

REPORT TO SHASTA COUNTY RTPA

SUBJECT	MEETING DATE	ITEM NUMBER
Northern California Internet Trip Planning Services: 1. Authorize Agreement with Aaron Antrim/Trillium Solutions 2. Authorize Payments to Modoc County Transportation Commission (MCTC)	12/9/08	4-6

RECOMMENDATION

It is recommended that the Board:

1. Authorize the Executive Director to execute the attached agreement with Aaron Antrim/Trillium Solutions, not to exceed \$92,372, for a term ending June 30, 2010; and
2. Authorize the Executive Director to approve up to \$5,000 to the Modoc County Transportation Commission (MCTC) for technical support (Attachment A) through June 30, 2010.

SUMMARY

Caltrans and rural counties have requested that the SCRTPA act as lead agency for an Internet trip planning study. The study area consists of nine counties (Inyo, Lassen, Modoc, Mono, Plumas, Shasta, Siskiyou, Tehama, and Trinity) and includes public-transit operators, specialized transit operators, and private carriers. Modoc County is currently live on Google Maps/Transit and will provide technical support and coordination to the other rural counties during the study.

The study could result in a valuable service to RABA users and Northern California rural transit users seeking medical and other services in Shasta County. The project is funded by a \$115,000 grant from the Federal Transit Administration. There is no cost to the RTPA.

DISCUSSION

On October 28, 2008, the Board authorized staff to distribute an RFP for consultant services for an Internet trip planning study. Five proposals were received. Proposals were ranked by a selection panel consisting of representatives from Caltrans District 2, Caltrans Division of Mass Transportation, and the SCRTPA. The review panel was unanimous in selecting Trillium Solutions as the top candidate. The following table lists the consultants, ranking and bid amount:

Consultant	Ranking	Bid
Trillium Solutions	1	\$ 92,373
Iteris	2	\$ 99,972
Marcy Jaffe	3	\$ 102,275
NextInsight	4	\$ 46,625
On Time	5	\$ 72,335

On Time had no experience developing Google Feed. Iteris and NextInsight require the use of proprietary schedule management software with an annual maintenance fee.

Trillium Solutions proposes to recommend applications that are best suited for each agency's needs and resources, including the use of free or open-source tools such as Microsoft Office Excel or Access. Trillium is one of the early innovators in preparing and delivering Google Transit projects in rural areas such as Humboldt and Del Norte counties.

It is recommended that the Board authorize the Executive Director to execute an agreement with Aaron Antrim/Trillium Solutions not to exceed \$92,372. Attachment B provides a cost breakdown by task.

MCTC is live on Google Maps. During the study period, MCTC has agreed to provide technical support to the rural counties, and review all work products based on their experience in implementing Google Maps/Transit. MCTC will be reimbursed up to \$5,000 for these services. The County Auditor's office requires Board authorization for the Executive Director to approve payments to MCTC.

A draft feasibility report is scheduled to be presented to the Board at the April 28, 2009, meeting.

ALTERNATIVES

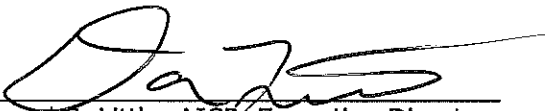
The Board could choose to withdraw from the Internet Trip Planning Study. This is not recommended as there is no cost to the SCRTPA. The study is desired among our neighboring regions.

OTHER AGENCY INVOLVEMENT

Caltrans District 2 and Caltrans Department of Mass Transportation participated in evaluating proposals. This item was discussed at the November 25 Technical Advisory Committee (TAC) meeting. TAC supports the staff recommendation.

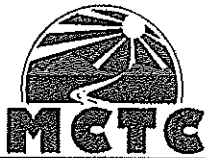
FINANCING

Consultant services, MCTC support, and RTPA staff time is 100% funded by a grant from Caltrans and the Federal Transit Administration. The study will define the cost to implement and sustain Google Transit trip planning in northern California, and identify the agencies recommended to coordinate and manage data on an ongoing basis.


