



AGENDA

**BOARD OF DIRECTORS
REGULAR MEETING OF
APRIL 11, 2014
8:30 AM**

MISSION STATEMENT: *“To provide a public transportation service that enhances personal mobility and creates a sustainable transportation option in Santa Cruz County through a cost-effective, reliable, accessible, safe, clean and courteous transit service.”*

THE BOARD MEETING AGENDA PACKET CAN BE FOUND ONLINE AT WWW.SCMTD.COM AND IS AVAILABLE FOR INSPECTION AT SANTA CRUZ METRO’S ADMINISTRATIVE OFFICES LOCATED AT 110 VERNON STREET, SANTA CRUZ, CALIFORNIA

- | | | |
|--------------------------|-------------------------------------------|-------------------------------------|
| <input type="checkbox"/> | <i>Director Hilary Bryant</i> | <u><i>City of Santa Cruz</i></u> |
| <input type="checkbox"/> | <i>Director Dene Bustichi, Chair</i> | <u><i>City of Scotts Valley</i></u> |
| <input type="checkbox"/> | <i>Director Karina Cervantez</i> | <u><i>City of Watsonville</i></u> |
| <input type="checkbox"/> | <i>Director Daniel Dodge</i> | <u><i>City of Watsonville</i></u> |
| <input type="checkbox"/> | <i>Director Zach Friend</i> | <u><i>County of Santa Cruz</i></u> |
| <input type="checkbox"/> | <i>Director Ron Graves</i> | <u><i>City of Capitola</i></u> |
| <input type="checkbox"/> | <i>Director Michelle Hinkle</i> | <u><i>County of Santa Cruz</i></u> |
| <input type="checkbox"/> | <i>Director Deborah Lane</i> | <u><i>County of Santa Cruz</i></u> |
| <input type="checkbox"/> | <i>Director John Leopold</i> | <u><i>County of Santa Cruz</i></u> |
| <input type="checkbox"/> | <i>Director Bruce McPherson</i> | <u><i>County of Santa Cruz</i></u> |
| <input type="checkbox"/> | <i>Director Lynn Robinson, Vice Chair</i> | <u><i>City of Santa Cruz</i></u> |
| <input type="checkbox"/> | <i>Ex-Officio Director Donna Blitzer</i> | <u><i>UC Santa Cruz</i></u> |

*Leslie R. White, General Manager
Leslyn K. Syren, District Counsel*

TITLE 6 - INTERPRETATION SERVICES / TÍTULO 6 - SERVICIOS DE TRADUCCIÓN

Spanish language interpretation and Spanish language copies of the agenda packet are available on an as-needed basis. Please make advance arrangements with the Administrative Services Coordinator at 831-426-6080. Interpretación en español y traducciones en español del paquete de la agenda están disponibles sobre una base como-necesaria. Por favor, hacer arreglos por adelantado con Coordinador de Servicios Administrativos al numero 831-426-6080.



AMERICANS WITH DISABILITIES ACT

The Board of Directors meets in an accessible facility. Any person who requires an accommodation or an auxiliary aid or service to participate in the meeting, or to access the agenda and the agenda packet (including a Spanish language copy of the agenda packet), should contact the Administrative Services Coordinator, at 831-426-6080 as soon as possible in advance of the Board of Directors meeting. Hearing impaired individuals should call 711 for assistance in contacting Santa Cruz METRO regarding special requirements to participate in the Board meeting. For information regarding this agenda or interpretation services, please call Santa Cruz METRO at 831-426-6080.



