



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jim Ortbal
Jennifer A. Maguire

SUBJECT: AGREEMENT AMENDMENT WITH
THE CALIFORNIA HIGH SPEED
RAIL AUTHORITY

DATE: September 11, 2017

Approved

D. DSYL

Date

9/21/17

COUNCIL DISTRICT: 2, 3, 6, 7, 10

RECOMMENDATION

- (a) Approve the Standard Agreement Amendment (Agreement) between the City of San José and the California High Speed Rail Authority (Authority) for City support services related to the planning phase of development for the California High Speed Rail project in San José to:
- (1) Increase the reimbursement amount from \$270,000 to \$869,688;
 - (2) Amend the City staff hourly rates;
 - (3) Modify the deliverable schedule; and
 - (4) Permit the City to subcontract reimbursable work under the Agreement with prior approval of the Authority.
- (b) Adopt the following 2017-2018 Funding Source Resolution and Appropriation Ordinance amendments in the Construction Excise Tax Fund:
- (1) Increase the revenue estimate from the State of California to the City's Department of Transportation in the amount of \$599,688; and,
 - (2) Increase the High Speed Rail appropriation in the amount of \$599,688.

OUTCOME

Approval of the Agreement Amendment provides for the continued reimbursement of City costs and the addition of consultant services that support the planning phase of development for the California High Speed Rail project through June 2018.

BACKGROUND

The California High Speed Rail Authority Board of Directors adopted an updated 2016 Business Plan in April 2016. Under the new Business Plan, the Initial Operating Segment from Bakersfield to San Jose was selected as the top State wide priority, connecting the Central Valley to the Bay Area. The Business Plan also includes an accelerated schedule for completing the San Jose to Merced Segment (Project). The updated Business Plan also established the San Jose to San Francisco Segment as a high priority project. When combined with the 119 miles currently under construction in the Central Valley, the Business Plan targets 2025 as the year of providing high speed rail service from Bakersfield to San Jose.

Approximately 21 miles of the Project is within San Jose City limits and generally follows the Caltrain/Union Pacific Railroad right-of-way from Coyote Valley in South San Jose through the Monterey Corridor and Communications Hill into Tamien Station and into Diridon Station. The alignment alternatives proposed by the Authority have the potential to significantly impact City facilities, including modification and reconstruction of roadways, a fire station, a maintenance yard and bike paths, as well potentially impact adjacent communities with property acquisition, visual, noise and construction related impacts.

On October 17, 2016, the City of San José and the Authority executed a Cooperative Agreement providing for the reimbursement of City costs that support the Authority's planning phase of development for the Project. The term of the Agreement is through June 30, 2018, with an initial reimbursement amount of \$270,000.

The original Agreement provides reimbursement to the City for costs incurred for the following scope of work:

- Engineering and technical review of the Authority's Project documents.
- Investigating conflicts with existing or future City facilities, infrastructure improvements and land uses.
- Development of agreements (e.g., master agreements for infrastructure modifications, right-of-way, grade separations, operations and maintenance).
- Supporting administrative costs.

Due to the Authority's recent decision to reschedule key planning-level milestones to a future date and the significant amount of City staff work to evaluate the alternatives, it is necessary to increase the reimbursement of City staff costs and modify other elements of the Agreement.

ANALYSIS

Staff has negotiated the attached Standard Agreement Amendment with the Authority for additional reimbursement funding while retaining the original term of the Agreement. The Agreement increases the reimbursable amount to the City by \$599,688, from \$270,000 to \$869,688. The increased reimbursement amount was developed based on estimated level of staff

hours across multiple City departments that are needed to oversee and support the Project during the agreement timeframe.

In addition, the Standard Agreement Amendment will address the following:

- Update the City staff hourly rates to reflect the July 2, 2017 Rate Plan.
- Modify the schedule of deliverables due to the Authority's decision to reschedule key planning-level Project milestones to a later date.
- Upon approval of the Authority, reimburse the costs to the City to employ consultants to support City staff with the review and evaluation of certain technical aspects of Project. Consultant services are needed in technical areas not currently available through City staff resources.

This Agreement may be terminated by mutual agreement of the City and the Authority or upon 30 days notice by the Authority to the City. Upon early termination, the City agrees to release the Authority from claims for services performed under the Agreement or the Agreement's early termination upon the City's acceptance of payment from the Authority.