Daniel S. Little, AICP, Executive Director

DSL/SLC/jac

Attachment: A. Letter – MCTC clarifying involvement in the feasibility study
B. Cost Proposal – Northern California Internet transit trip planning service
C. Personal Services Agreement – Aaron Antrim



Modoc County Transportation Commission

111 W. North Street
Alturas, CA 96101

(530) 233-6422 Phone
233-3744 Fax

Meets 1st Thursday
Even-Numbered
Months at
3:00 p.m.

Commissioners

Bill Hall
Chairman
City at Large Citizen

Mike Dunn
Vice Chairman
County Supervisor II

Ken Barnes
Commissioner
City Police Chief

John Dederick
Commissioner
City Councilmember

Terry Williams
Commissioner
County at Large Citizen

David Bradshaw
Alternate
County Supervisor V

Sid Cullins
Alternate
City Police Lieutenant

Staff

Pam Couch
Executive Director

Niki Witherspoon
Systems Manager

Cindy Imbach
Mobility Manager

Laurel Sanders
Mobility Assistant

November 26, 2008

Dan Little
Executive Director
Shasta County Regional Transportation Planning Agency
1855 Placer Street
Redding, CA 96001

Subject: Clarifying Involvement in the Feasibility Study for
Northern California Internet Trip Planning Services

Dear Dan,

This letter is to clarify involvement in the Feasibility Study for Northern California Internet Transit Trip Planning Services (Study). The Shasta County Regional Transportation Planning Agency (SCRTPA) is the lead agency for the Study to integrate rural and small-urban transit operator's schedules into Google Maps/Transit (Google). The Modoc County Transportation Commission (MCTC) staff facilitated its public transit operator, Modoc Transportation Agency/Sage Stage, joining Google. Currently, MCTC supports *CALruralbus.com*, a website, where Modoc's data are available to Google. MCTC will support the website during the Study and allow partner transit agencies to post their data on this website during the Study. In addition, MCTC staff will assist SCRTPA staff to review Study work products, to coordinate with other rural RTPAs and transit operators and to help resolve technical issues and problems. Modoc staff will share lessons learned and the process used to implement and maintain its Google Feed.

The MCTC will receive \$5,000 for expenses, support, expertise and assistance with the Study, through its FY 2008/09 Overall Work Program. We look forward to working with you, and applaud your leadership in this undertaking.

Sincerely,

Pam Couch,
Executive Director

Section III

Cost proposal

Northern California Internet Transit Trip Planning Service – Feasibility Study

Staff Hourly Rates

Hourly billing rates for this project include overhead, administrative and materials costs.

Trillium

Aaron Antrim	\$120
Support (manual data entry)	\$65

Nelson\Nygaard

Linda Rhine	\$150
Jeremy Nelson	\$128
Magnus Barber	\$91
GIS	\$112
Graphics/Publications	\$91

Cost breakdown by task, with personnel and direct travel costs

Task	Total Hours	Personnel costs	Travel costs*	Total costs
Task 1: Finalize budget and schedule	10	\$1,262	\$0	\$1,262
Task 2: Initial stakeholder meeting and contacts	63	\$7,950	\$4,500	\$12,450
Task 3: Resources and Information Operations Survey	100	\$11,370	\$4,500	\$15,870
Task 4: Transportation Service Area and Gaps Analysis	46	\$4,790	\$1,500	\$6,290
Task 5: Gather, prepare and test Google Transit feed data	260	\$24,600	\$0	\$24,600
Task 6: Draft feasibility study	75	\$9,420	\$0	\$9,420
Task 7: Draft Implementation plan	60	\$7,320	\$0	\$7,320
Task 8: Final report	86	\$10,660	\$4,500	\$15,160
TOTAL	653	\$77,372	\$15,000	\$92,372

*Travel costs are estimated by assuming members of the consulting team will visit the study area at least twice. The first visit will occur for a project kick-off meeting and the Resources & Information Operations Survey and Transportation Service Area and Gaps Analysis. The final visit will be to present the final report. We know transportation to and in rural areas can be expensive, and believe we have budgeted amply. In order to minimize travel costs, we plan to maintain stakeholder contact by phone and electronic means.

