies for delivery of Project elements with and without work being undertaken by the IFA Project Implementation Partner under the IFA, including provisions for any infrastructure facilities to be delivered outside of the IFA to be government-owned and capable of use or supplementation with our without reliance on the IFA; and

M. include all other preliminary materials that show or describe the character, scope, and intent of, the Work to be performed as reasonably necessary in order for it to evaluate the SDA Schedule and Workplan and the Developer's progression of the Work.

b. Restrictions: IFA Project Implementation Partner to not participate in any element which involves State funding or financing.

c. Timing:

i. Initial draft to be submitted for Authorities' approval no later than thirty (30) days following the Effective Date.

ii. Once approved, Developer to provide updates for Authorities' approval in accordance with the schedule for updates set out in the SDA Schedule and Workplan, but no less often than quarterly, and as a condition precedent to the Notice to Proceed for Phase 2 Work, the Notice to Proceed for Phase 3 Work, and the completion of Phase 3 and execution of any SDA.

2. PHASE 1 REPORT

a. **Requirements:**

i. Prepare a "Phase 1 Report" summarizing the Work undertaken by the Developer during Phase 1, including summaries of the relevant outcomes of each of the Phase 1 activities listed in Part B of this Exhibit 4.

ii. Each Phase 1 Report will include, at a minimum, the following:

A. a summary of the identified AV Platform;

B. updates on the assumptions in the Feasibility Study, including the Developer's latest estimate of costs and ridership and revenue forecasts applicable to the Initial Segment;

C. Developer's initial plan of finance and funding plan applicable to the Initial Segment; and

D. Any other information relevant to the Authorities' determination whether to proceed to issue an NTP for the Phase 2 Work.

b. **Restrictions:** IFA Project Implementation Partner to not participate in any element which involves State funding or financing.

c. **Timing:** Developer to provide at the conclusion of Phase 1 and as a condition precedent to the Notice to Proceed for the Phase 2 Work.

3. COST ESTIMATE

a. **Requirements:**

i. Prepare a "Cost Estimate" separately with respect to pricing of Phase 3 Work and any SDA Work (for purposes of negotiating the terms of any SDA).

ii. Each Cost Estimate will include the following:

A. pricing and cost information developed in accordance with Sections 7.3 and 7.4;

B. details regarding any fees payable to the Developer associated with delivery of any portion of the Phase 3 Work or the SDA Work, which shall be market standard and subject to audit by the Authorities;

C. a Subcontractor and procurement plan defining the Developer's approach to subcontracting, selecting contractors, conducting procurements, and procuring work and the AVs, and completing commissioning, for which payment or reimbursement is proposed; and

D. include all other preliminary materials that show or describe the character, scope, and intent of, the relevant work, as applicable, to be performed as reasonably requested by the Authorities in order for it to evaluate the proposal set out in such Report and Cost Estimate.

b. **Restrictions:** IFA Project Implementation Partner to not participate in any element which involves State funding or financing.

c. **Timing:** Developer to provide in accordance with the schedule set out in the SDA Schedule and Workplan, and otherwise as a condition precedent to the Notice to Proceed for the Phase 2 Work (with respect to estimates of cost for the Phase 3 Work) and to the completion of Phase 3 and execution of any SDA (with respect to estimates of costs for the Implementation Phase).

4. DESIGN SUBMITTAL

a. **Requirements:**

i. Design Criteria Report in accordance with Section 3.2.3 of Exhibit 1;

ii. Basis of Design Report in accordance with Section 3.2.4 of Exhibit 1; and

iii. a 30% plans and specifications Submittal prepared in accordance with the Project Standards and the Standard of Cares for the Initial Segment including sections, typical construction/fabrication details, and equipment layouts, as well as preliminary specifications, which identify major building materials and systems and AVs, and establish quality standards, provided that:

A. the design shall be separated with respect to IFA Work and Non-IFA Work and the equivalent that comprises the SDA Work; and

B. the Authorities reserve the right to provide further specific direction to the Developer during Phase 1 and Phase 2 as to the requirements of the 30% plans and specifications Submittal and to require a higher level of design with respect to certain Elements.

b. **Restrictions:** IFA Project Implementation Partner and Non-IFA Project Implementation Partner to provide separate design inputs in compliance with Section 5.1.

c. **Timing:** Developer to provide in accordance with the schedule set out in the SDA Schedule and Workplan, and otherwise as a condition precedent to the completion of Phase 3 and execution of any SDA.

5. SCHEDULING

a. **Requirements:** The Baseline Schedule will:

i. cover the performance of design work as a component of the Phase 3 Work and the SDA Work to be performed under the terms of an SDA;

ii. include a schedule containing all major Work activities (i.e. in excess of $250,000 in value) and key interim milestones, and be consistent with this Agreement and all applicable approved Submittals including Phase Deliverables;

iii. include a description of the proposed overall plan to accomplish the relevant design and SDA Work including the overall sequencing, a description and explanation of the critical path, and other key assumptions on which the Baseline Schedule is based;

iv. be in the form of a Gantt chart;

v. consist of a logic-based, critical path method; and

vi. use a critical path based on the longest path method.

b. **Timing:** Developer to provide in accordance with the schedule set out in the SDA Schedule and Workplan, with an updated to be provided as a condition precedent to the Notice to Proceed for Phase 3 Work and to the completion of Phase 3 and execution of any SDA.

6. SPECIFICATIONS AND SDA SCOPE

6.1. Specification Package

a. Requirements: A specifications package with respect to design work as a component of the Phase 3 Work and the SDA Work to be performed under the terms of an SDA (1) using the applicable Caltrans or other Authority directed specifications manual and (2) including a requirements traceability and verification matrix. The specifications packages shall be signed and sealed by a responsible professional of the Developer in accordance with applicable Laws.

b. Restrictions: To be developed by the System Integration Partner without direction or input from either the IFA Project Implementation Partner or the Non-IFA Project Implementation Partner.

c. Timing: Developer to provide in accordance with the schedule set out in the SDA Schedule and Workplan, with an updated to be provided as a condition precedent to the Notice to Proceed for Phase 3 Work and to the completion of Phase 3 and execution of any SDA.

6.2. SDA Scope

a. Requirements: A scope for the SDA Work to be performed under the terms of an SDA.

b. Restrictions: IFA Project Implementation Partner to provide scope inputs in compliance with Section 5.1 only with respect to any work which can be performed by it in compliance with the IFA.

c. Timing: Developer to provide in accordance with the schedule set out in the SDA Schedule and Workplan, with an updated to be provided as a condition precedent to the Notice to Proceed for Phase 3 Work and to the completion of Phase 3 and execution of any SDA.

7. PROJECT PLANS

a. Requirements: The Developer shall develop and maintain all plans for the conduct of its Work and any future SDA Work which are not part of the SDA Schedule and Workplan. To the extent not otherwise addressed, this shall include any plan required for compliance of the Work, and SDA Work, and the Project, to comply with Law or any Permit, agreement, or funding obligation.

b. Timing: Developer to provide in accordance with the schedule set out in the SDA Schedule and Workplan, and otherwise with respect the SDA Work as a condition precedent to the completion of Phase 3 and execution of any SDA.

8. AV SUMMARY

a. **Requirements:** A narrative for an AV platform to be deployed on the Initial Segment as part of the SDA Work. This approach will:

   i. set out preliminary functional requirements for the AVs and the associated service;

   ii. ensure that AV platforms proposed are considered safe, reliable, and appropriate for the scope of the Project; and

   iii. include a procurement and commissioning plan to supplement that set out in any Cost Estimate and the SDA Schedule and Workplan.

b. **Restrictions:** The final AV platform, including vehicle design and technology solution, shall be subject to approval by the Authorities prior to commencement of the SDA Work, or at such later time as may be mutually agreed by the Parties.

c. **Timing:** Developer to provide in accordance with the schedule set out in the SDA Schedule and Workplan, and otherwise with respect the SDA Work as a condition precedent to the completion of Phase 3 and execution of any SDA.

