



TO: Mayor and Councilmembers

FROM: Jaime A. Valdez, Assistant City Manager

CONTACT: Cassidy Le Air, Senior Management Analyst

SUBJECT: Amendment No. 3 to the Transit and Intercity Rail Capital Program Funding Agreement No. 2018-123 with Santa Barbara County Association of Governments for the Goleta Train Depot Project

RECOMMENDATION:

- A. Authorize the Mayor to execute Amendment No. 3 to the Transit and Intercity Rail Capital Program Funding Agreement 2018-123 between the City of Goleta and the Santa Barbara County Association of Governments for the Goleta Train Depot Project, increasing the total funding available amount by \$11,242 for a revised total amount not-to-exceed \$17,811,242.
- B. Approve a budget appropriation and grant revenue in the amount of \$19,365.72 of Transit Intercity Rail Capital Program funding from the Santa Barbara County Association of Governments into Fund 321.

BACKGROUND:

In April 2018, the California State Transportation Agency (CalSTA) notified the Santa Barbara County Association of Governments (SBCAG) that SBCAG had been awarded \$13,000,000 in funding as a result of submitting an application with the City of Goleta under the Transit and Intercity Rail Capital Program (TIRCP) for the Goleta Train Depot Project. On December 18, 2018, City Council approved a Transit and Intercity Rail Capital Program Funding Agreement No. 2018-123 (Agreement) between the City of Goleta and the Santa Barbara County Association of Governments a not-to-exceed amount of \$12,200,000 (Attachment 4).

In January 2023, staff was notified of its successful co-application with SBCAG for an additional \$5,560,000 in TIRCP Supplemental Funding to be matched by a \$1,000,000 commitment of City funds. On June 20, 2023, Council approved Amendment No. 1 to the Agreement with the City of Goleta, extending the end of the term from June 30, 2023, to December 31, 2026 (Attachment 3). On March 19, 2024, Council approved Amendment No. 2 to the SBCAG TIRCP Agreement with the City of Goleta, extending the term from

December 31, 2026, to December 31, 2027, and increasing the total funding amount by \$5,600,000 for a new total amount not-to-exceed \$17,800,000 (Attachment 2).

In July 2024, SBCAG notified the City that an additional \$123,500 in TIRCP funding was available, totaling \$14,858,500 for reimbursement in the project's construction phase. On July 16, 2024, City Council authorized a Construction Contract with Quincon, Inc. for the construction of the Goleta Train Depot. The report included a note of the pending increase in TIRCP construction monies available, with the formal amendment and appropriation pending Council approval at a later date.

DISCUSSION:

The Goleta Train Depot Project is currently in construction with an estimated completion date of March 2026. The purpose of Amendment No. 3 to the Agreement between SBCAG and the City of Goleta, provided in Attachment 1, is to increase the total reimbursement amount of \$17,800,000 for a revised total not-to-exceed amount of \$17,811,242 (Attachment 1). SBCAG staff took this same Amendment to its Board on October 22, 2024, on the Consent Calendar where it was approved.

FISCAL IMPACTS:

Amendment No. 3 reflects the revised not-to-exceed amount of \$17,811,242 available for reimbursement, resulting in the below appropriation to expenditures and revenue. The total budget for the construction phase is \$14,858,500, with a total TIRCP project cost of \$17,811,242.

Account Number	Account Name	Current Budget	Appropriation	Total
321-90-9079-44400	Grant Proceeds –State	14,839,134.28	19,365.72	14,858,500
321-90-9079-57071	Construction	14,839,134.28	19,365.72	14,858,500

ALTERNATIVES:

Council may choose not to authorize the Amendment, in which the City could not seek an additional \$11,242 in reimbursement from SBCAG for the Goleta Train Depot Project.