MEETING LOCATION:
SANTA CRUZ METRO ADMINISTRATIVE OFFICES
110 VERNON STREET
SANTA CRUZ, CA

8:30 AM

NOTE: THE BOARD CHAIR MAY TAKE ITEMS OUT OF ORDER

SECTION I: OPEN SESSION

1. CALL TO ORDER

2. ROLL CALL

3. ANNOUNCEMENTS

4. COMMUNICATIONS TO THE BOARD OF DIRECTORS

This time is set aside for Directors and members of the general public to address any item not on the Agenda which is within the subject matter jurisdiction of the Board. No action or discussion shall be taken on any item presented except that any Director may respond to statements made or questions asked, or may ask questions for clarification. All matters of an administrative nature will be referred to staff. All matters relating to Santa Cruz METRO will be noted in the minutes and may be scheduled for discussion at a future meeting or referred to staff for clarification and report. Any Director may place matters brought up under Communications to the Board of Directors on a future agenda. In accordance with District Resolution 69-2-1, speakers appearing at a Board meeting shall be limited to three minutes in his or her presentation. Any person addressing the Board may submit written statements, petitions or other documents to complement his or her presentation. When addressing the Board, the individual may, but is not required to, provide his/her name and address in an audible tone for the record.

4-1. COMMUNICATION FROM RICHARD D. LYNDE

5. LABOR ORGANIZATION COMMUNICATIONS

6. ADDITIONAL DOCUMENTATION TO SUPPORT EXISTING AGENDA ITEMS



CONSENT AGENDA

All items appearing on the Consent Agenda are recommended actions which are considered to be routine and will be acted upon as one motion. All items removed will be considered later in the agenda. The Board Chair will allow public input prior to the approval of the Consent Agenda items.

- 7-1. CONSIDERATION OF TORT CLAIM: REJECT THE CLAIM OF SAFECO (SUBROGATING FOR VU, MIKE AND GINA) #14-0004**

- 7-2. CONSIDERATION OF TORT CLAIM: REJECT THE CLAIM OF REBECCA BARRAZA #14-0006**

REGULAR AGENDA

- 8. CONSIDERATION OF PACIFIC STATION RENOVATION : CONSIDER ADD SERVICE REQUESTS AND A CONTRACT EXTENSION FOR GROUP 4+ ARCHITECTS**
Thomas Hiltner, Grants/Legislative Analyst

- 9. UPDATE ON 2013 SHORT RANGE TRANSIT PLAN**
Erich Friedrich, Sr. Transit Planner

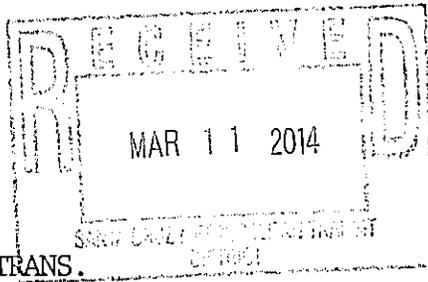
- 10. CONSIDERATION OF ADOPTION OF SANTA CRUZ METRO'S PROCUREMENT POLICY**
Leslyn K. Syren, District Counsel

- 11. ANNOUNCEMENT OF NEXT MEETING: FRIDAY APRIL 25, 9:00 AM, WATSONVILLE CITY COUNCIL CHAMBERS, 275 MAIN STREET, WATSONVILLE, CA**
Dene Bustichi, Board Chair

- 12. ADJOURNMENT**
Adjourn to the next Board of Directors meeting.

Pursuant to Section 54954.2(a)(1) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day. The agenda packet and materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the Santa Cruz METRO Administrative Office (110 Vernon Street, Santa Cruz) during normal business hours. Such documents are also available on the Santa Cruz METRO website at www.scmtd.com subject to staff's ability to post the document before the meeting.

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RICHARD LYNDE
498 ARGOS CIRCLE
WATSONVILLE, CA 95076

8 March 2014

SANTA CRUZ COUNTY METRO TRANS.
PARACRUZ DIVISION
ATTN: LES WHITE, GENERAL MANAGER, & BOARD OF TRUSTEES

Dear Mgr. White & Board:

This is about my unsuccessful attempts to register for METRO PARACRUZ
SINCE I was brought home from Kindred after a six-weeks' rehab following
a third spine surgery by Dr. Summa. *Returned on Tues 4 March*

On Tues. the 4th I left a message to be called as a new rider, and to make
arrangements for a ride from you the 25 miles to your office to make out
an application, then another 25 mile ride back home -- a great waste of
your personnel and fuel and what will be an uncomfortable experience for
myself.. This is the 21st century (not mid 19th), so registration should
be done via mail and computer (which I do not use). YOU DID NOT CALL BACK.