PART B: PHASE RESPONSIBILITY MATRIX

Activity	Authorities	Developer
Phase 1		
SDA Schedule and Workplan	Joint	Joint
Work Performance and Management Plan	Review	Lead
Schedule for Phase 1 and Phase 2	Review	Lead
Identify AV Platform	Review	Lead
Refine Feasibility Assumptions (Including Rough Order of Magnitude Costs and Ridership and Revenue Projections for the Initial Segment)	Review	Lead
Identify Viable Initial Segment	Review	Lead
Develop Initial Plan of Finance/Funding Plan for Initial Segment	Review	Lead
Identify Grant Opportunities & Priorities	Joint	Joint
Cost and Approach for the Environmental Review	Review	Lead
Stakeholder Outreach, Phase 1 Local Agency Coordination, Board Engagement	Lead	Support
Phase 2		
Environmental Scoping	Lead	Support
Development of Supporting Information for Grant Application/Development	Support	Lead
Grant Application Preparation	Lead	Support
Submit Grant Applications	Lead	Support
Phase 3		
Environmental Technical and Project Definition Inputs	Support	Lead
Environmental Document and Supporting Technical Study Preparation	Lead	Support
Design Criteria Report, Basis of Design Report, and Initial Segment 30% Design	Review	Lead
Advanced Systems Engineering for AV Platform and AV Platform Narrative	Review	Lead
Specification Package	Review	Lead
Cost Estimates	Review	Lead
Investment Grade Ridership and Revenue Analysis	Review	Lead
Baseline Schedule	Review	Lead
Grant Management	Lead	Support

EXHIBIT 5 – KEY PERSONNEL

[*to insert list of Developer's approved Key Personnel and corresponding job titles and requirements (per RFP)*]

CONTRA COSTA transportation authority

TRI DELTA TRANSIT

EXHIBIT 6 – INSURANCE

Developer shall not commence work for the Authorities until it has provided evidence satisfactory to the Authority it has secured all insurance required under this Exhibit. In addition, Developer shall not allow any Subcontractor to commence work on any Subcontract until it has secured all insurance required under this Exhibit.

a. **Commercial General Liability**

i. The Developer shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the Authority.

ii. Coverage for Commercial General Liability insurance shall be at least as broad as the following:

A. Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

iii. Commercial General Liability Insurance must include coverage for the following:

A. Bodily Injury and Property Damage

B. Personal Injury/Advertising Injury

C. Premises/Operations Liability

D. Products/Completed Operations Liability

E. Aggregate Limits that Apply per Project

F. Explosion, Collapse and Underground (UCX) exclusion deleted

G. Contractual Liability with respect to this Agreement

H. Property Damage

I. Independent Developers Coverage

iv. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

v. The policy shall give each Authority, its officials, officers, employees, agents and Authority designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

vi. The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Authorities,

and provided that such deductibles shall not apply to either Authority as an additional insured.

b. Automobile Liability

i. At all times during the performance of the work under this Agreement, the Developer shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the Authorities.

ii. Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

iii. The policy shall give each Authority, its officials, officers, employees, agents and Authority designated volunteers additional insured status.

iv. The business automobile liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Authorities, and provided that such deductibles shall not apply to the either Authority as an additional insured.

c. Workers' Compensation/Employer's Liability

i. Developer certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

ii. To the extent Developer has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Developer shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Developer shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this Section.

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Developer shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the Authorities and in an amount indicated herein. This insurance shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Developer.

"Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Cyber Insurance

i. The Developer shall maintain, during the performance of all work under this Agreement, in amounts agreed upon by the Authorities, Cyber Liability Insurance, in a form and with insurance companies acceptable to the Authorities. The Cyber Insurance Liability will name the Authorities as an additional insured. Cyber insurance will include, but not be limited to, data breach protection, identity recovery protection and cyber protection. Coverage shall include the following (not an all-inclusive list):

A. Legal services to help you meet state and federal regulations

B. Notification expenses to alert affected customers that their personal information was compromised

C. Restoring personal identities of affected customers

D. Recovering compromised data

E. Extortion paid to recover locked files in a ransomware attack

F. Lost income from a network outage

G. Lawsuits related to customer or employee privacy and security

H. Repairing damaged computer systems

I. Regulatory fines from state and federal agencies

ii. Developer will provide to the Authorities proof of Cyber Insurance Liability in the amount agreed upon by the Authorities prior to any work starting by the Developer.

f. Pollution Liability

i. Pollution Liability is required should any of the Work involve pollutants or hazardous materials. Liability coverage shall include coverage for the environmental risks associated with the Work and the Project and expenses related to such, including bodily injury, property damage, on and off-site clean-up, transporting, carrying or storing pollutants, and coverage for non-owned disposal sites.

ii. The policy shall give each Authority, its officials, officers, employees, agents and Authority designated volunteers additional insured status.

iii. The pollution liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Authorities,

and provided that such deductibles shall not apply to either Authority as an additional insured.

g. Minimum Policy Limits Required

i. The following insurance limits are required for the Agreement:

ii. Combined Single Limit

A. Commercial General Liability $2,000,000 per occurrence/$4,000,000 aggregate for bodily injury, personal injury, and property damage

B. Automobile Liability $1,000,000 combined single limit

C. Employer's Liability $1,000,000 per occurrence

D. Professional Liability $3,000,000 per claim and aggregate (errors and omissions)

E. Pollution Liability $1,000,000 each loss/$2,000,000 aggregate

iii. Defense costs shall be payable in addition to the limits.

iv. Requirements of specific coverage or limits contained in this Exhibit are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

h. Evidence Required

i. Prior to execution of the Agreement, the Developer shall file with the Authorities evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein.

ii. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

i. Policy Provisions Required

i. Developer shall provide the Authorities at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Developer shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Developer

shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Authorities at least ten (10) days prior to the effective date of cancellation or expiration.

ii. The Commercial General Liability Policy, Automobile Liability Policy and Pollution Liability Policy shall each contain a provision stating that Developer's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the Authorities or any named insureds shall not be called upon to contribute to any loss.

iii. The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Developer shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Developer shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

iv. All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the Authorities, each of their officials, officers, employees, agents, and volunteers or shall specifically allow Developer or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Developer hereby waives its own right of recovery against the Authorities, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

v. To the extent that any policy required hereunder includes a provision limiting payment of a self-insured retention to a named insured, such provision shall be modified by written endorsement to permit the self-insured retention to be paid by any of the named insureds.

vi. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Developer from liability in excess of such coverage, nor shall it limit the Developer's indemnification obligations to the Authorities and shall not preclude the Authority from taking such other actions available to the Authorities under other provisions of the Agreement or law.

j. Qualifying Insurers

i. All policies required shall be issued by acceptable insurance companies, as determined by the Authorities, which satisfy the following minimum requirements:

A. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

k. Additional Insurance Provisions

i. The foregoing requirements as to the types and limits of insurance coverage to be maintained by Developer, and any approval of said insurance by the Authorities, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Developer pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

ii. If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, the Authorities have the right but not the duty to obtain the insurance it deems necessary and any premium paid by Authorities will be promptly reimbursed by Developer or the Authorities will withhold amounts sufficient to pay premium from Developer payments. In the alternative, the Authorities may cancel this Agreement.

iii. The Authorities may require the Developer to provide complete copies of all insurance policies in effect for the duration of the Project.

iv. Neither the Authorities nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

l. Subcontractor Insurance Requirements

i. Developer shall not allow any Subcontractor to commence work on any subcontract until they have provided evidence satisfactory to the Authority that they have secured all insurance required under this Exhibit. Policies of commercial general liability insurance provided by such subconsultants shall be endorsed to name the Authorities as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Developer, the Authorities may approve in writing different scopes or minimum limits of insurance for particular subconsultants.

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EXHIBIT 7 – FEDERAL REQUIREMENTS[1][2]

PART A: FEDERAL PROVISIONS

The Work and the Project shall comply with, and the Developer shall perform its obligations and (where relevant) shall require each Subcontractor to perform their respective obligations under this Agreement, the other Agreement documents and the Subcontracts in accordance with the following requirements.