LEGAL REVIEW BY: Megan Garibaldi, City Attorney

APPROVED BY: Robert Nisbet, City Manager

ATTACHMENTS:

1. Amendment No. 3 to Agreement No. 2018-123 between Santa Barbara County Association of Governments and the City of Goleta
2. Amendment No. 2 to Agreement No. 2018-123 between Santa Barbara County Association of Governments and the City of Goleta
3. Amendment No. 1 to Agreement No. 2018-123 between Santa Barbara County Association of Governments and the City of Goleta
4. Agreement 2018-123 between the Santa Barbara County Association of Governments and the City of Goleta

Attachment 1

Amendment No. 3 to Agreement 2018-123 between Santa Barbara County Association
of Governments and the City of Goleta

AMENDMENT NO. 3
to
AGREEMENT
between
SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS
and the
City of Goleta

The Agreement (hereinafter AGREEMENT) made by and between the SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS (hereafter "SBCAG") and the CITY OF GOLETA (hereafter "CITY"), and collectively referred to as the "Parties" or individually as "Party" and executed on December 19, 2018, is hereby amended ("Amendment No. 3") as follows:

1. **EXHIBIT B "Payment Arrangements" Section "A" is deleted and replaced in its entirety with:**

- A. For reimbursement to be rendered under this AGREEMENT, CITY shall be paid a total contract amount, including cost reimbursements, up to but not to exceed \$17,811,242.

Ratifications. The terms and provisions set forth in Amendment No. 3 shall modify and supersede all inconsistent terms and provisions set forth in the AGREEMENT, Amendment No. 1, and Amendment No. 2. The terms and provisions of the AGREEMENT, Amendment No. 1, and Amendment No. 2, except as expressly modified and superseded by this Amendment No. 3 are ratified and confirmed and shall continue in full force and effect, and shall continue to be legal, valid, binding, and enforceable obligations of the Parties.

Counterparts. This Amendment No. 3 may be executed in several counterparts, all of which taken together shall constitute a single agreement between the Parties.

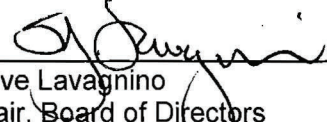
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IN WITNESS WHEREOF, the Parties have executed this Amendment No. 3 to be effective on the date when fully executed by both Parties.

CITY OF GOLETA:

**SANTA BARBARA COUNTY
ASSOCIATION OF GOVERNMENTS**

By: _____
Deborah S. Lopez
City Clerk


By: 
Steve Lavagnino
Chair, Board of Directors

Date: _____

Date: 10.24.24

By _____
Paula Perotte, Mayor

Attest:
Marjie Kirn, Executive Director
Clerk of the Board

By: 

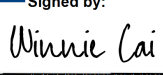
APPROVED AS TO ADMINISTRATION:

APPROVED AS TO FORM:
Rachel Van Mullem
County Counsel

By _____
Robert Nisbet, City Manager

By: 
Senior Deputy County Counsel

APPROVED AS TO FORM:
Megan Garibaldi
City Attorney

By: 
Signed by:
A1BF8F896161498...
Assistant City Attorney

Attachment 2

Amendment No. 2 to Agreement No. 2018-123 between Santa Barbara County
Association of Governments and the City of Goleta

AMENDMENT NO. 2
to
AGREEMENT
between
SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS
and the
City of Goleta

The Agreement (hereinafter AGREEMENT) made by and between the SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS (hereafter "SBCAG") and the CITY OF GOLETA (hereafter "CITY"), and collectively referred to as the "Parties" or individually as "Party" and executed on December 19, 2018, is hereby amended ("Amendment No. 2") as follows:

1. **Section 4 "Term" is deleted and replaced in its entirety with:**

The term of this Agreement is October 18, 2018, to December 31, 2027, unless earlier terminated.

2. **EXHIBIT B "Payment Arrangements" Sections "A" and "B" are deleted and replaced in their entirety with:**

A. For reimbursement to be rendered under this agreement, CITY shall be paid a total contract amount, including cost reimbursements, up to but not to exceed \$17,800,000.

B. Reimbursement of costs shall be made upon CITY's satisfactory performance, based upon the scope and methodology contained in Exhibit A. Invoices submitted for payment must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in Exhibit A. CITY will submit claims for reimbursement to SBCAG quarterly for PROJECT costs incurred by CITY staff and consultants for all Preliminary Engineering/Environmental, Permitting, Final Design and Construction phases of PROJECT. SBCAG will seek reimbursement from the STATE for these costs under the terms of the Master Agreement and process CITY invoices within 30 days of receipt.