On Wed. the 5th I talked with someone at your reservation line who
told me that someone was filling in for the experienced intake worker, and
to wait until I was called following my message. (I should have left
another message.) YOU DID NOT CALL BACK.

On Fri. the 7th, I tried calling both numbers and held on for at least 15 -
20 minutes without being served. And that same afternoon yesterday I CALLED
AROUND 4:50 p.m. your administrative line and left a message about the above.

While I live alone, and am 78, I have been looking into other ride programs,
as I do not have family/friends who can take me to appointments, such as
the one this coming Tues. @ Dr. Summa's in Soquel, SHOULD I HAVE TO PAY OUT
OF POCKET FOR THESE RIDES, COURTESY CAB WILL CHARGE \$50 each way for a
total of \$100 less a 10% discount, which is \$90 plus tip. THIS IS TOO MUCH!

By the time you get this, I hope you will have responded to my message left
at your office on Friday. Thank you.

Sincerely,

Richard D. Lynde
RICHARD D. LYNDE
(831)763-7703

This will not be postmarked until Monday 10 March.

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GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

TO: Board of Directors

FROM: District Counsel

RE: Claim of: Safeco Insurance (Subrogating for Vu, Mike)
Received: February 28, 2014 Claim #: 14-0004
Date of Incident: 11/2/2013 Occurrence Report No.: SC 11-13-01

In regard to the above-referenced Claim, this is to recommend that the Board of Directors take the following action:

- 1. Reject the claim entirely.
- 2. Deny the application to file a late claim.
- 3. Grant the application to file a late claim.
- 4. Reject the claim as untimely filed.
- 5. Reject the claim as insufficient.
- 6. Allow the claim in full.
- 7. Allow the claim in part, in the amount of \$ _____ and reject the balance.

By _____

Liseth Guizar
Security and Risk Administrator

Date: 4/4/14

I, _____, do hereby attest that the above Claim was duly presented to and the recommendations were approved by the Santa Cruz Metropolitan Transit District's Board of Directors at the meeting of boardmeetingdate.

By _____

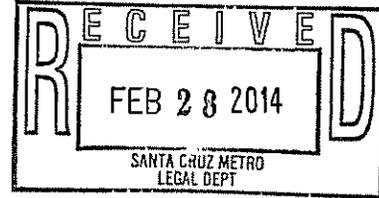
RECORDING SECRETARY

Date: _____

LS/lg
Attachment(s)



Santa Cruz Metropolitan Transit District
110 Vernon Street
Santa Cruz, CA 95060



CLAIM FOR DAMAGES

(Pursuant to Section 910 et Seq., Government Code)

Claim # ~~SC113-01~~ 14-0004
(To be completed by METRO staff)

Please Print or Type:

The name and post office address of the claimant: Safeco Insurance A/S/O

Claimant's Legal First Name: Gina and Mike

Claimant's Legal Last Name: VV - vehicle owners

Address to which notices are to be sent: PO BOX 515097 LOS ANGELES, CA 90051

Telephone (Home): X

Telephone (Business/Cell): 877-330-3026

Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA), a new federal law that became effective January 1, 2009, requires that the Santa Cruz Metropolitan Transit District report specific information about Medicare beneficiaries who have other insurance coverage. This reporting is to assist Centers for Medicare and Medicaid Services and other insurance plans to properly coordinate payment of benefits among plans so that (your) claims are paid promptly and correctly. We are asking you to answer the following questions so that we may comply with this law.

Are you presently, or have you ever been, enrolled in Medicare Part A or B? Yes or No

IF YES, please provide the following information:

Medicare Claim Number: _____

Date of Birth: _____

Social Security Number: _____

our insured will have to contact you directly regarding medical.



Gender: M or F

Claimant Name: Anderson Vu
- vehicle driver

CLAIM FOR DAMAGES

The date, place and other circumstances of the occurrence or transaction that gave rise to the claim asserted:

Date of Incident/Accident: 11-2-2013

Time of Incident/Accident: 5:05 AM PM

Location of Incident/Accident

Street/City: Highway 287 North to 88 North
Santa Jose, CA.