**PERSONAL SERVICES AGREEMENT BETWEEN THE SHASTA COUNTY REGIONAL
TRANSPORTATION PLANNING AGENCY AND
AARON ANTRIM**

This agreement is entered into between the Shasta County Regional Transportation Planning Agency ("SCRTPA") and Aaron Antrim ("Consultant") for the purpose of preparing a feasibility study and implementation plan for a Northern California Internet Transit Trip Planning Service utilizing Google Maps/Transit.

1. RESPONSIBILITIES OF CONSULTANT.

- A. Pursuant to the terms and conditions of this agreement, Consultant shall prepare a feasibility study to determine if a regional network of transportation providers can be interfaced to Google Maps/Transit and what will be required to develop, maintain, and sustain such a network. A draft feasibility study must be submitted prior to the final study report. Work plan deliverables include:
 - 1. Development of a final work plan, budget, and schedule.
 - 2. Technical Memorandum summarizing stakeholder input on work plan.
 - 3. Technical Memorandum summarizing key issues from stakeholder interviews.
 - 4. Resources and information operations survey.
 - 5. Transportation service area and gaps analysis with online maps (if necessary).
 - 6. Password protected Google Transit trip planner preview.
 - 7. Draft feasibility study.
- B. Upon completion of the feasibility study, consultant will prepare an implementation plan for publishing Google Transit data and launching the Google Transit trip planning service for all nine counties (if directed by the SCRTPA). The implementation plan shall include, but are not limited to:
 - 1. Costs to fully implement each transit service
 - 2. Ongoing costs for publishing and maintaining Google Transit feed data.
 - 3. Necessary agreements with Google.
 - 4. Recommendations and assurances on data ownership and management.
- C. As required by Government Code Section 7550, each document or report prepared by Consultant for or under the direction of the SCRTPA pursuant to this agreement shall contain the numbers and dollar amount of the agreement and all subcontracts under the agreement relating to the preparation of the document or written report. If multiple documents or written reports are the subject of the agreement or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports. Consultant shall label the bottom of the last page of the document or report as follows: agency name, agreement number, and dollar amount.

2. RESPONSIBILITIES OF THE SCRTPA.

The SCRTPA has been identified as the lead agency by the Department of Transportation/Division of Mass Transportation for a pilot planning study to promote coordination utilizing Google Maps. The SCRTPA has agreed to provide oversight on the pilot planning study through issuance of the final report by Consultant.

The SCRTPA shall compensate Consultant as prescribed in Sections 3 and 4 of this agreement and shall monitor the outcomes achieved by Consultant.

Consultant shall be paid up to \$92,372.00 for the services described in this agreement.

3. BILLING AND PAYMENT.

Consultant shall submit to the SCRTPA contract administrator within five days after completion of each of the services prescribed in Section 1, an itemized statement or invoice of services rendered. The SCRTPA shall make payment within 30 days of receipt of Consultant's correct and approved statement or invoice.

4. TERM OF AGREEMENT.

This agreement shall commence as of the date it has been signed by both parties and shall end June 30, 2010.

5. TERMINATION OF AGREEMENT.

- A. If Consultant materially fails to perform Consultant's responsibilities under this agreement to the satisfaction of the SCRTPA, or if Consultant fails to fulfill in a timely and professional manner Consultant's responsibilities under this agreement, or if Consultant violates any of the terms or provisions of this agreement, then the SCRTPA shall have the right to terminate this agreement for cause effective immediately upon the SCRTPA giving written notice thereof to Consultant. If termination for cause is given by the SCRTPA to Consultant and it is later determined that Consultant was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to Paragraph B of this section.
- B. The SCRTPA may terminate this agreement without cause on 30 days written notice to Consultant.
- C. The SCRTPA may terminate this agreement immediately upon oral notice should funding cease or be materially decreased during the term of this agreement.
- D. The SCRTPA's right to terminate this agreement may be exercised by the Executive Director.
- E. Should this agreement be terminated, Consultant shall promptly provide to the SCRTPA any and all finished and unfinished reports, data, studies, photographs, charts, and other documents prepared by Consultant pursuant to this agreement.