3. **Section 33 "Master Agreement & Program Supplements" is deleted and replaced in its entirety with:**

CITY agrees to all terms and conditions as set forth for SBCAG, as Recipient, in the Master Agreement No. 64SBCAGMA which is attached as Exhibit D and incorporated herein by reference to be managed by SBCAG.

Ratifications. The terms and provisions set forth in Amendment No. 2 shall modify and supersede all inconsistent terms and provisions set forth in the Agreement. The terms and provisions of the Agreement, except as expressly modified and superseded by this Amendment No. 2 are ratified and confirmed and shall continue in full force and effect, and shall continue to be legal, valid, binding, and enforceable obligations of the Parties.

Counterparts. This Amendment No. 2 may be executed in several counterparts, all of which taken together shall constitute a single agreement between the Parties.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 2 to be effective on the date when fully executed by both Parties.

CITY OF GOLETA:

DocuSigned by:
Deborah Lopez
A3E09F3473CA47E...
By: _____
Deborah S. Lopez
City Clerk

Date: 4/3/2024

DocuSigned by:
Paula Perotte
FBB88E66C7C0437...
By: _____
Paula Perotte, Mayor

APPROVED AS TO ADMINISTRATION:

DocuSigned by:
Robert Nisbet
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By: _____
Robert Nisbet, City Manager

APPROVED AS TO FORM:
Megan Garibaldi
City Attorney

DocuSigned by:
Megan Garibaldi
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By: _____
City Attorney

**SANTA BARBARA COUNTY
ASSOCIATION OF GOVERNMENTS**

By: *Steve Lavagnino*

Steve Lavagnino
Chair, Board of Directors

Date: 1.15.24

Attest:
Marjie Kirn, Executive Director
Clerk of the Board

By: *Marjie Kirn*

APPROVED AS TO FORM:

Rachel Van Mullem
County Counsel

By: *Rachel Van Mullem*

Senior Deputy County Counsel

Attachment 3

Amendment No. 1 to Agreement No. 2018-123 between Santa Barbara County
Association of Governments and the City of Goleta

DOCUMENT ROUTING AND APPROVAL FORM

Requires Council Approval: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES Meeting Date: Tuesday, June 20, 2023		Requires Vendor Set-up: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES If no, Vendor Number: 000340	
Director Level Approval: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES Site Authority:		Provide summary of agreement below: Amendment to delete and replace the "designated representative," term and "immaterial amendments," allowing the the SBCAG's Executive Director, or designee authorization	
Document Name and Type: Amendment No. 1 to Agreement 2018-123 with SBCAG		Project Name: Goleta Train Depot	
Vendor Name: SB County Association of Governments Contact Person: Aaron Bonfilio Address: 260 N. San Antonio Rd, Suite B Santa Barbara, Phone Number: Email Address: Aaron Bonfilio@sbcag.org Business License Number:		City Project Manager: Jaime A. Valdez Contact Number: 805-961-7568 Email Address: jvaldez@cityofgoleta.org Staff Routing Agreement: Leonel Mendoza-Diaz Contact Number: 805-961-7558 Email Address: lmendoza-diaz@cityofgoleta.org	
AMOUNT NOT TO EXCEED:		ON CALL SERVICES? : <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES* *On call services require one spreadsheet to track multiple PO's	
Reimbursement agreement for up to \$12.2M		COUNCIL APPROPRIATION NEEDED : <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES* *May require Purchasing Officer's override to input Requisition	
ROUTING PROCESS	DESCRIPTION		DATE
Department Head Initiation	Authority to initiate agreement		6/26/2023
Risk Manager	Staff to initiate review of insurance provision in agreement		6/27/2023
City Attorney	Contract review/Approve as form		6/26/2023
Finance Director, Purchasing Officer	Funding Methods Approved/ Authorized, Purchase Requisition reviewed.	Requisition Number: N/A	
Staff (DocuSign User)	Staff routes agreement to vendor via DocuSign for electronic signature and requests Insurance documents.		6/27/2023
Risk Manager	Risk Management shall rate Insurance.		6/27/2023
City Manager	City Manager will approve and sign the agreement.		6/27/2023
City Clerk	City Clerk will approve and sign the agreement.		6/28/2023
Vendor	Staff will route a fully executed copy of the agreement to the vendor.		