A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the at the time of presentation of the claim. Please state the known facts surrounding the loss and use additional paper if needed.

insured vu was in stop and go traffic, was rear-ended
by claimant malabrato, driver of metro transit
vehicle



Claimant Name: Anderson W
-vehicle driver

CLAIM FOR DAMAGES

The name or names of the METRO employee or employees causing the injury, damage, or loss, if known:

If the claim totals less than \$10,000, the amount claimed as of the date of the presentation of the claim: \$8,949.82

If the amount exceeds \$10,000, this claim would be: Less than \$25,000 (Limited Civil Case) More than \$25,000

Claimant: _____
Signature/Print Name

Date: _____

Attorney or Representative: Kristal McGuire
Signature/Print Name
Kristal McGuire
Safeco Insurance

Date: 8-19-14

GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

TO: Board of Directors

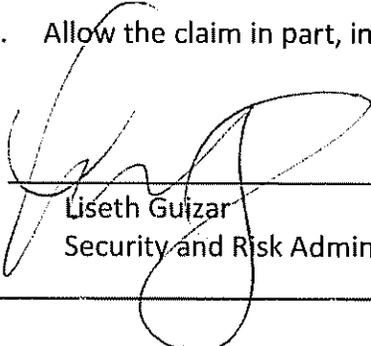
FROM: District Counsel

RE: Claim of: Barraza, Rebecca
Date of Incident: 9/14/13

Received: 3/6/14 Claim #: 14-0006
Occurrence Report No.: MISC 13-07

In regard to the above-referenced Claim, this is to recommend that the Board of Directors take the following action:

- 1. Reject the claim entirely.
- 2. Deny the application to file a late claim.
- 3. Grant the application to file a late claim.
- 4. Reject the claim as untimely filed.
- 5. Reject the claim as insufficient.
- 6. Allow the claim in full.
- 7. Allow the claim in part, in the amount of \$_____ and reject the balance.

By  _____
Liseth Guizar
Security and Risk Administrator

Date: 4/3/14

I, _____, do hereby attest that the above Claim was duly presented to and the recommendations were approved by the Santa Cruz Metropolitan Transit District's Board of Directors at the meeting of April 11, 2014.

By _____
RECORDING SECRETARY

Date: _____

Attachment(s)



Santa Cruz Metropolitan Transit District
110 Vernon Street
Santa Cruz, CA 95060



CLAIM FOR DAMAGES

(Pursuant to Section 910 et Seq., Government Code)

Claim # 14-0006
(To be completed by METRO staff)

Please Print or Type:

The name and post office address of the claimant:

Claimant's Legal First Name: Rebecca

Claimant's Legal Last Name: Barraza

Address to which notices are to be sent: _____

Telephone (~~Home~~): Message#

Telephone (Business/Cell): _____

Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA), a new federal law that became effective January 1, 2009, requires that the Santa Cruz Metropolitan Transit District report specific information about Medicare beneficiaries who have other insurance coverage. This reporting is to assist Centers for Medicare and Medicaid Services and other insurance plans to properly coordinate payment of benefits among plans so that (your) claims are paid promptly and correctly. We are asking you to answer the following questions so that we may comply with this law.

Are you presently, or have you ever been, enrolled in Medicare Part A or B? Yes

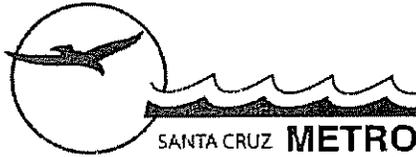
IF YES, please provide the following information:

Medicare Claim Number: _

Date of Birth: _

Social Security Number: _

Gender: ~



Claimant Name: Rebecca Barraza

CLAIM FOR DAMAGES

The date, place and other circumstances of the occurrence or transaction that gave rise to the claim asserted:

Date of Incident/Accident: Sat. 9/14/2013 and 2/4/2014 (Tues. (11 BUS) night)
Time of Incident/Accident: Bet. 11pm-12am AM PM bet 4-5p.

Location of Incident/Accident BUS LINE 71 between Frederick St.
Street/City: Soquel Drive ~~San Jose~~ Hagerman St.