1. SPECIFIED REQUIREMENTS APPLICABLE TO ALL CONTRACTS

1.1. General Requirements

a. The Developer and its Subcontractors shall comply with applicable requirements and provisions, in effect now or as hereafter amended, of (1) 49 U.S.C. chapter 53 and other procurement requirements of Federal laws; (2) 2 C.F.R. pt. 200; (3) all other applicable Federal regulations pertaining to federally-aided contracts; and (4) Federal Transit Administration ("FTA") Circular 4220.1F, "Third Party Contracting Guidance", March 18, 2013, and any later revision thereto, except to the extent FTA determines otherwise in writing.

1.2. Protection of Security Sensitive Information and Critical Infrastructure Information.

a. The Developer and its Subcontractors shall comply with all applicable provisions of 49 C.F.R. Part 1520 and 6 C.F.R. Part 29 and all applicable FTA guidance, including FTA Resource Document for Transit Agencies, "Sensitive Security Information (SSI): Designation, Markings, and Control, Resource Document for Transit Agencies" (March 2009), as may be amended, and all Department of Homeland Security (DHS) directives, including DHS Management Directive System MD Number: 11042.1, "Safeguarding Sensitive but Unclassified (For Official Use Only) Information" (January 6, 2005) as may be amended. The Developer also agrees to include these requirements in each Subcontract and to require each Subcontractor to include this clause in lower tier Subcontracts.

1.3. Ethics

a. Bonus or Commission. The Developer affirms that it has not paid, and agrees not to pay, any bonus or commission to obtain this Agreement.

b. Lobbying Restrictions. The Developer agrees that:

i. In compliance with 31 U.S.C. § 1352(a), it will not use the proceeds of this Agreement to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer or employee of Congress or employee of a member of Congress, in connection with making, extending or modifying the Agreement;

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[1] This Exhibit may be adjusted following execution, including to adjust the portions of the Work to which, or the conditions in which, this would apply.

[2] The provisions included in this Exhibit are intended to provide the scope of required Federal requirements for the Work and the Project and may not be exhaustive; the Developer is required to comply with all applicable Law.

ii. In addition, the Developer will comply with other applicable Federal laws and regulations prohibiting the use of Federal assistance for activities designed to influence Congress or a State legislature with respect to legislation or appropriations, except through proper, official channels; and

iii. It will comply and will assure the compliance of each Subcontractor and other participant at any tier of the Project with USDOT regulations, "New Restrictions on Lobbying", 49 C.F.R. Part 20, to the extent consistent with 31 U.S.C. § 1352.

iv. The Developer will also comply and assure compliance of each Subcontractor and other participant at any tier of the Project with 31 U.S.C. § 3801, *et seq.*

v. Subcontractors who apply or bid for an award of $100,000 or more shall file the certification required by 49 C.F.R. Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contracts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. § 1352. Such disclosures are forwarded from tier to tier up to the Authority. See the form entitled "Federally Required Certifications" in the RFP.

c. False or Fraudulent Statements or Claims. The Developer acknowledges and agrees that:

i. Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.*, and USDOT regulations, "Program Fraud Civil Remedies", 49 C.F.R. Part 31, apply to the Developer's activities in connection with the Project. By executing the Agreement, the Developer certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Developer also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation, directly or indirectly, to the Federal Government, the Federal Government reserves the right to impose on the Developer the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

ii. Criminal Fraud. If the Developer makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation directly or indirectly to the Federal Government, the Federal Government reserves the right to impose on the Developer the penalties of 49 U.S.C. § 5323(l)(1), 18 U.S.C. §

1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

iii. Inclusion in Lower Tier Subcontracts. The Developer agrees to include the clauses at Section 1.3.c.i and 1.3.c.ii in each lower tier Subcontract financed in whole or in part with federal assistance provided by the FTA. It is further agreed that the clauses shall not be modified, except to identify the lower tier Subcontract that will be subject to the provisions.

d. Trafficking in Persons. To the extent applicable, the Developer agrees to comply with, and assures the compliance of each Subcontractor with, the requirements of subsection 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended, 22 U.S.C. § 7104(g), and the provisions of said subsection (g) consistent with U.S. OMB guidance, "Award Term for Trafficking in Persons", 2 C.F.R. Part 175:

i. Definitions. For purposes of this section, the Developer agrees that:

A. Employee means an individual who is employed by the Developer or any Subcontractor under this Agreement.

B. Forced labor means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

C. Private entity:

1. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175,25.

2. Includes a for-profit organization, and also a nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b).

D. Severe forms of trafficking in persons has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102(9). Commercial sex act has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102(4).

E. Coercion has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.

ii. The Developer agrees:

A. To inform the Authority immediately of any information it receives from any source alleging a violation of a prohibition in 22 U.S.C. § 7104(g).

B. That the Authority may unilaterally terminate this Agreement if the Developer, a Subcontractor, or other participant at any tier, or an employee of any of them, violates the provisions of 22 U.S.C. § 7104(g). The Authority's right to terminate implements FTA's right to terminate unilaterally:

1. Under subsection 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended, 22 U.S.C. § 7104(g), and

2. Is in addition to all other remedies for noncompliance that are available to the Authority under this Agreement and to the Federal Government.

C. That:

1. Neither it, its Subcontractors or other participants at any tier, or the employees of any of them, will engage in severe forms of trafficking in persons during the period of time that this Agreement is in effect;

2. Neither it, its Subcontractors or other participants at any tier, or the employees of any of them, will procure a commercial sex act during the period of time that this Agreement is in effect; or

3. Neither it, its Subcontractors or other participants at any tier, or the employees of any of them, will use forced labor in the performance of this Agreement or any Subcontract;

4. The provision of this subsection will be included in all Subcontracts and any other arrangement under this Agreement at any tier,

e. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

2. SPECIFIED REQUIREMENTS APPLICABLE TO THIS AGREEMENT, SUBCONTRACTS FOR CONSTRUCTION WORK AND (IF FUNDED BY FTA) SUBCONTRACTS FOR O&M WORK

2.1. Requirements

a. Except as otherwise specified below, the requirements of this Section 2 apply to the Developer throughout the Term. Certain requirements must be passed through to Subcontractors, including (a) Subcontractors at lower tiers performing construction work, and (b) if funding for the operations and maintenance (O&M) work is obtained from FTA, Subcontractors performing O&M work.

2.2. Civil Rights

a. The Developer agrees to comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal

Government determines otherwise in writing. The Developer shall include the requirements of this Section 2.2 in every prime Subcontract for performance of construction work, and shall require each Subcontractor performing construction work, at all tiers, to include the requirements of this Section 2.2 in any lower tier Subcontracts. If funding for the O&M work is obtained from FTA, the Developer shall include the requirements of this Section 2.2 in every prime Subcontract for performance of O&M work, and shall require each Subcontractor performing O&M work, at all tiers, to include the requirements of this Section 2.2 in any lower tier Subcontracts.

These include:

i. Nondiscrimination in Federal Public Transportation Programs. The Developer agrees to comply, and assures the compliance of each Subcontractor or other participant at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, disability, or age, and prohibit the exclusion or discrimination in employment or business opportunity and/or denial of program benefits in employment or business opportunities, as identified in 49 U.S.C. § 5332. The Developer shall follow, and require its Subcontractors and other participants at any tier of the Project to follow, the most recent version of the FTA's Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients" (October 2012) to the extent required by the FTA.

ii. Nondiscrimination — Title VI of the Civil Rights Act. The Developer agrees to comply, and assures the compliance of each Subcontractor or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*; with USDOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964", 49 C.F.R. Part 21; and with federal transit law, 49 U.S.C. § 5332. Except to the extent FTA determines otherwise in writing, the Developer agrees to follow all applicable provisions of FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients" (October 2012); USDOT "Guidelines for the Enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and any other applicable Federal directives that may be issued.

iii. Equal Employment Opportunity. The Developer agrees to and assures that each Subcontractor and other participant at any tier of the Project agree to, prohibit discrimination on the basis of race, color, religion, sex, or national origin. The Developer agrees to comply, and assures the compliance of each Subcontractor or other participant at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332; with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e; with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375,

"Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note; and implementing Federal regulations and any later amendments thereto. Except to the extent FTA determines otherwise in writing, the Developer also agrees to follow all applicable Federal EEO directives that may be issued. Accordingly:

A. General. The Developer agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Developer agrees to take affirmative action that includes employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction", the Developer agrees to comply and assures the compliance of each Subcontractor and other participant at any tier of the Project, with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor", 41 C.F.R. Parts 60 *et seq.*, which implement Executive Order No. 11246, "Equal Employment Opportunity", as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity", 42 U.S.C. § 2000e note, and also with any Federal laws and regulations in accordance with applicable Federal directives affecting construction undertaken as part of the Project.