BELOW FOR CITY CLERK PROCESSING ONLY

FINALIZED ON:	INITIAL	RESOLUTION NO (IF APPLICABLE)	FILE NUMBER		
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AMENDMENT NO. 1
to
AGREEMENT
between
SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS
and the
City of Goleta

The Agreement (hereinafter AGREEMENT) made by and between the SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS (hereafter "SBCAG") and the CITY OF GOLETA (hereafter "CITY"), and collectively referred to as the "Parties" or individually as "Party" and executed on December 19, 2018, is hereby amended ("Amendment No. 1") as follows:

1. **Section 1 "Designated Representatives" is deleted and replaced in its entirety with:**

Aaron Bonfilio at phone number 805-961-8920 is the representative of SBCAG and will administer this Agreement for and on behalf of SBCAG. Jaime Valdez at phone number 805-961-7500 is the authorized representative for CITY.

2. **Section 4 "Term" is deleted and replaced in its entirety with:**

The term of this Agreement is October 18, 2018 to December 31, 2026 unless earlier terminated.

3. **Section 34 "Immaterial Amendments" is added in its entirety with:**

The parties agree that immaterial changes to the Agreement such as updating the Designated representative, addresses for notices, or other clerical error corrections which will not result in a material change to the Agreement may be authorized by SBCAG's Executive Director, or designee, in writing, and in accordance with Section 23.

Ratifications. The terms and provisions set forth in Amendment No. 1 shall modify and supersede all inconsistent terms and provisions set forth in the Agreement. The terms and provisions of the Agreement, except as expressly modified and superseded by this Amendment No. 1 are ratified and confirmed and shall continue in full force and effect, and shall continue to be legal, valid, binding, and enforceable obligations of the Parties.


Counterparts. This Amendment No. 1 may be executed in several counterparts, all of which taken together shall constitute a single agreement between the Parties.

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IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 to be effective on the date when fully executed by both Parties.

CITY OF GOLETA:

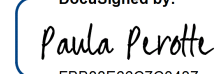
**SANTA BARBARA COUNTY
ASSOCIATION OF GOVERNMENTS**

DocuSigned by:

By: _____
Deborah S. Lopez
City Clerk

By: _____
Jenelle Osborne
Chair, Board of Directors

Date: 6/28/2023

Date: _____

DocuSigned by:

By: _____
Paula Perotte, Mayor

Attest:
Marjie Kirn, Executive Director
Clerk of the Board

By: _____

APPROVED AS TO ADMINISTRATION:

APPROVED AS TO FORM:

DocuSigned by:

By: _____
Robert Nisbet, City Manager

Rachel Van Mullem
County Counsel

By: 
Senior Deputy County Counsel

APPROVED AS TO FORM:

Megan Garibaldi
City Attorney

DocuSigned by:

By: _____ For
City Attorney

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 to be effective on the date when fully executed by both Parties.

CITY OF GOLETA:

**SANTA BARBARA COUNTY
ASSOCIATION OF GOVERNMENTS**

By: _____
Deborah S. Lopez
City Clerk

By: Jenelle Osborne
Jenelle Osborne
Chair, Board of Directors

Date: _____

Date: 6.15.23

By _____
Paula Perotte, Mayor

Attest:
Marjie Kirn, Executive Director
Clerk of the Board

By: Marjie Kirn

APPROVED AS TO ADMINISTRATION:

APPROVED AS TO FORM:

By _____
Robert Nisbet, City Manager

Rachel Van Mullem
County Counsel

By: Rachel Van Mullem
Senior Deputy County Counsel

APPROVED AS TO FORM:
Megan Garibaldi
City Attorney

By: _____
City Attorney

Attachment 4

Agreement No. 2018-123 between Santa Barbara County Association of Governments
and the City of Goleta

Santa Barbara County Association of Governments

and the

City of Goleta

THIS AGREEMENT (hereafter Agreement) is made by and between the SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS (hereafter "SBCAG") and the CITY OF GOLETA (hereafter "CITY"), having its principal place of business at 130 Cremona Drive, Suite B, Goleta CA 93117 (), wherein CITY agrees to provide and SBCAG agrees to accept the services specified herein.