A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the at the time of presentation of the claim. Please state the known facts surrounding the loss and use additional paper if needed.

Will submit facts of 2 more bus injury incidents as attachment's in small claims court lawsuit.

On 9/14/13, white male verbally ^{R.B.} assaulted me on bus # 71 and emotionally upset me while he yelled, cussed, and fought with another black male and white male in back of bus.



Claimant Name: _____

CLAIM FOR DAMAGES

The name or names of the METRO employee or employees causing the injury, damage, or loss, if known:

Unknown for bus incident on 9/14/2014. I need the bus operator's Badge #, name, and bus #. He was white and male about 5' 9" or 10" tall and very thin built.

If the claim totals less than \$10,000, the amount claimed as of the date of the presentation of the claim: \$ 10,000

If the amount exceeds \$10,000.00, this claim would be: Less than \$25,000 (Limited Civil Case) More than \$25,000

Claimant: Rebecca Barroja Date: 3/4/2014
Signature/Print Name

Attorney or Representative: _____ Date: _____
Signature/Print Name

SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

DATE: April 11, 2014

TO: Board of Directors

FROM: Thomas Hiltner, Grants/Legislative Analyst

SUBJECT: PACIFIC STATION RENOVATION: CONSIDER ADD SERVICE REQUESTS AND A CONTRACT EXTENSION FOR GROUP 4+ ARCHITECTS.

I. RECOMMENDED ACTION

Consider alternative, additional services for the Pacific Station renovation and give staff direction for further design work. Authorize a Contract extension for Group 4+.

II. SUMMARY OF ISSUES

- Pacific Station is deteriorated and does not meet the needs of Santa Cruz METRO or the community.
- On June 28, 2013, the Board awarded a contract to Group 4 Architecture, Research + Planning, Inc. (Group 4+) to produce alternative designs for the redevelopment of Pacific Station.
- The Group 4+ contract specified delivery of three alternative redevelopment scenarios from which the Board would select a preferred option, initially scheduled for May 2014.
- Environmental assessment on the City of Santa Cruz parking lot, which is part of the Pacific Station expansion and renovation, required unforeseen, additional services.
- Pacific Station's existing footprint is too constrained for the desired operating configuration, and the consultant could perform additional design work on an expanded site alternative which incorporates the adjacent NIAC property.
- If the Board desires additional design work to incorporate the NIAC parcel, another Add Service Request will be required to fund the additional work.
- The additional cost for the alternative Add Service Requests will range from \$19,667 to \$188,499.
- Santa Cruz METRO inserted a delay into the project schedule after the Round 1 public input process in order to discuss options with the NIAC owners for incorporating their property into Pacific Station.

- Due to the strategic schedule delay, Group 4+ will not complete the contracted work before the June 30, 2014 contract expiration. A contract extension is required.
- Staff recommends that the Board authorize ASRs #1 and #2 and a one-year contract extension with Group 4+. Staff requests that the Board give direction on additional design work and the corresponding Add Service Requests.

III. DISCUSSION

Pacific Station was built in 1984 and has outlived its serviceable use. Santa Cruz METRO partnered with the City of Santa Cruz to manage the expansion and renovation of Pacific Station and to oversee the design of a mixed-use, transit-oriented development, which will integrate well with downtown Santa Cruz and catalyze further redevelopment along lower Pacific Avenue. On 6/28/13, the Board awarded a contract to Group 4 Architecture, Research + Planning (Group 4+) to produce alternative designs for the redevelopment of Pacific Station with a 6/30/14 expiration. The redesign project kicked-off on 7/16/13.

As part of the initial environmental assessment of the redevelopment site, Weber Hayes Associates, a subconsultant to Group 4+, conducted soil boring and core analysis on Santa Cruz METRO's property at 920 Pacific Station. Due to conflicts with concurrent transit service operations, METRO staff executed an Add Service Request (ASR) #1 to shift drilling on the tarmac to evenings and weekends during periods of reduced bus traffic. ASR #1 increased the consultant's fee by \$13,373. Because the contract scope of work did not include an environmental assessment of the City-owned parking lot, Santa Cruz METRO executed ASR #2 to approve core analysis on the city-owned lot when it became apparent that it had not been performed in the recent past. ASR #2 generated an additional fee of \$6,300.