Specifically, during the performance of this Agreement, the Developer agrees as follows:

1. The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

3. The Developer will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Developer's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Developer will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Developer will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Developer's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Developer may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The Developer will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (G) in every Subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor at all tiers. The Developer will take such action with respect to any Subcontract or purchase

order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Developer becomes involved in, or is threatened with, litigation with a Subcontractor at any tier as a result of such direction by the administering agency the Developer may request the United States to enter into such litigation to protect the interests of the United States.

C. Additional Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246).

iv. Disadvantaged Business Enterprise. To the extent authorized by Federal law, the Developer shall facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each Subcontractor or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable. Therefore:

A. The Developer agrees and assures that it shall comply with section 1101(b) of MAP-21, 23 U.S.C. § 101 note; USDOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs", 49 C.F.R. Part 26; and federal transit law, 49 U.S.C. § 5332.

B. The Developer agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the performance of this Agreement and the award and performance of any Subcontract or other arrangement under this Agreement in the administration of its DBE program and shall comply with the requirements of 49 C.F.R. Part 26. The Developer agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all Subcontracts, and other arrangements under this Agreement. As set forth in 49 C.F.R. § 26.13(b), failure by the Developer to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as CCTA deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;

2. Assessing sanctions;

3. Liquidated damages; and/or

4. Disqualifying the Developer from future bidding as non-responsible.

Each Subcontract the Developer signs with a Subcontractor must include the assurance set forth above.

v. Nondiscrimination on the Basis of Sex. The Developer and Subcontractor agree to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*; with implementing U.S. Department of Transportation regulations at 49 C.F.R. Part 25 that prohibit discrimination on the basis of sex that may be applicable; and federal transit law, 49 U.S.C. § 5332.

vi. Nondiscrimination on the Basis of Age. The Developer and Subcontractor agree to comply with all applicable requirements of:

A. The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance", 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age;

B. The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act", 29 C.F.R. Part 1625; and

C. Federal transit law, 49 U.S.C. § 5332.

vii. Access for Individuals with Disabilities. To the extent applicable, the Developer and Subcontractor shall comply with 49 U.S.C. § 5301(d), which states the federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing the services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Developer and Subcontractor also shall comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with Titles I, II, and III of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; with federal transit law, 49 U.S.C. § 5332, which includes disability as a prohibited basis for discrimination; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Developer and Subcontractor agree to comply with applicable implementing Federal regulations and any later amendments

thereto, and agree to follow applicable Federal directives except to the extent FTA approves otherwise in writing. Among those regulations and directives are:

A. USDOT regulations, "Transportation Services for Individuals with Disabilities (ADA)", 49 C.F.R. Part 37;

B. USDOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance", 49 C.F.R. Part 27;

C. Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/USDOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles", 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

D. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services", 28 C.F.R. Part 35;

E. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities", 28 C.F.R. Part 36;

F. U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act", 29 C.F.R. Part 1630;

G. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities", 47 C.F.R. Part 64, Subpart F;

H. U.S. ATBCB regulations, "Electronic and information Technology Accessibility Standards", 36 C.F.R. Part 1194;

I. FTA regulations, "Transportation for Elderly and Handicapped Persons", 49 C.F.R. Part 609; and

J. Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

viii. Drug and Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Developer and Subcontractor agree to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and with the Public Health Service Act, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

ix. Access to Services for Persons with Limited English Proficiency. The Developer and Subcontractor shall facilitate compliance with the policies of Executive Order

No. 13166, "Improving Access to Services for Persons with Limited English Proficiency", 42 U.S.C. § 2000d-1 note, and follow applicable provisions of USDOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons", 70 Fed. Reg. 74087, December 14, 2005, except to the extent that FTA determines otherwise in writing.

x. Environmental Justice. The Developer shall facilitate compliance with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations", 42 U.S.C. § 4321 note; USDOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations", 62 Fed. Reg. § 18377 *et seq.*, April 15, 1997; and the most recent edition of FTA's Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients" (August 2012), except to the extent that the federal government determines otherwise in writing.

xi. Other Nondiscrimination Laws. The Developer agrees to comply with all applicable provisions of other Federal laws and regulations, and follow applicable Federal directives pertaining to and prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

xii. Veterans Preference. Contractors working on a capital project funded using FTA assistance shall give a hiring preference, to the extent practicable, to veterans (as defined in 5 U.S.C. § 2108) who have the requisite skills and abilities to perform the construction work required under the contract. This Provision shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee. See 49 US.C. § 5325 (k).

2.3. Prohibited Interest

a. No member, officer, or employee of the Authority or of any local public body during his tenure and for a period of one (1) year thereafter shall have any interest, direct or indirect, in the Agreement or the proceeds thereof.

2.4. Termination

a. If the Federal Government suspends or terminates all or any part of the Federal assistance for this Agreement, the Authority may suspend work under or terminate the Agreement, in whole or in part, under the suspension or termination provision of the Agreement that are applicable in the circumstances.

2.5. Labor Provisions

a. To the extent that the Agreement or any Subcontract involves construction activities, the Developer shall comply with, and assure the compliance of each Subcontractor and other

participant at any tier of the Project with, the following federal laws and regulations providing protections for construction employees:

i. Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 *et seq.*, pursuant to FTA enabling legislation requiring compliance with the Davis-Bacon Act at 49 U.S.C. § 5333(a), and implementing U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)", 29 C.F.R. Part 5. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 C.F.R. Parts 1, 3, and 5 are herein incorporated by reference;

ii. Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 *et seq.*, specifically, the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and implementing U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)", 29 C.F.R. Part 5; and the safety requirements of section 107 of that Act at 40 U.S.C. § 3704 and 29 U.S.C. §§ 651 *et seq.*,, and implementing U.S. DOL regulations, "Occupational Safety and Health Standards," 29 C.F.R. Part 1910 and "Safety and Health Regulations for Construction", 29 C.F.R. Part 1926; and

iii. Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874 and 40 U.S.C. § 3145, and implementing U.S. DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States", 29 C.F.R. Part 3.

b. To the extent that the Agreement or any Subcontract concerns activities that do not involve construction, the Developer shall comply and assure the compliance of each Subcontractor and other participant at any tier of the Project with the employee protection requirements for non-construction employees of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 *et seq.*, in particular with the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and with implementing U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)", 29 C.F.R. Part 5.

c. Pursuant to 29 CFR § 1926.3, it is a condition of this Agreement that the Secretary of Labor or authorized representative thereof shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3704-3705).

d. The Developer shall comply with, and assure the compliance of each Subcontractor and other participant at any tier of the Project with, the following provisions:

i. Minimum Wages

A. All laborers and mechanics employed or working upon the site of the Work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 C.F.R. Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor included in Part B of this Exhibit 7, regardless of any contractual relationship which may be alleged to exist between the Subcontractor(s) and such laborers and mechanics.

B. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics, are considered wages paid to such laborers or mechanics, subject to the provisions of Section 2.5.d.i.E; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in Section 2.5.d.iv. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under Section 2.5.d.i.C and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Developer and Subcontractors at the site of the Work in a prominent and accessible place where it can be easily seen by the workers.

C. Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Agreement shall be classified in conformance with the wage determination. The Authority shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and

2. The classification is utilized in the area by the construction industry; and

3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

D. If the Developer and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Authority agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), the Authority will send a report of the action taken to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. Said Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise the Authority or will notify the Authority within the 30-day period that additional time is necessary.

E. In the event the Developer and laborers or mechanics to be employed in the classification or their representatives, and the Authority do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Authority shall refer the questions, including the views of all interested parties and the recommendation of the Authority to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within thirty (30) days of receipt and so advise the Authority or will notify the Authority within the 30-day period that additional time is necessary.

F. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 2.5.d.i.C.1 and 2.5.d.i.C.2 above, shall be paid to all workers performing work in the classification under this Agreement from the first day on which work is performed in the classification.

G. Whenever the minimum wage rate prescribed in the Agreement for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Developer or Subcontractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

H. If the Developer or Subcontractor, as appropriate, does not make payments to a trustee or other third person, the Developer may consider

as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the Developer, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Developer or any Subcontractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

ii. Withholding

A. The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Developer under this Agreement or any other Federal contract with the same entity, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same entity, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers employed by the Developer or Subcontractors the full amount of wages required by the Agreement. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the Work, all or part of the wages required by the Agreement, the Authority may, after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

iii. Payrolls and Basic Records

A. Payrolls and basic records relating thereto shall be maintained by the Developer and each Subcontractor during the course of the Work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 C.F.R. § 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Developer shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and

records which show the costs anticipated or the actual cost incurred in providing such benefits. The Developer and any Subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

B. The Developer and each Subcontractor shall submit weekly for each week in which any Work is performed under the Agreement two (2) copies of all payrolls to the Authority within seven (7) days after the regular payroll date for transmission to the USDOT. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under Section 2.5.d.iii.A, except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four (4) digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at http://www.dol.qov/whd/forms/wh347.pdf or successor site. The Developer is responsible for the submission of copies of payrolls by all Subcontractors. The Developer and Subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Authority, as the case may be, for transmission to the USDOT, the Developer or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for the Developer to require a Subcontractor, or for a Subcontractor to require a lower tier Subcontractor, to provide addresses and social security numbers to the Developer or Subcontractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

1. (Each payroll submitted shall be accompanied by a "Statement of Compliance", signed by the Developer, Subcontractor or its agent who pays or supervises the payment of the persons employed under the Agreement or Subcontract and who shall certify the following:

   (a) That the payroll for the payroll period contains the information required to be provided under Section 5.5 (a)(3)(ii) of Regulations, 29 C.F.R. Part 5, the appropriate information is

being maintained under Section 5.5 (a)(3)(i) of Regulations, 29 C.F.R. Part 5, and that such information is correct and complete;

(b) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulation, 29 C.F.R. Part 3;

(c) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

2. The weekly submission of a properly executed certification set forth the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by this Section 2.5.d.iii.B.2.

3. The falsification of any of the above certifications may subject the Developer or Subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

C. The Developer or Subcontractor shall make the records required under this Section 2.5.d.iii.A available for inspection, copying or transcription by authorized representatives of the USDOT or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Developer or Subcontractor fails to submit the required records or to make them available, the Federal Agency may, after written notice to the Developer, sponsor, applicant, or the Authority, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 C.F.R. § 5.12.

iv. Apprentices and Trainee

A. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor,

Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Subcontractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

B. Trainees. Except as proved in 29 C.F.R. § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by

formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeymen wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

C. Equal Employment Opportunity. The utilization of apprentices, trainees and journeymen under this Section 2.5.d shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 20 C.F.R. Part 30.

D. Compliance with Copeland Act Requirements

1. The Developer and any Subcontractors at any tier shall comply with the requirements of 29 C.F.R. Part 3, which are incorporated by reference in this Agreement.

v. Subcontracts

A. The Developer and any Subcontractors at any tier shall insert in any Subcontracts the clauses contained in this Section 2.5.d and such other clauses as the USDOT may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower

tier Subcontracts. The Developer shall be responsible for the compliance by any Subcontractor with all the contract clauses in 29 C.F.R. § 5.5.

vi. Agreement Termination: Debarment

A. A breach of this Section 2.5.d may be grounds for termination of the Agreement and/or any Subcontract under the Agreement, and for debarment of the Developer or any Subcontractor at any tier as provided in 29 C.F.R. § 5.12.

vii. Compliance with Davis-Bacon and Related Act Requirements

A. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 C.F.R. Parts 1, 3, and 5 are herein incorporated by reference in this Agreement.

viii. Disputes Concerning Labor Standards

A. Disputes arising out of the labor standards provisions of this Agreement or any Subcontract under the Agreement shall not be subject to the general disputes clause of the Agreement or Subcontract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 C.F.R. Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Developer (or Subcontractor) and the Authority, the U.S. Department of Labor, or the Developer's/ Subcontractor's employees or their representatives.

ix. Certification of Eligibility

A. By entering into this Agreement, the Developer certifies that neither it (nor he or she) nor any person or firm who has an interest in the Developer is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 C.F.R. § 5.12(a)(1).

B. No part of this Agreement shall be Subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 C.F.R. § 5.12(a)(1).

C. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. § 1001.

e. Contract Work Hours and Safety Standards Act

i. The Developer shall comply with, and assure the compliance of each Subcontractor and other participant at any tier of the Project with, the following provisions:

A. Overtime Requirements

1. Neither the Developer nor Subcontractor contracting for any part of the Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such Work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1 ½) times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

B. Violations; Liability for Unpaid Wages; Liquidated Damages

1. In the event of any violation of the clause set forth in this Section 2.5.e.i, the Developer and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Developer or such Subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in this Section 2.5.e.i, equal to the liquidated damages established by the Department of Labor pursuant to the Contract Work Hours and Safety Standards Act as of the date of execution of each Subcontract involving construction work (currently $10) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in this Section 2.5.e.i.

C. Withholding for Unpaid Wages and Liquidated Damages

1. The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of Work performed by the Developer or Subcontractor under the Agreement or any Subcontract under the Agreement or any other Federal contract with the same entity, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same entity, such sums as may be determined to be necessary to satisfy any liabilities of such entity for unpaid wages and liquidated damages as provided in the clause set forth above.

ii. Subcontracts

A. The Developer and each Subcontractor shall insert in any lower tier Subcontracts the applicable clauses set forth in this Section 2.5.e.i

through 2.5.e.ii and also a clause requiring each lower tier Subcontractor to include these clauses in any lower tier Subcontracts. The Developer and each Subcontractor shall be responsible for compliance by any lower tier Subcontractor with said clauses.

B. (The text of Section 2.5, paragraphs (a) - (d), has been taken from 29 C.F.R. Part 5 as amended through December 19, 2008. Numbering of paragraphs and defined terms have been changed to agree with the format for this Agreement. In the event of conflict, the provisions of the Code of Federal Regulations shall prevail.)

f. For information regarding appropriate use of Building Construction or Heavy Construction wage rates, refer to U.S. Department of Labor All Agency Memorandum Nos. 130 and 131 entitled "Application of the Standard of Comparison 'Projects of a Character Similar' Under the Davis-Bacon and Related Acts". At or before execution of the Agreement, the Authority will assist the Developer in determining the appropriate prevailing wage rate application.

2.6. Delinquent Certified Payrolls

a. If the Developer is delinquent in submitting its payroll records or those of any Subcontractor required under Section 2.5, processing of invoices may be held in abeyance pending receipt of the payroll records. In addition, if the Developer is delinquent in submitting its payroll records or those of any Subcontractor, the Developer shall be liable to the Authority for liquidated damages. The liquidated damages shall constitute the sum of Ten Dollars ($10) for each day that the payroll records are late.