In addition, the Agreement provides that the City will indemnify the State (including the Authority), its officers, agents and employees from claims and losses made by persons who (1) provide services, materials or supplies in connection with the Agreement or (2) who may be injured or damaged by the City in the performance of the Agreement. The Agreement does not provide for the Authority's indemnification of the City.

EVALUATION AND FOLLOW-UP

Activities associated with the ongoing development of the Project are included in the Regional Transportation Activities Quarterly report to the Transportation and Environment Committee.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the October 3, 2017, Council Meeting.

Although there was no public outreach directly associated with the recommendation of this report, funding provided through the Agreement will assist with City's involvement to facilitate community engagement on the Project. City and Authority staff continue to meet regularly with the High Speed Rail Community Working Group to provide Project information and receive input and questions on the development of the Project. The Community Working Group is comprised of neighborhood representatives along the length of the 21-mile corridor. The last meeting was held on Wednesday, August 29, 2017, at the City Hall Wing Conference Room. Additional meetings are planned approximately every three weeks through January 2018, but are likely to continue beyond that date.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, and the Department of Planning, Building and Code Enforcement.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation is associated with this action.

FISCAL/POLICY ALIGNMENT

This action supports the Transportation & Aviation City Service Area goals to provide viable transportation choices that promote a strong economy.

COST SUMMARY/IMPLICATIONS

Recommendations included in this memorandum would increase the reimbursement amount from the California High Speed Rail Authority for City support services related to project planning. The Agreement does not require local matching funds and expenses covered under the Agreement are fully reimbursable.

It is noted that the City does incur non-reimbursable costs for work outside of the Authority's definition of the Project and its alternatives. This includes development/consideration of locally generated alternatives and, at this time, technical support through consultant agreements. Funding for non-reimbursable costs is included in the 2018-2022 Traffic Capital Improvement Program.


BUDGET REFERENCE

Fund #	Appn #	Appn Name	Current Total Appn	Rec. Budget Action	2017-2018 Proposed Capital Budget Page	Last Budget Action (Date, Ord. No.)
465	R100	Revenue from State of California	\$14,572,000	\$599,688	803	06/20/2017 78229
465	7908	High Speed Rail	N/A	\$599,688	812	10/18/16 29803


CEQA

Not a Project, File No PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/
JIM ORTBAL
Director of Transportation


JENNIFER A. MAGUIRE
Senior Deputy City Manager/
Budget Director

I hereby certify that there will be available for appropriation in the Construction Excise Tax Fund in the Fiscal Year 2017-2018 moneys in excess of those heretofore appropriated therefrom, said excess being at least \$599,688.


JENNIFER A. MAGUIRE
Senior Deputy City Manager/
Budget Director

For questions, please contact Ahmad Qayoumi, Division Manager at (408) 975-3233.

Attachment

STANDARD AGREEMENT AMENDMENT

STD. 213 A (Rev 6/03)

☒ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 3 Pages

AGREEMENT NUMBER

HSR16-23

REGISTRATION NUMBER

AMENDMENT NUMBER

1

1. This Agreement is entered into between the State Agency and City named below:
STATE AGENCY'S NAME
California High-Speed Rail Authority
CITY'S NAME
City of San Jose
2. The term of this Agreement is 10/17/2016 through 6/30/2018
3. The maximum amount of this Agreement after this amendment is: \$869,688.22
Eight hundred sixty-nine thousand, six hundred eighty-eight dollars and twenty-two cents
4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:
See Attached

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**CITY**

CITY'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

City of San Jose

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Toni Taber, City Clerk

ADDRESS

Office of the City Clerk, 200 E. Santa Clara Street, San Jose, CA 95113**STATE OF CALIFORNIA**

AGENCY NAME

California High-Speed Rail Authority

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Jon Tapping, Acting Chief Operating Officer

ADDRESS

770 L Street, Suite 620 MS 1, Sacramento, CA 95814**CALIFORNIA**
Department of General Services
Use Only☒ Exempt per: Public Utilities Code Section
185036

APPROVED AS TO FORM:
Richard Doyle, City Attorney

By: _____
Name: _____
Title: _____

The purpose of this amendment is to increase the contract value, amend CITY rates, and modify the deliverable schedule and to permit CITY to subcontract work, as specified in this amendment.