- F. If this agreement is terminated, Consultant shall only be paid for services satisfactorily completed and provided prior to the effective date of termination.

6. ENTIRE AGREEMENT; AMENDMENTS; HEADINGS.

- A. This agreement supersedes all previous agreements relating to the subject of this agreement and constitutes the entire understanding of the parties hereto. Consultant shall be entitled to no other benefits other than those specified herein. Consultant specifically acknowledges that in entering into and executing this agreement, Consultant relies solely upon the provisions contained in this agreement and no others.
- B. No changes, amendments or alterations to this agreement shall be effective unless in writing and signed by both parties. However, minor amendments that do not result in a substantial or functional change to the original intent of this agreement and do not cause an increase to the maximum amount payable under this agreement may be agreed to in writing between Consultant and the SCRTPA Executive Director.
- C. The headings that appear in this agreement are for reference purposes only and shall not affect the meaning or construction of this agreement.

7. NONASSIGNMENT OF AGREEMENT; NON-WAIVER.

Inasmuch as this agreement is intended to secure the specialized services of Consultant, Consultant may not assign, transfer, delegate, or sublet any interest herein without the prior written consent of the SCRTPA. The waiver by the SCRTPA of any breach of any requirement of this agreement shall not be deemed to be a waiver of any other breach.

8. EMPLOYMENT STATUS OF CONSULTANT.

Consultant shall, during the entire term of this agreement, be construed to be an independent contractor, and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the SCRTPA to exercise discretion or control over the professional manner in which Consultant performs the work or services that are the subject matter of this agreement; provided, however, that the work or services to be provided by Consultant shall be provided in a manner consistent with the professional standards applicable to such work or services. The sole interest of the SCRTPA is to insure that the work or services shall be rendered and performed in a competent, efficient, and satisfactory manner. Consultant shall be fully responsible for payment of all taxes due to the State of California or the federal government that would be withheld from compensation if Consultant were the SCRTPA employee. The SCRTPA shall not be liable for deductions for any amount for any purpose from Consultant's compensation. Consultant shall not be eligible for coverage under the SCRTPA's workers' compensation insurance plan nor shall Consultant be eligible for any other SCRTPA benefits. Consultant must issue W-2 and 941 Forms for income and employment tax purposes, for all of Consultant's assigned personnel under the terms and conditions of this agreement.

9. INDEMNIFICATION.

Consultant shall defend, hold harmless, and indemnify SCRTPA, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees of the SCRTPA Counsel and counsel retained by the SCRTPA, expert fees, litigation costs, and investigation costs), damages, judgments, or decrees by reason of any person's or persons' injury, including death, or property (including property of the SCRTPA) being damaged by the negligent acts, willful acts, or errors or omissions of the Consultant or any of Consultant's subcontractors, any person employed under Consultant, or under any subcontractor, or in any capacity during the progress of the work or the provision of services pursuant to this agreement, except when the injury or loss is caused by the sole negligence or intentional wrongdoing of the SCRTPA. Consultant shall also defend and indemnify the SCRTPA for any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board and/or any other taxing or regulatory agency and shall defend, indemnify, and hold harmless the SCRTPA with respect to Consultant's "independent contractor" status that would establish a liability on the SCRTPA for failure to make social security deductions or contributions or income tax withholding payments, or any other legally mandated payment.

For professional services provided under this agreement, Consultant shall indemnify, defend, and hold harmless the SCRTPA, its elected officials, officers, employees, agents, and volunteers from and against any and all claims, demands, actions, losses, liabilities, damage, and costs, including reasonable attorneys' fees, arising out of or resulting from the negligent performance of the professional services provided under this agreement or from recklessness or willful misconduct.