2.7. Cargo Preference — Use of United States-Flag Vessels

a. To the extent applicable, the Developer shall comply with 46 U.S.C. § 55305 and U.S. Maritime Administration regulations, "Cargo Preference-U.S.-Flag Vessels", 46 C.F.R. Part 381.

b. The Developer agrees to utilize privately owned United States-flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Agreement, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessel.

c. The Developer agrees to furnish within twenty (20) business days following the date of loading for shipments originating within the United Sates or within thirty (30) business days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill-of-lading in English for each shipment of cargo described in Section 2.7.a to the FTA Administrator and the Authority (through the Subcontractor(s) in the case of Subcontractor(s) bills-of-lading) and to the Office of Cargo Preference and Domestic Trade, Maritime Administration, 1200 New

Jersey Avenue, S.E., Washington, D.C. 20590, marked with appropriated identification of the Project.

d. The Developer agrees to insert the substance of the provisions of this clause in all Subcontracts issued pursuant to this Agreement.

2.8. Buy America

a. The Developer shall comply with 49 U.S.C. § 5323(j) and FTA regulations, "Buy America Requirements", 49 C.F.R. Part 661, and any amendments thereto, which provide that Federal funds may not be obligated unless steel, iron, manufactured products, and construction materials used in FTA-funded projects are produced in the United States, unless a waiver has been granted by the FTA or the product is subject to a general waiver. General waivers are listed in Appendix A to 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. § 5323(j)(2)(C) and 49 C.F.R. § 661.11. Rolling stock must be assembled in the United States and have a seventy percent (70%) domestic content. The Developer is responsible for ensuring lower tier Subcontractors are in compliance with this Section 2.8, including submission of appropriate certifications from Subcontractors set forth in the RFP.

b. In addition to the provision of the certifications in the Proposal documents and the certifications under Section 2.8.a, the Developer shall submit material source documentation throughout the Term to demonstrate compliance with Buy America, at such times and in such form as is required by the Authority. The material source documentation shall include, at a minimum, the name of the Subcontractor supplying the material, location and contact information of manufacturer, project name and number, date and location material shipped, material description, material quantity, and means of identifying the product (such as label marking, product model number or serial number).

c. The Authority may undertake investigations as it deems appropriate to confirm compliance with this provision by the Developer and Subcontractors, including the right to inspect all Work, materials, payrolls, and data; and opportunity to audit all Project-related information in accordance with Section 2.15. The Developer shall cooperate with any such investigation.

2.9. Compliance with Environmental Standards

a. The Developer agrees and understands that environmental and resource laws, regulations, and guidance, now in effect or that may become effective in the future, may apply to the Project.

b. National Environmental Policy Act

i. The Developer agrees to comply with, and agrees to assure that its Subcontractors at every tier comply with, the following federal laws, regulations, executive orders, and guidance, to the extent applicable:

A. Federal transit laws, specifically 49 U.S.C. § 5323(c)(2), as amended;

B. The National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321 through 4335, as limited by 49 U.S.C. § 5159;

C. U.S. Council on Environmental Quality regulations pertaining to compliance with NEPA, 40 C.F.R. Parts 1500 through 1508;

D. Joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622;

E. Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note;

F. Joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Pub. L. 109-59)," 71 Fed. Reg. 66576, November 15, 2006, especially guidance on implementing 23 U.S.C. § 139 pertaining to environmental procedures and 23 U.S.C. § 326 pertaining to state responsibility for categorical exclusions; and

G. Other federal environmental protection laws, regulations, executive orders, or guidance applicable to the Project.

c. Use of Certain Public Lands

i. The Developer agrees to comply, and assures that its Subcontractors at every tier will comply with the following, to the extent applicable:

A. U.S. DOT laws, specifically 49 U.S.C. § 303, which requires certain findings be made before an FTA-funded Project may be carried out that involves the use of any publicly owned land that Federal officials authorized under law have determined to be a:

1. Park of national, State or local significance,

2. Recreation area of national, State or local significance,

3. Wildlife refuge of national, State or local significance, or

4. Waterfowl refuge of national, State or local significance, and

B. Joint FHWA and FTA regulations, "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. Part 774, and referenced in 49 C.F.R. Part 622.

d. Wild and Scenic Rivers

i. The Developer agrees to comply with, and agrees to assure that its Subcontractors at every tier comply with, protections for the national wild and scenic rivers system, including the following, to the extent applicable:

A. The Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 through 1287;

B. U.S. Forest Service regulations, "Wild and Scenic Rivers," 36 C.F.R. Part 297; and

C. U.S. Bureau of Land Management regulations, "Management Areas," 43 C.F.R. Part 8350.

e. Wetlands

i. The Developer agrees to comply with and agrees to assure that its Subcontractors at every tier comply with, protections for wetlands provided in Executive Order No. 11990, as amended, "Protection of Wetlands," 42 U.S.C. § 4321 note, to the extent applicable.

f. Floodplains

i. The Developer agrees to comply with and agrees to assure that its Subcontractors at every tier comply with, Executive Order No. 11988, as amended, "Floodplain Management," 42 U.S.C. § 4321 note, facilitating compliance with the flood hazards protections in floodplains, to the extent applicable.

g. Endangered Species and Fishery Conservation

i. The Developer agrees to comply with, and agrees to assure that its Subcontractors at every tier comply with, the following protections for endangered species, to the extent applicable:

A. The Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 through 1544; and

B. The Magnuson Stevens Fishery Conservation and Management Act, as amended, 16 U.S.C. § 1801 *et seq*.

h. Waste Management

i. The Developer agrees to comply with and agrees to assure that its Subcontractors at every tier comply with, the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 through 6992k, to the extent applicable.

i. Hazardous Waste

i. The Developer agrees to comply with, and agrees to assure that its Subcontractor at every tier comply with, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601 through 9675, establishing requirements for the treatment of areas affected by hazardous waste, to the extent applicable, and all Hazardous Materials Management obligations, specifically including the hazardous waste management responsibilities found at 40 C.F.R. Part 261, and as set forth in Section 10.1 of the Agreement.

j. Historic Preservation

i. The Developer agrees to comply with, and agrees to assure that its Subcontractors at every tier comply with, the following, to the extent applicable:

A. 49 U.S.C. § 303;

B. § 106 of the National Historic Preservation Act, as amended, 16 U.S.C. § 470f;

C. Executive Order No. 1593, "Protection and Enhancement of the Cultural Environment," 16 U.S.C. § 470 note;

D. Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. § 469a through 469c; and

E. U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic Properties," 36 C.F.R. Part 800, including consultation with the State Historic Preservation Officer concerning investigations to identify properties and resources included in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project and notification of the FTA of affected properties.

k. Indian Sacred Sites

i. The Developer agrees to comply with, and agrees to assure that its Subcontractors at every tier comply with, the following, to the extent applicable:

A. Federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians;

B. The American Indian Religious Freedom Act, 42 U.S.C. § 1996; and

C. Executive Order No. 13007, "Indian Sacred Sites," 42 U.S.C. § 1996 note.

l. Mitigation of Adverse Environmental Effects

i. If the Project causes or results in any adverse environmental effect, the Developer agrees to, and agrees to assure that its Subcontractors:

A. Comply with all environmental mitigation measures that may be identified as commitments in the environmental documents that apply to the Project, such as environmental assessments, environmental impact statements, memoranda of agreement, documents required under 49 U.S.C. § 303, any other environmental documents, and any conditions the Federal Government imposes in a finding of no significant impact or record of decision; and

B. Assure that any mitigation measures agreed on are incorporated by reference and made a part of this Agreement, that any deferred mitigation measures will be incorporated by reference and made a part

of this Agreement as soon as agreement with the Federal Government is reached, and that any mitigation measures agreed to will not be modified or withdrawn without the written approval of the Federal Government.

2.10. Energy Conservation

a. The Agreement shall comply with mandatory standards and policies relating to energy efficiency which are contained in the applicable state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6321 *et seq.* To the extent applicable, the Developer agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments", 49 C.F.R. Part 622, Subpart C. The Developer is responsible for ensuring lower tier Subcontractors are in compliance with this Section 2.10.