WHEREAS, SBCAG applied for and received \$13,009,000 under the 2018 Transit and Intercity Rail Capital Program (TIRCP) to construct a train station at 27 South La Patera Lane, conduct planning, and make associated improvements on and nearby a CITY-owned parcel adjacent to the existing train platform in the City of Goleta (PROJECT); and

WHEREAS, SBCAG and CITY agree the CITY will be the lead agency for most of the project components and will require reimbursement from SBCAG for the costs of implementing these components; and

WHEREAS, CITY and SBCAG agree the CITY is best equipped to provide project management for most phases of work, including engineering and design to refine a cost estimate and preparation of technical studies for environmental approvals and permitting; and

WHEREAS, SBCAG and the State of California (STATE) have entered into a Master Agreement to define roles and responsibilities for funding and oversight of this PROJECT; and

WHEREAS, SBCAG assured the STATE that all recipients receiving TIRCP flow-through grant funds under the Master Agreement would adhere to specific regulations, standards, and procedures; and

WHEREAS, the California Transportation Commission approved funding on October 18, 2018 that shall be available for the purposes of this agreement; and

WHEREAS, the California Transportation Commission will approve additional funding in the future that shall be available for the purposes of this MOU; and

WHEREAS, the CITY will be the lead agency for CEQA compliance and certification for this project; and

WHEREAS, CITY and SBCAG, desire to define roles and responsibilities for completion of the PROJECT.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **DESIGNATED REPRESENTATIVES.** Scott Spaulding at phone number 805-961-8920 is the representative of SBCAG and will administer this Agreement for and on behalf of SBCAG. Vyto Adomaitis at phone number 805-961-7500 is the authorized representative for CITY.

2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To SBCAG: Santa Barbara County Association of Governments
260 North San Antonio Road, Suite B
Santa Barbara, CA 93110
Attention: Marjie Kirn, Executive Director

To CITY: Vyto Adomaitis
Neighborhood Services and Public Safety Director
City of Goleta
130 Cremona Dr. Suite B
Goleta, CA 93117

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notice section. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. **SCOPE OF SERVICES.** CITY agrees to assume the responsibilities identified in Exhibit A, attached hereto and incorporated herein by reference.

4. **TERM.** The term of this agreement is October 18, 2018 to June 30, 2023, unless earlier terminated.

5. **REIMBURSEMENT TO CITY.** The CITY shall be reimbursed for valid costs under this Agreement in accordance with the terms of Exhibit B attached hereto and incorporated herein by reference. Reimbursement shall be quarterly and a detailed progress report shall be included with each quarterly invoice. Unless otherwise specified in Exhibit B, payment shall be net thirty (30) days from presentation of invoice.

6. **DEBARMENT AND SUSPENSION.** CITY certifies to SBCAG that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state or local government contracts. CITY certifies that it shall not contract with subcontractors for services under this Agreement that are so debarred or suspended.

7. **TAXES.** CITY shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. SBCAG shall not be responsible for paying any taxes on CITY's behalf and, should SBCAG be required to do so by State, federal, or local taxing agencies, CITY agrees to promptly reimburse SBCAG for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance. CITY shall provide its social security number or tax identification number to SBCAG, which SBCAG shall keep on file at its offices.

8. **CONFLICT OF INTEREST.** CITY covenants that CITY presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CITY further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CITY. CITY must promptly disclose to SBCAG, in writing, any potential conflict of interest. SBCAG retains the right to waive a conflict of interest disclosed by CITY if SBCAG determines it to be immaterial, and such waiver is only effective if provided by SBCAG to CITY in writing.

9. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY.

SBCAG shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions, reports, data, documents or other materials prepared under this Agreement. CITY agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CITY warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CITY at its own expense shall defend, indemnify, and hold harmless SBCAG against any claim that any Copyrightable Works or Inventions or other items provided by CITY hereunder infringe upon any intellectual property or other proprietary rights of a third party, and CITY shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by SBCAG in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of the Agreement.