10. INSURANCE COVERAGE.

- A. Consultant and any subcontractor shall obtain, from an insurance carrier authorized to transact business in the State of California, and maintain continuously during the term of this agreement Commercial General Liability Insurance, including coverage for owned and non-owned automobiles, and other insurance necessary to protect the SCRTPA and the public with limits of liability of not less than \$1 million combined single limit bodily injury and property damage; such insurance shall be primary as to any other insurance maintained by the SCRTPA.
- B. Consultant and any subcontractor shall obtain and maintain continuously required Workers' Compensation and Employer's Liability Insurance to cover Consultant, subcontractor, Consultant's partner(s), subcontractor's partner(s), Consultant's employees, and subcontractor(s) employees with an insurance carrier authorized to transact business in the State of California covering the full liability for compensation for injury to those employed by Consultant or subcontractor. Consultant hereby certifies that Consultant is aware of the provisions of Section 3700 of the Labor Code, which requires every employer to insure against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and Consultant shall comply with such provisions before commencing the performance of the work or services prescribed in this agreement.
- C. Consultant shall obtain and maintain continuously a policy of Errors and Omissions coverage with limits of liability of not less than \$1 million.

- D. Consultant shall require subcontractors to furnish satisfactory proof to the SCRTPA that liability and workers' compensation and other required types of insurance have been obtained and are maintained similar to that required of Consultant pursuant to this agreement.
- E. With regard to all insurance coverage required by this agreement:
- (1) Any deductible or self-insured retention exceeding \$25,000 for Consultant or subcontractor shall be disclosed to and be subject to approval by the SCRTPA Risk Manager prior to the effective date of this agreement.
 - (2) If any insurance coverage required hereunder is provided on a "claims made" rather than "occurrence" form, Consultant or subcontractor shall maintain such insurance coverage with an effective date earlier or equal to the effective date of this agreement and continue coverage for a period of three years after the expiration of this agreement and any extensions thereof. In lieu of maintaining post-agreement expiration coverage as specified above, Consultant or subcontractor may satisfy this provision by purchasing tail coverage for the claims-made policy. Such tail coverage shall, at a minimum, provide coverage for claims received and reported three years after the expiration date of this agreement.
 - (3) All insurance (except workers' compensation and professional liability) shall include an endorsement or an amendment to the policy of insurance that names *the SCRTPA, its elected officials, officers, employees, agents, and volunteers as additional insureds* and provides that *coverage shall not be reduced or canceled without 30 days' written prior notice certain to the SCRTPA*. The additional insureds coverage shall be equal to Insurance Service Office endorsement CG 20 10 for on-going operations, and CG 20 37 for completed operations.
 - (4) Each insurance policy (except for workers' compensation and professional liability policies), or endorsement thereto, shall contain a "separation of insureds" clause which shall read:

"Separation of Insureds.

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
 - b. Separately to each suit insured against whom a claim is made or suit is brought."
- (5) Consultant shall provide the SCRTPA with an endorsement or amendment to Consultant's policy of insurance as evidence of insurance protection before the effective date of this agreement.

- (6) The insurance required herein shall be in effect at all times during the term of this agreement. In the event any insurance coverage expires at any time during the term of this agreement, Consultant shall provide, at least 20 days prior to said expiration date, a new endorsement or policy amendment evidencing insurance coverage as provided for herein for not less than the remainder of the term of this agreement or for a period of not less than one year. In the event Consultant fails to keep in effect at all times insurance coverage as herein provided and a renewal endorsement or policy amendment is not provided within 10 days of the expiration of the endorsement or policy amendment in effect at inception of this agreement, the SCRTPA may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.
- (7) If the endorsement or amendment does not reflect the limits of liability provided by the policy of insurance, Consultant shall provide the SCRTPA a certificate of insurance reflecting those limits.