- A. On the STD 213, Line 3: Change the contract amount from \$270,000.00 to \$869,688.22.
- B. Exhibit A, Section 2(B): Replace the entire table in this section with the following table:

	<u>Task</u>	<u>Description</u>	<u>Deliverable</u>	<u>Schedule</u>
1.	Technical/Engineering Review Support	Staff time to review technical/preliminary engineering documents submitted by Authority.	Comments on technical/preliminary engineering documents.	Through expiration or termination of the Agreement
2.	Technical/Engineering Review Support	Staff time for identifying existing conflicts with the local and regional transportation network (to include, but not limited to, trails, bike and pedestrian facilities) and other public infrastructure to include, but limited to, parks, libraries and fire stations.	Report identifying any conflicts.	Through expiration or termination of the Agreement
3.	Technical/Engineering Review Support	Staff time for coordination with the Authority and its representatives.	Participation in coordination activities.	Through expiration or termination of the Agreement
4.	Technical/Land Use Review Support to include Historic Preservation	Staff time for coordination with the Authority on changes, modifications and/or conflicts with existing, designated and/or planned land uses identified in the CITY's 2040 General Plan.	Participation in coordination activities.	Through expiration or termination of the Agreement
5.	Agreement	Staff time for	Participation in	Through

	Development	cooperative/master agreement review.	meetings and review of draft contract and other documents.	expiration or termination of the Agreement
6.	Agreement Development	Staff time for task order/utility agreement template review.	Participation in meetings and review of draft contract and other documents related to city infrastructure modifications.	Through expiration or termination of the Agreement
7.	Agreement Development	Staff time for right-of-way transfer agreement review.	Participation in meetings and review of draft contract and other documents.	Through expiration or termination of the Agreement
8.	Agreement Development	Staff time for grade separation agreement review.	Participation in meetings and review of draft contract and other documents.	Through expiration or termination of the Agreement
9.	Agreement Development	Staff time for ownership and maintenance agreement review.	Participation in meetings and review of draft contract and other documents.	Through expiration or termination of the Agreement
10.	Agreement Development	Attorney time for legal review.	Legal review of documents and meeting with Authority attorneys.	Through expiration or termination of the Agreement
11.	Agreement Development	Staff and attorney time for preparation of City Council and Committee materials and reports.	Materials and reports for City Council and/or Committee.	Through expiration or termination of the Agreement
12.	Right-of-way Support	Staff time for property rights research.	Reports detailing property rights.	Through expiration or termination of the Agreement
13.	Right-of-way Support	Staff and attorney time for abandonment, vacation, or legal transfer of right-of-way.	Abandonment, vacation, or legal transfer of right-of-way and supporting documentation.	Through expiration or termination of the Agreement
14.	Right-of-way Support	Staff and attorney time for preparation of City Council and Committee materials and reports.	Presentations to City Council and/or Committee, if any.	Through expiration or termination of the Agreement

C. Attachment 1 Budget: Replace entire table in this section with the following table

Position and Title	Fully Burdened \$/Hr
Director	\$ 279.77
City Clerk	\$ 226.67
Assistant Director	\$ 243.91
Deputy Director	\$ 212.84
Division Manager	\$ 184.29
Principal Engineer	\$ 176.59
Deputy City Attorney	\$ 173.28
Administrative Officer	\$ 162.31
Senior Engineer	\$ 161.58
Senior Transportation Specialist	\$ 155.31
Planner IV	\$ 140.82
Associate Engineer	\$ 134.57
Senior Analyst	\$ 121.81
Real Property Agent II	\$ 110.92
Analyst I/II	\$ 104.08
Budget Not To Exceed	\$ 869,688.22

D. Exhibit D, Special Terms and Conditions, Section 3 Subcontracting replace the entire section with the following:

- “A. Upon prior approval of the Authority, CITY may subcontract a portion of the Work. In accordance with the provisions of paragraph H of Exhibit B, Attachment 1 – Budget will be modified to identify the rates for any approved subcontractor. Any substitution of a subcontractor shall be approved in writing by the Authority’s Contract Manager prior to such substituted subcontractor performing work. Unless specifically noted otherwise, any subcontract in excess of \$25,000 shall contain all the applicable provisions stipulated in this Agreement.
- B. This Agreement shall not create a contractual relationship between the Authority and any approved subcontractor. A subcontract shall not relieve the CITY of performance of its duties hereunder. CITY shall be responsible for any and all acts and omissions of its subcontractors and their employees in the performance of services under this Agreement.
- C. CITY’s obligation to pay its subcontractors is independent of the Authority’s obligation to pay the CITY.”