10. NO PUBLICITY OR ENDORSEMENT. CITY shall not use SBCAG's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials, unless otherwise required. CITY shall not use SBCAG's name or logo in any manner that would give the appearance that the SBCAG is endorsing CITY. CITY shall not in any way contract on behalf of or in the name of SBCAG's. CITY shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the SBCAG or its projects without obtaining the prior written approval of SBCAG.

11. SBCAG PROPERTY AND INFORMATION. All of SBCAG's property, documents, and information provided for CITY's use in connection with the services shall remain SBCAG's property, and CITY shall return any such items whenever requested by SBCAG and whenever required according to the Termination section of this Agreement. CITY may use such items only in connection with providing the services. CITY shall not disseminate any SBCAG property, documents, or information without SBCAG prior written consent.

12. RECORDS, AUDIT, AND REVIEW. CITY shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CITY's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. SBCAG shall have the right to audit and review all such documents and records at any time during CITY's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00) CITY shall be subject to the examination and audit of the State Auditor General for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CITY shall participate in any audits and review, whether by SBCAG or the State, at no charge to SBCAG.

If federal, state or other regulatory audit exceptions are made relating to this Agreement, CITY shall reimburse all costs incurred by SBCAG associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from SBCAG, CITY shall reimburse the amount of the audit exceptions and any other related costs directly to SBCAG as specified by SBCAG in the notification.

13. INDEMNIFICATION AND INSURANCE. CITY agrees to defend, indemnify and hold harmless the SBCAG and to procure and maintain insurance in accordance with the provisions of Exhibit C, attached hereto and incorporated herein by reference.

14. NONDISCRIMINATION. CITY shall comply with Title VI of the Civil Rights Act of 1964, as amended, and with the provisions contained in 49 CFR 21 through Appendix C and 23 CFR 710.405(b). During the performance of this Agreement, the CITY, for itself, its assignees and successors in interest agrees as follows:

A. **Compliance with Regulations:** CITY shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

B. **Nondiscrimination:** The CITY or subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CITY shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CITY to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as recipient deems appropriate. CITY, with regard to the work performed by it during the agreement, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection or retention of subcontractors, including procurement of materials and leases of equipment. CITY shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the regulations.

C. **Solicitations for subcontractors, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by CITY for work to be performed under the subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by CITY of CITY's obligations under this agreement, and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age or national origin.

D. **Information and Reports:** CITY shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by SBCAG to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CITY is in the exclusive possession of another who fails or refuses to furnish this information, CITY shall so certify to SBCAG, and shall set forth what efforts it has made to obtain the information.

E. **Sanctions for Noncompliance:** In the event of CITY's noncompliance with the nondiscrimination provisions of this Agreement, SBCAG shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

1. Withholding of payments to CITY under this Agreement until CITY complies, and/or
2. Cancellation, termination or suspension of the Agreement in whole or in part.

15. **NON-EXCLUSIVE AGREEMENT.** CITY understands that this is not an exclusive agreement and that SBCAG shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CITY as the SBCAG desires.

16. **NON-ASSIGNMENT.** CITY shall not assign or transfer this Agreement or any of its rights or obligations under this Agreement without the prior written consent of SBCAG and any attempt to so assign or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

17. **TERMINATION.**

A. **By SBCAG.** SBCAG may, by written notice to CITY, terminate this Agreement in whole or in part, whether for SBCAG's convenience, for non-appropriation of funds, or because of the failure of CITY to fulfill the obligations herein.

1. **For Convenience.** SBCAG may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CITY shall, as directed by SBCAG, wind down and cease its services as quickly and efficiently as reasonably possible, without performing

unnecessary services or activities and by minimizing negative effects on SBCAG from such winding down and cessation of services.

2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or local governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then SBCAG will notify CITY of such occurrence and SBCAG may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, SBCAG shall have no obligation to make payments with regard to the remainder of the term.

3. **For Cause.** Should CITY default in the performance of this Agreement or materially breach any of its provisions, SBCAG may, at SBCAG's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CITY shall immediately discontinue all services affected (unless the notice directs otherwise) and notify SBCAG as to the status of its performance. The date of termination shall be the date the notice is received by CITY, unless the notice directs otherwise.