11. NOTICE OF CLAIM/APPLICABLE LAW/VENUE.

- A. If any claim for damages is filed with Consultant or if any lawsuit is instituted concerning Consultant's performance under this agreement and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect the SCRTPA, Consultant shall give prompt and timely notice thereof to the SCRTPA. Notice shall be prompt and timely if given within 30 days following the date of receipt of a claim or 10 days following the date of service of process of a lawsuit.
- B. Any dispute between the parties, and the interpretation of this agreement, shall be governed by the laws of the State of California. Any litigation shall be venued in Shasta County.

12. COMPLIANCE WITH LAWS; NON-DISCRIMINATION.

- A. Consultant shall observe and comply with all applicable federal, state, and local laws, ordinances, and codes that relate to the work or services to be provided pursuant to this agreement.
- B. Consultant shall not discriminate in employment practices or in the delivery of services on the basis of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, medical condition (including cancer, HIV and AIDS) physical or mental disability or use of family care leave.
- C. Consultant represents that Consultant is in compliance with and agrees that Consultant shall continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12101, *et seq.*), the Fair Employment and Housing Act (Government Code Sections 12900, *et seq.*), and regulations and guidelines issued pursuant thereto.

13. ACCESS TO RECORDS/RETENTION.

The SCRTPA, federal, and state officials shall have access to any books, documents, papers, and records of Consultant that are directly pertinent to the subject matter of

this agreement for the purpose of auditing or examining the activities of Consultant or the SCRTPA. Except where longer retention is required by federal or state law, Consultant shall maintain all records for five years after the SCRTPA makes final payment hereunder.

14. CONSULTANT'S COMPLIANCE WITH CHILD, FAMILY AND SPOUSAL SUPPORT REPORTING OBLIGATIONS.

Consultant's failure to comply with state and federal child, family, and spousal support reporting requirements regarding Consultant's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family, and spousal support obligations shall constitute a default under this agreement. Consultant's failure to cure such default within 90 days of notice by the SCRTPA shall be grounds for termination of this agreement.

15. LICENSES AND PERMITS.

Consultant shall possess and maintain all necessary licenses, permits, certificates, and credentials required by the laws of the United States, the State of California, the County of Shasta, and all other appropriate governmental agencies, including any certification and credentials required by the SCRTPA. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this agreement and constitutes grounds for the termination of this agreement by the SCRTPA.

16. PERFORMANCE STANDARDS.

Consultant shall perform the services required by this agreement in accordance with the industry and/or professional standards applicable to Consultant's services.

17. CONFLICTS OF INTEREST.

Consultant and Consultant's officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property, or source of income that could be financially affected by or otherwise conflict in any manner or degree with the performance of the work or services required under this agreement.

18. NOTICES.

A. Except as provided in Section 6.C. of this agreement (oral notice of termination due to insufficient funding), any notice required to be given pursuant to the terms and provisions of this agreement shall be in writing and shall be sent first-class mail to the following addresses:

If to the SCRTPA: Executive Director
Shasta County Regional Transportation
Planning Agency
1855 Placer Street
Redding, CA 96001

If to Consultant: Aaron Antrim
Trillium Solutions
1425 SW Millikan #7680
Beaverton, OR 97005-2343

- B. Written notice shall be deemed to be effective two days after mailing. Any oral notice authorized by this agreement shall be deemed to be effective immediately.

19. AGREEMENT PREPARATION.

It is agreed and understood by the parties that this agreement has been arrived at through negotiation and that neither party is to be deemed the party which created any uncertainty in this agreement within the meaning of Civil Code Section 1654.