Group 4+ anticipated covering the cost of both ASRs #1 and #2 from work completed under budget and from savings achieved by eliminating superfluous meetings throughout the project. During design of the operating tarmac, the transit subconsultant determined that the project footprint severely restrained the ability to design a sufficient number of saw-tooth pattern bus berths with designated spaces for each route. Further analysis revealed that adding the adjacent property owned by NIAC (Non-Profits' Insurance Alliance of California), would enable an ideal configuration meeting all operating requirements. Developing alternative operating configurations with and without the NIAC property, engaging the NIAC owners, developing relocation options as well as additional outreach to the Santa Cruz Public Library ate up the anticipated cost savings. Staff recommends that the Board approve a contract change order to add \$19,667 for ASRs #1 and #2.

Staff requests Board direction on additional contract change orders to pursue further design work incorporating the NIAC property. ASR #3a proposes additional consultant and subconsultant work in the disciplines of architecture, engineering, market analysis, financial analysis, parking, housing and landscape design to carry designs through 30% and 60% completion with the NIAC property while simultaneously developing 30% and 60% designs for the METRO- and City-

owned parcels only. Group 4+ can perform ASR #3a for an additional fee of \$131,715, which project staff independently evaluated and negotiated with the consultant to reach a mutually agreed upon scope and cost. When alternative designs reach 60% completion, staff will again request the Board's preference to either continue the NIAC option or drop it from further consideration.

If the Board does not think it will have enough information from the 60% designs and from consultation with the NIAC owners, an additional change order, ASR #3b, can be executed to carry both the NIAC and the without NIAC alternatives through 100% design completion. Group 4+ can deliver ASR #3b for an additional fee of \$37,111, but ASR #3b cannot be undertaken independent of ASR #3a. The combined additional fee for ASRs #3a and #3b to develop both alternatives simultaneously through 100% design completion would be \$168,826.

Project staff requests that the Board consider Add Service Requests #3a and #3b and give staff direction on further design work leading to selection of a preferred alternative for Pacific Station redevelopment. The fee for all four ASRs under consideration range from a minimum of \$19,667 to pay for completed environmental work in ASRs #1 and #2, to \$188,499 to pay for all four ASRs.

The Board of Directors also needs to consider extending the Group 4+ contract beyond its current 6/30/14 expiration. Project staff requested that Group 4+ insert a two-month delay in the project schedule in order to explore relocation options with the Santa Cruz Public Library and with NIAC. The Santa Cruz Public Library ultimately rejected the option to relocate to Pacific Station. The Project Manager and Director of the City of Santa Cruz Economic Development Department developed possible relocation scenarios for NIAC's consideration, and those discussions continue. Due to the two-month delay requested by Santa Cruz METRO, Group 4+ will not have a preferred redevelopment design for the Board's consideration before the contract expires on 6/30/14. Staff recommends that the Board extend the contract for one year until 6/30/15.

IV. FINANCIAL CONSIDERATIONS

Two Federal Transit Administration grants earmarked for the Pacific Station redesign project have funds available to pay the 80% federal share of the Group 4+ contract change orders. The FY15 Capital Budget has funds to pay the 20% local share from the Pacific Station Renovation line item.

V. ATTACHMENTS

Attachment A: Pacific Station Redesign Add Service Requests #1, #2, #3a and #3b

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Attachment A

SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

Pacific Station Redesign Add Service Requests #1, #2, #3a and #3b

Add Service Request #1, \$13,373

Add Environmental Engineering site assessment for APN-152-33, the City-owned parking lot that is part of the Pacific Station redevelopment project. This work has been completed.

Add Service Request #2, \$6,300

Adjust the work plan for Environmental Engineering site assessment for 920 Pacific Station to accommodate METRO bus operations. This requires a smaller drilling rig and overtime work in the evenings and on Sunday. This work has been completed.