B. **By CITY.** Except where SBCAG withholds payment pursuant to other terms of this Agreement, should SBCAG fail to pay CITY all or any part of the payment set forth in Exhibit B, CITY may, at CITY's option, terminate this agreement, if such failure is not remedied by SBCAG within thirty (30) days of written notice to SBCAG of such late payment.

C. **Upon termination,** CITY shall deliver to SBCAG all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CITY in performing this Agreement, whether completed or in process, except such items as SBCAG may, by written permission, permit CITY to retain. Notwithstanding any other payment provision of this Agreement, SBCAG shall pay CITY for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CITY be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CITY shall furnish to SBCAG such financial information as in the judgment of SBCAG is necessary to determine the reasonable value of the services rendered by CITY. In the event of a dispute as to the reasonable value of the services rendered by CITY, the decision of SBCAG shall be final. The foregoing is cumulative and shall not affect any right or remedy which SBCAG may have in law or equity.

18. **SECTION HEADINGS.** The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

19. **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

20. **REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to SBCAG is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

21. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement and each covenant and term is a condition herein.

22. **NO WAIVER OF DEFAULT.** No delay or omission of SBCAG to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given

by this Agreement to SBCAG shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of SBCAG.

23. **ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

24. **SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

25. **COMPLIANCE WITH LAW.** CITY shall, at its sole cost and expense, comply with all SBCAG, State and federal ordinances and statutes, including regulations now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CITY in any action or proceeding against CITY, whether SBCAG is a party thereto or not, that CITY has violated any such ordinance statute, or regulation, shall be conclusive of that fact as between CITY and SBCAG.

26. **CALIFORNIA LAW AND JURISDICTION.** This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in State court, or in the federal district court nearest to Santa Barbara County, if in federal court.

27. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

28. **AUTHORITY.** All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any State and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CITY hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CITY is obligated, which breach would have a material effect hereon.

29. **SURVIVAL.** All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

30. **PRECEDENCE.** In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the numbered sections shall prevail over those in the Exhibits.

31. **SUBCONTRACTORS.** CITY may retain the services of a consultant, consultants, or subcontractors (collectively referred to as subcontractors) to assist with the fulfillment of its roles and responsibilities outlined in this Agreement. CITY shall be fully responsible for all services performed by its subcontractors. CITY shall secure from any and all subcontractors all rights for SBCAG in this Agreement, including audit rights, and all rights for SBCAG and the State in the Master Agreement.

CITY shall ensure subcontractors' compliance with California Labor Code, including but not limited to the payment of prevailing wage when required. CITY will seek the input of SBCAG in the subcontractor

selection process and invite SBCAG staff to participate in the selection of any subcontractors. CITY will make the final selection on subcontractors.

32. **SUSPENSION FOR CONVENIENCE.** SBCAG may, without cause, order CITY in writing to suspend, delay, or interrupt the work under this Agreement in whole or in part for up to 90 days. SBCAG shall incur no liability for suspension under this provision and suspension shall not constitute a breach of this Agreement.

33. **MASTER AGREEMENT & PROGRAM SUPPLEMENTS.** CITY agrees to all terms and conditions as set forth for SBCAG, as Recipient, in the Master Agreement which is attached as Exhibit D and incorporated herein by reference. CITY agrees to all terms and conditions as set forth in Program Supplements, to be managed by SBCAG, that are adopted and executed by SBCAG and the State as though fully set forth in the Master Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date when fully executed by both parties.

ATTEST:

SANTA BARBARA COUNTY ASSOCIATION
OF GOVERNMENTS:

By: TLC/Terry Contreras
Marjie Kirn
Executive Director SBCAG
clerk of the board

By: Joan Hartmann
Joan Hartmann, Chair
Date: 11.15.18

ATTEST:

CITY OF GOLETA

By: Deborah Lopez
Deborah S. Lopez
City Clerk

By: Paula Perotte
Paula Perotte, Mayor

APPROVED AS TO ADMINISTRATION:

Date: 12/19/2018

By: Michelle Greene
Michelle Greene, City Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: Rachel Van Mullen
Rachel Van Mullen
Chief Assistant County Counsel

By: Michael Jenkins
Michael Jenkins, City Attorney

EXHIBIT A

Roles & Responsibilities

1. Project Purpose

The purpose of the PROJECT is to construct a station structure and make other improvements to increase the use of the state-supported Pacific Surfliner rail service at the Goleta station.