20. COMPLIANCE WITH POLITICAL REFORM ACT.

Consultant shall comply with the California Political Reform Act (Government Code Sections 87100, *et seq.*), with all regulations adopted by the Fair Political Practices Commission pursuant thereto, and with the SCRTPA's Conflict of Interest Code, with regard to any obligation on the part of Consultant to disclose financial interests and to recuse from influencing any SCRTPA decisions which may affect Consultant's financial interests. If required by the SCRTPA's Conflict of Interest Code, Consultant shall comply with the ethics training requirements of Government Code Section 53234 *et seq.*

21. CONFIDENTIALITY.

During the term of this agreement, both parties may have access to information that is confidential or proprietary in nature. Both parties agree to preserve the confidentiality of and to not disclose any such information to any third party without the express written consent of the other party or as required by law. This provision shall survive the termination, expiration, or cancellation of the agreement.

22. SCOPE AND OWNERSHIP OF WORK.

The scope of work shall be as prescribed in Paragraph 1. All research data, reports, and every other work product of any kind or character arising from or related to the scope of work of this agreement shall become the property of the SCRTPA and be delivered to the SCRTPA upon completion of its authorized use pursuant to this agreement. The SCRTPA may use such work products for any purpose whatsoever. All works produced under this agreement shall be deemed works produced by a contractor for hire, and all copyright with respect thereto shall vest in the SCRTPA without payment of royalty or any other additional compensation. Notwithstanding anything to the contrary contained in this agreement, Consultant shall retain all of Consultant's rights in Consultant's own proprietary information, including, without limitation, Consultant's methodologies and methods of analysis, ideas, concepts, expressions, know how, methods, techniques, skills, knowledge, and experience possessed by Consultant prior to, or acquired by Consultant during the performance of this agreement and Consultant shall not be restricted in any way with respect thereto.

23. USE OF SCRTPA PROPERTY.

Consultant shall not use SCRTPA premises, property (including equipment, instruments and supplies), or personnel for any purpose other than in the performance of Consultant's obligations under this agreement.

24. SEVERABILITY.

If any portion of this agreement or application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal or state statute or regulation or SCRTPA ordinance, the remaining provisions of this agreement, or the application thereof, shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this agreement are severable.

25. FEDERAL TRANSIT ADMINISTRATION COMPLIANCE.

To achieve compliance with the FTA Third Party Contract Requirements Circular 4220.1E, the SCRTPA and Consultant agree to the following applicable Federal Transit Administration Compliance Clauses for Third Party Contract Requirements.

A. Energy Conservation

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

B. Access to Records

- (1) Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Consultant shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- (2) The SCRTPA and Consultant agree to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The SCRTPA and Consultant agree to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Consultant agrees to maintain same until the SCRTPA, 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 49 CFR 18.39(i)(11).

C. Federal Changes

The SCRTPA and Consultant shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Consultant's failure to so comply shall constitute a material breach of this contract.

D. No Obligation by the Federal Government

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

E. Program Fraud and False or Fraudulent Statements or Related Acts

- (1) The Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consultant to the extent the Federal Government deems appropriate.
- (2) The Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Consultant, to the extent the Federal Government deems appropriate.
- (3) The Consultant agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subConsultant who will be subject to the provisions.

F. Termination for Convenience

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

G. **Suspension and Debarment**

- (1) This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Consultant is required to verify that none of the Consultant, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.
- (2) The Consultant is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by SCRTPA. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to SCRTPA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

H. **Federal Privacy Act Requirements**

The following requirements apply to the Consultant and its employees that administer any system of records on behalf of the Federal Government under any contract:

- (1) The Consultant agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Consultant agrees to obtain the express consent of the Federal Government before the Consultant or its employees operate a system of records on behalf of the Federal Government. The Consultant 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 contract.
- (2) The Consultant also 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.