2.11. Certification Regarding Debarment

a. The Developer agrees that it will comply with the following requirements of 2 C.F.R. Part 180, subpart C, as adopted and supplemented by USDOT regulations at 2 C.F.R. Part 1200:

i. It will not enter into any arrangement to participate in the development or implementation of the Project with any Subcontractor at any tier that is debarred or suspended, except as authorized by:

A. USDOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200;

B. U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. Part 180, as amended; and

C. Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note.

ii. It will review the U.S. GSA "System for Award Management," https://www.sam.qov, or successor site, if required by USDOT regulations, 2 C.F.R. Part 1200.

iii. It will include, and require each of its Subcontractors at every tier to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Subcontractor will:

A. Comply with Federal debarment and suspension requirements; and

B. Review the "System for Award Management" at https://www.sam.00v, or successor site, if necessary to comply with USDOT regulations, 2 C.F.R. Part 1200.

2.12. Fly America Requirements

a. The Developer shall comply with 49 U.S.C. § 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R. §§ 301-10.131 through 301-10.143, which provide that the Developer and its Subcontractors are required to use U.S. flag air carriers for U.S. Government-financed international air travel and transportation of individuals and their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Developer shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Developer agrees to include, and to require Subcontractors to include, the requirements of this Section 2.12 in all Subcontracts that may involve international air transportation.

2.13. Recycled Products/Recovered Materials

a. The Developer agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. § 6962), including the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247. To the extent applicable, the Developer shall include these requirements in each Subcontract and require each Subcontractor to include this clause in lower tier Subcontracts.

2.14. Seismic Safety Requirements

a. The Developer shall comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. §§ 7701 *et seq.*, in accordance with Executive Order No. 12699, "Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction", 42 U.S.C. § 7704 note, and comply with USDOT regulations, "Seismic Safety", 49 C.F.R. Part 41 (specifically, 49 C.F.R. § 41.117). The Developer shall include this clause in each Subcontract issued under the Agreement for architectural and engineering services and construction related to new buildings or additions to new buildings and shall require each Subcontractor to include this clause in similar lower tier Subcontracts.

2.15. Access to Records and Reports

a. The Developer shall retain, and cause Subcontractor at any tier to retain, complete and readily accessible records related in whole or in part the Project, including, but not limited to, data, documents, reports, records, statistics, Subcontracts and sub-agreements, leases, arrangements, and supporting materials related to those records.

b. The Developer shall provide, and shall cause Subcontractors at any tier to provide, to the U.S. Secretary of Transportation and the Comptroller General of the United States, or their duly authorized representatives, and the Authority access to all third-party contract records as required by 49 U.S.C. § 5325(g) and 2 C.F.R. pt. 200; opportunity to inspect all

Work, materials, payrolls, and data; and opportunity to audit all Project-related information.

c. The Developer shall provide, and shall cause Subcontractors at any tier to provide, the Authority and the FTA Administrator or their authorized representatives, including any project management oversight Subcontractor, access to the contract records and construction sites.

d. The Developer shall permit, and cause Subcontractors to permit, any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

e. The Developer shall maintain, and shall require Subcontractors to maintain, all books, records, accounts and reports required under this Agreement for a period of not less than three (3) years after the date final payment is made under this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case the Developer agrees to maintain same until the Authority, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 2 C.F.R. pt. 200.

f. The Developer shall include, and cause its Subcontractors at any tier to include, the provisions of this Section 2.15 in each Subcontract under this Agreement.

2.16. No Obligation by the Federal Government

a. Notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the Agreement, Subcontract or other arrangement at any tier, absent its express written consent, the Federal Government has no obligations or liabilities to the Developer or any other participant at any tier of the project.

b. The Developer shall include this clause in each Subcontract issued under the Agreement and shall require each Subcontractor to include this clause in lower tier Subcontracts. It is further agreed that the clause shall not be modified, except to identify the parties who will be subject to its provisions.

2.17. Clean Water Requirements

a. The Developer agrees to comply with, and agrees to assure that any Subcontracts exceeding $100,000 at every tier comply with, the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377, and its implementing regulations and guidance, except as the federal government determines otherwise in writing. The Developer agrees to comply with, and agrees to assure that its Subcontractors at every tier comply with, the following:

i. Protection of underground sources of drinking water in compliance with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f through 300j-6;

ii. Notice of violating facility provisions in Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368 to the Authority, understanding that the Authority will in turn report each violation as required to FTA and EPA's Regional Office; and

iii. Executive Order No. 11738, "Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

2.18. Federal Requirements

a. The Developer shall at all times comply with the requirements in this Exhibit 7 and all applicable FTA regulations, policies, procedures and directives, including 49 C.F.R. Part 26, as these regulations, policies, procedures, and directives may be amended and promulgated from time to time, including those listed directly or by reference in the Master Agreement between the Authority and FTA. The Developer's failure to so comply shall constitute a material breach of this Agreement, which may result in termination of this Agreement or other remedies in accordance with the Agreement.

b. The Developer shall include this clause in each Subcontract issued under the Agreement and shall require each Subcontractor to include this clause in lower tier Subcontracts, modified as appropriate to identify the parties and relevant terms of the Subcontracts.

2.19. Clean Air Requirements

a. The Developer agrees to comply with, and agrees to assure that any Subcontracts exceeding $100,000 at every tier comply with, the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q, and its implementing regulations and guidance, except as the federal government determines otherwise in writing. The Developer agrees to comply with, and agrees to assure that its Subcontractors at every tier comply with, the following:

i. U.S. EPA regulations, "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; "Control of Emissions from New and In-Use Highway Vehicles and Engines," 40 C.F.R. Part 86; "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 C.F.R. § 93, subpart A; and Fuel Economy and Greenhouse Gas Exhaust Emissions of Motor Vehicles," 40 C.F.R. Part 600;

ii. State Implementation Plans (SIP), including implementing each air quality mitigation or control measure incorporated in the documents accompanying the approval of the Project, assuring if the Project is identified as a Transportation Control Measure in the SIP it will be wholly consistent with the design concept and scope described in the SIP, and complying with § 176(c) of the Clean Air Act, 49 U.S.C. § 7506(c) and U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23, U.S.C. or the Federal Transit Laws," 40 C.F.R. Part 93, subpart A; and

iii. Notice of violating facility provisions of Section 306 of the Clean Air Act, as amended, 49 U.S.C. § 7414 and Executive Order No. 11738, "Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

2.20. FTA Terms

a. The preceding provisions include, in part, certain standard terms and conditions required by the USDOT, whether or not expressly set forth in the preceding provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, as amended and updated, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms in the FTA Best Practices Manual Appendix A-1 shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Developer shall not perform any act, fail to perform any act, or refuse to comply with any requests made by the Authority which would cause the Authority to be in violation of the FTA terms and conditions. The Developer agrees to include these requirements in each Subcontract and to require each Subcontractor to include this clause in lower tier Subcontracts.

2.21. Changes in Requirements

a. Federal requirements cited above may change and the changed requirements shall be applicable to this Agreement as required. It is understood by the Developer and each Subcontractor that all limits or standards set forth above to be observed in the performance of the Agreement services are minimum requirements.

2.22. Pre-Award and Post-Delivery Audit Requirements (applicable only to supply of AVs)

a. The Developer agrees to comply with 49 U.S.C. § 5323(m) and FTA regulations "Pre-Award and Post Delivery Audits of Rolling Stock Purchases" at 49 C.F.R. Part 663 regarding pre-award and post-delivery audits of rolling stock acquisitions.

b. Specifically, the Developer agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. Part 663 and to complete and submit documentation which lists (a) component and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin, and costs; and (b) the actual location of the final assembly point for the rolling stock, including a description of the activities which took place at the final assembly point and the cost of the final assembly.

2.23. Restrictions on Telecommunications Equipment and Services

a. This Agreement is subject to 2 C.F.R. 200.216 and Section 889 of Public Law 115-232, the National Defense Authorization Act for Fiscal Year 2019. The Developer shall not provide under this Agreement any equipment or services prohibited by those laws and regulations.