The PROJECT improvements include the following:

- Construction of a train station structure;
- Improvements and expansion of parking to serve the train station;
- Bicycle and pedestrian improvements to increase use and accessibility of the station;
- Installation of electric vehicle charging stations to support development of battery-powered shuttle service to UC Santa Barbara and the Santa Barbara Airport

2. Roles and Responsibilities

- a. CITY will be the CEQA lead agency for the PROJECT.
- b. CITY will serve as the agency responsible for delivery of Preliminary Engineering, Preliminary Environmental, Permitting, and Final Design for the PROJECT.
- c. CITY will be responsible for managing consultant work, and shall be responsible for all work products and deliverables relating to the Preliminary Engineering/Environmental, Permitting, and Final Design phases of PROJECT.
- d. CITY will develop in conjunction with its consultant team, an overall PROJECT delivery schedule which will be updated regularly as to progress of the PROJECT.
- e. CITY will prepare and provide to SBCAG any reports required by the State for PROJECT components overseen and/or administered by CITY.
- f. CITY will form a PROJECT team for convening regular meetings that will include representatives from SBCAG staff, consultants, and other parties deemed appropriate by CITY.
- g. SBCAG will serve as the lead agency for the Network Integration component of the grant.
- h. SBCAG and CITY will work cooperatively to make presentations and provide updates as needed to CITY's Planning Commission and SBCAG's South Coast Subregional Planning Committee.

EXHIBIT B

PAYMENT ARRANGEMENTS
Periodic Compensation

- A. For reimbursement to be rendered under this agreement, CITY shall be paid a total contract amount, including cost reimbursements, up to but not to exceed \$12,200,000.
- B. Reimbursement of costs shall be made upon CITY's satisfactory performance, based upon the scope and methodology contained in **Exhibit A**. Invoices submitted for payment must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **Exhibit A**. CITY will submit claims for reimbursement to SBCAG quarterly for PROJECT costs incurred by CITY staff and consultants for all Preliminary Engineering/Environmental, Permitting, and Final Design phases of PROJECT. SBCAG will seek reimbursement from the STATE for these costs under the terms of the Master Agreement and process CITY invoices within 30 days of receipt.
- C. CITY, shall submit to the SBCAG Designated Representative an invoice or certified claim for the service performed over the period specified. SBCAG's Designated Representative shall evaluate the quality of the service performed and, if found to be satisfactory, shall initiate payment processing. SBCAG shall pay invoices or claims for satisfactory work within 30 days of presentation.
- D. SBCAG's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of SBCAG's right to require CITY to correct such work or billings or seek any other legal remedy.

EXHIBIT C

STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties pursuant to California Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead all parties agree that pursuant to California Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by California Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Agreement..

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CITY shall notify SBCAG immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CITY shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CITY, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CITY has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions) Insurance** appropriate to the CITY'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CITY maintains higher limits than the minimums shown above, SBCAG requires and shall be entitled to coverage for the higher limits maintained by the CITY. Any available

insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to SBCAG.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – SBCAG, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CITY including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CITY's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CITY's insurance coverage shall be primary insurance as respects the SBCAG, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by SBCAG, its officers, officials, employees, agents or volunteers shall be excess of the CITY's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to SBCAG.
4. **Waiver of Subrogation Rights** – CITY hereby grants to SBCAG a waiver of any right to subrogation which any insurer of said CITY may acquire against the SBCAG by virtue of the payment of any loss under such insurance. CITY agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the SBCAG has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the SBCAG. SBCAG may require the CITY to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CITY shall furnish SBCAG with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by SBCAG before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CITY's obligation to provide them. The CITY shall furnish evidence of renewal of coverage throughout the term of the Agreement. SBCAG reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, SBCAG has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by SBCAG as a material breach of contract.

9. **Subcontractors** – CITY shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CITY shall ensure that SBCAG is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CITY must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – SBCAG reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CITY agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of SBCAG to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of SBCAG.

Exhibit D

Master Agreement