I. **Civil Rights**

The following requirements apply to the underlying contract:

- (1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and

Federal transit law at 49 U.S.C. § 5332, the Consultant agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed national origin, sex, age, or disability. In addition, the Consultant agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

- (a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Consultant agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect Project. The Consultant agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.
- (b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Consultant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.
- (c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Consultant agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

- (3) The Consultant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

J. Lobbying

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. §1601, et seq.] - agencies who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR 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 contacts 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 recipient

K. Disadvantaged Business Enterprise

This Agreement is subject to Title 49, Part 26 of the Code of Federal Regulations (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." In order to ensure the California Department of Transportation (Caltrans) achieves its federally mandated statewide overall Disadvantaged Business Enterprise (DBE) goal, the Agency encourages the participation of DBEs, as defined in 49 CFR 26, in the performance of Agreements financed in whole or in part with federal funds. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

As required by federal law, Caltrans has established a statewide overall DBE goal. In order to ascertain whether that statewide overall DBE goal is being achieved, Caltrans is tracking DBE participation on all federally assisted contracts.

To assist Contractors in ascertaining DBE availability for specific item of work, the Agency advises that it has determined that DBEs could reasonably be expected to compete for subcontracting opportunities on this project and the likely DBE Availability Advisory Percentage is 8% percent. The Agency also advises that participation of DBEs in the specified percentage is not a condition of award.

The Contractor has agreed to carry out applicable requirements of Title 49 CFR 26, in the award and administration of federally assisted Agreements. The regulations in their entirety are incorporated herein and by reference.

The Contractor should notify the Contract Manager in writing, of any changes to its anticipated DBE participation. This notice should be provided prior to the commencement of that portion of the work.

DBE as defined in Title 49 CFR 26 and other small businesses are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out the applicable requirements of 49 CFR, Part 26 in the award and administration of U.S. Department of Transportation assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate.

Any subcontract entered into as a result of the Agreement shall contain all the provisions of this section.

L. **Clean Water**

- (1) The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq* . The Consultant agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Consultant also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

M. **Clean Air**

- (1) The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq* . The Consultant agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Consultant also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

- N. **Recovered Materials** - The Consultant 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 but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

- O. **Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Consultant mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Consultant shall be afforded an opportunity to be heard and to offer evidence

in support of its position. The decision of the [title of employee] shall be binding upon the Consultant and the Consultant shall abide by the decision.

- P. **Performance During Dispute** - Unless otherwise directed by (Recipient), Consultant shall continue performance under this Contract while matters in dispute are being resolved.
- Q. **Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- R. **Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Consultant arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the (Recipient) is located.

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

S. **CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.**

Applicability to Contracts

Patent and rights in data requirements for federally assisted projects ONLY apply to research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual.

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down

The Patent and Rights in Data requirements apply to all contractors and their contracts at every tier.

Model Clause/Language

The FTA patent clause is substantially similar to the text of 49 C.F.R. Part 19, Appendix A, Section 5, but the rights in data clause reflects FTA objectives. For patent rights, FTA is governed by Federal law and regulation. For data rights, the text on copyrights is insufficient to meet FTA's purposes for awarding research grants. This model clause, with larger rights as a standard,

is proposed with the understanding that this standard could be modified to FTA's needs.

A. Rights in Data - This following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Consultant may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Consultant authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the Purchaser or Consultant using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Consultant performing experimental, developmental, or research work required by the underlying contract to which

this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Consultant's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Consultant agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Consultant of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Consultant shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Consultant and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Consultant identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Consultant agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Consultant's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Consultant agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Consultant also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. Patent Rights - This following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Consultant agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Consultant's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Consultant agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Consultant also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

T. Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as

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set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Consultant shall not perform any act, fail to perform any act, or refuse to comply with any SCRTPA requests which would cause the SCRTPA to be in violation of the FTA terms and conditions.

IN WITNESS WHEREOF, the SCRTPA and Consultant have executed this agreement on the day and year set forth below. By their signatures below, each signatory represents that he/she has the authority to execute this agreement and to bind the party on whose behalf his/her execution is made.

**Shasta County Regional
Transportation Planning Agency**

Date: _____

Daniel S. Little, AICP
Executive Director

Aaron Antrim
Consultant

Tax I.D. _____

Approved as to form:

Elizabeth Johnson, Counsel
Shasta County Regional
Transportation Planning Agency

Elizabeth Johnson