3. SPECIFIED REQUIREMENTS APPLICABLE TO SUBCONTRACTORS PERFORMING OPERATIONS WORK

The following requirements apply to the Developer and Subcontractor with respect to the O&M work even if FTA funding is not obtained for such Work.

3.1. Privacy Act

a. The Developer agrees to comply with, and assure the compliance of Subcontractors at any tier and their respective employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 522a. Among other things, the Developer agrees to obtain the express consent of the Federal Government before the Developer or its employees (or, a Subcontractor at any tier or its employees) operate a system of records on behalf of the Federal Government. The Developer understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

b. The Developer agrees to include these requirements in each Subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

3.2. Background Checks, Redress and Immigration Status

a. The Developer shall comply with all applicable provisions contained in 49 C.F.R. Parts 1570, 1572, and 1580, as well as all relevant FTA, Department of Homeland Security (DHS) and Transportation Security Administration (TSA) guidance, including FTA guidance, "Transit Agency Security and Emergency Management Protective Measures" (November 2006), and joint FTA/TSA guidance, "TSA/FTA Security and Emergency Management Action Items for Transit Agencies" (December 2006), each as supplemented by TSA guidance "Additional Guidance on Background Checks, Redress and Immigration Status".

3.3. Transit Employee Protective Agreements

a. General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Developer agrees to carry out the transit operations work on the underlying Agreement in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Agreement and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the Project from which Federal assistance is provided to support work on the underlying Agreement. The Developer agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this Section 3.3, however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for

nonurbanized areas authorized by 49 U.S.C. § 5311. The Developer agrees to include these requirements in each Subcontract and to require each Subcontractor to include this clause in lower tier Subcontracts.

3.4. SAFE OPERATION OF MOTOR VEHICLES

a. Seat Belt Use

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

b. Distracted Driving

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

c. Flow-Down Requirements

i. This section must be included in all subcontracts of every tier.

PART B: DAVIS BACON

[*To insert wage rate tables prior to execution.*]

EXHIBIT 8 – PROPOSAL EXTRACTS

[*to insert prior to execution*]

TAB 4

Agenda Item #7b
ACTION ITEM: Pittsburg Seafood and Music Festival Program

Board of Directors Meeting

Wednesday July 26, 2023

ECCTA Boardroom
801 Wilbur Avenue, Antioch, CA 94509

TRI DELTA TRANSIT

Staff Report to ECCTA Board of Directors

Meeting Date: July 26, 2023

Agenda Item: Pittsburg Seafood and Music Festival Program – Agenda Item #7b

Lead Staff: Leeann Loroño, Manager of Customer Service and Marketing

Approved: Rashidi Barnes, Chief Executive Officer

The Pittsburg Chamber of Commerce has requested Tri Delta Transit provide shuttle service for the Pittsburg Seafood and Music Festival 2023, taking place on Saturday, September 10th to Sunday, September 11th from 10 am – 8 pm on Railroad Avenue.

Background

Tri Delta Transit has provided shuttle service, most years, for the festival since 2012. In June 2014, the ECCTA Board of Directors authorized staff to operate the shuttle that year with the directive that service would only continue if a minimum of 4,000 riders was reached. In 2016, they did not reach the threshold, but service was authorized for 2017. In 2017, ridership did again not reach 4,000, so staff was not authorized to operate the shuttle in 2018. After a special request from the Pittsburg Chamber and a presentation to the board, the Board of Directors voted to operate the shuttle with the directive that the 4,000-ridership metrics be upheld. In 2019, ridership again fell below 4,000 which was inconsequential in 2020 due to the pandemic.

For the majority of the festival's history, Tri Delta Transit had operated multiple shuttles to and from multiple locations, such as LMC, school properties, BART stations, and the Pittsburg Civic Center, in order to maximize attendance to the festival.

Considerations

- Ridership reached the metric in 2018 with Sheila E. as the headliner. The 2019 festival was during the time festival attendance dropped Bay Area wide.
- Festival attendance may be larger this year due to the end of the pandemic and the booking of well-known performers.
- With the change in location to Railroad, parking is very limited around the festival increasing the need for public transportation. Waterfront parking may also be restricted in respect of the businesses there.
- According to the 2018 festival ticket purchase data, 52% of attendees came from the greater Bay Area.

Current Proposal

Tri Delta Transit would operate limited shuttle service to supplement existing fixed route bus service. Two shuttles would run from 8:15 am to 9:15 pm, approximately every half hour from Pittsburg/Bay Point BART to the festival with shuttle pick-up and drop-off points by the main parking at Civic Center Plaza. Our current weekend Route 381 will continue to operate every hour and detour around the festival to the waterfront with stops bordering the festival. Paratransit rides can be booked as usual to drop off at the designated ADA festival gate.

Impact to Tri Delta Transit

- Use of mixed shuttle and regularly scheduled fixed route service greatly decreases cost to Tri Delta Transit. Whereas in the past up to $20,000 was spent, this year's complete cost of the outlined shuttle service is approximately $6,000 for the two days.
- No additional costs to marketing our service. The Seafood festival and TDT will run duel social media campaigns advising the public of the shuttle service.

Requested Action

Provide direction to staff regarding the operation of a shuttle to the 2023 Pittsburg Seafood Festival.

TAB 5

Agenda Item #7c
ACTION ITEM: Travel Change Policy

Board of Directors Meeting

Wednesday July 26, 2023

ECCTA Boardroom
801 Wilbur Avenue, Antioch, CA 94509

TRI DELTA TRANSIT

Staff Report to ECCTA Board of Directors

Meeting Date: July 26, 2023

Agenda Item: Staff Travel Policy Update - Agenda Item #7c

Lead Staff: Rashidi Barnes, Chief Executive Officer

Background

In 1994 the ECCTA Board approved a Board of Directors Travel Policy as well as a staff travel policy. Specific to only the Staff travel policy, it states:

"Each staff member may travel to two conferences within a fiscal year. The Board of Directors prior to attendance must approve additional travel. Per diem and expense reimbursement shall be the same as for members of the Board of Directors."

Since 1994 a multitude of transportation/mobility conferences have come into existence and become vital sources of information and data gathering which have helped ECCTA grow and meet the advancements to transportation.

Issue

The 1994 Travel Policy allowed "each staff member" the opportunity to travel. Currently, only managers and directors travel to conferences. By limiting travel to a specific number of instances, we are reducing the staff's opportunities for professional growth and information gathering that is needed to better understand and address changing travel trends, innovative technological mobility options and peer learning.

Furthermore, ECCTA staff annually presents a finical budget, for a given fiscal year, which is approved by its Board of Directors. Inclusive of the budget are travel costs for conferences and travel.

Financial Impact

None. The travel costs associated with staff conference participation was included in the FY23-24 budget.

Requested Action

Amend the 1994 travel policy, specific to staff, by removing the two-conference limit for each staff member and to allow for the ECCTA CEO to manage the annual travel budget under the fiscal year budgeting process.

Attachment B
1994 ECCTA Board and Staff Travel Policy

EASTERN CONTRA COSTA TRANSIT AUTHORITY

BOARD AND STAFF TRAVEL POLICY

Adopted 02/23/94

Travel Policy: Board of Directors

Each member of the Board of Directors may travel to two conferences within a fiscal year. The Board of Directors prior to attendance must approve additional travel.

A per diem shall be paid at the level established by the General Services Administration and is intended to cover meals, and incidentals. ECCTA will pay in advance for airline tickets (coach), hotel room, registration fees, and banquet meals. ECCTA will pay for any other travel mode not to exceed the cost of a coach air ticket. Travel to and from the airport must be substantiated and will be reimbursed at the (cost per mile) rate established by the IRS. Taxi expenses will be reimbursed upon substantiation.

Travel Policy: Staff

Each staff member may travel to two conferences within a fiscal year. The Board of Directors prior to attendance must approve additional travel. Per diem and expense reimbursement shall be the same as for members of the Board of Directors.