Add Service Request #3a, \$131,715

Increase the contract scope of work to include additional design alternatives on the adjacent property at 333 Front Street owned by NIAC through the 30% and 60% completion stage. This requires additional consultant and subconsultant work in multiple disciplines to develop, evaluate and design the alternatives simultaneous with designs on only METRO-owned property. This is optional work which has not been initiated.

Add Service Request #3b, \$37,111

Increase the contract scope of work to develop the additional design alternatives requested in ASR #3a through 100% completion. This requires continued architectural and engineering work to further develop the NIAC property as well as continue design work on only the METRO-and City-owned properties. This is optional work which has not been initiated.

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SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

DATE: April 11, 2014
TO: Board of Directors
FROM: Erich R. Friedrich, Senior Transportation Planner
SUBJECT: UPDATE ON THE 2013 SHORT RANGE TRANSIT PLAN

I. RECOMMENDED ACTION

That the Board of Directors receive an update on progress of the 2013 Short Range Transit Plan and provide feedback or other comments.

II. SUMMARY OF ISSUES

- The 2013 Short Range Transit Plan is a planning document focused on transit service and capital improvements over a five year horizon which outlines a need for a data and policy driven process to become more proactive in planning service changes.
- On December 13, 2013 the Board of Directors released the SRTP for a 90 day public review period which concluded on March 13, 2014.
- Comments were received from a variety of public stakeholders and were forwarded to the consulting team to be integrated into the SRTP.
- Several changes are being made to the SRTP in order to account for as many comments as possible. Changes include:
 - Clearer introductory text
 - New chapter on performance measures and standards
 - Changes and phased expansion to the proposed Transit Emphasis Corridors policy
 - Updates to the financial plan
 - Other updates on ParaCruz, park-and-ride lots, marketing partnerships, and bicycle assess
- The 2013 Short Range Transit Plan is scheduled to be recommended for adoption on April 25, 2014.

III. DISCUSSION

Santa Cruz METRO's last Short Range Transit Plan (SRTP) expired at the end of 2012 and based on state law must have a current up to date SRTP in order to purchase buses starting in

2014. In order to draft a new SRTP, Santa Cruz METRO awarded a contract with the planning firm Nelson\Nygaard on April 26, 2013 to draft the 2013 SRTP.

The 2013 Short Range Transit Plan is a planning document focused on transit service and capital improvements over a five year horizon. This document will guide Santa Cruz METRO in regards to service changes, capital projects, fleet management, public outreach and communication, as well as other elements like financial and legislative forecasting, and policy revisions and recommendations.

Further, the 2013 SRTP outlines a need for a data and policy driven process to become more proactive in planning service changes and ensuring that service changes are cohesive and holistic in nature. The need for on-time performance, detailed ridership, and service efficiency data is seen as the top need for Santa Cruz METRO in the five year horizon of this plan. The SRTP identifies several strategies for collecting and analyzing data that will allow staff to develop comprehensive service changes.

The bulk of the 2013 Short Range Transit Plan is focused on recommending new and/or improved service planning policies. The SRTP recommends that Santa Cruz METRO develop four specific policies to allow the agency to become more proactive in its service planning process. This approach gives the proper tools to both the Board of Directors and Staff to guide cohesive planning decisions and combats against fragmented transit service across the district. It should be noted that by adopting the Short Range Transit Plan, the policies recommended in the plan would still need to be written, vetted, and then adopted on an individual basis over the five year horizon of the SRTP.

At the December 13, 2013 Board of Directors meeting, Santa Cruz METRO staff presented the draft 2013 SRTP. The Board, as well as members of the public, gave specific feedback on various sections of the SRTP. After the presentation and discussion, the Board took action to release the SRTP for a 90 day public review period. Additionally, as a part of that action, staff was directed to write a cover letter detailing the Board's feedback and concerns on the SRTP and release that letter along with the SRTP.

Santa Cruz METRO staff solicited public comments in several venues including:

- Posting information on Santa Cruz METRO's website
- Advertisements in regularly circulated newspapers
- Posters onboard buses
- Posters at transit centers
- Presentation to the Elderly & Disabled Transportation Advisory Committee, the Metro Advisory Committee, and to the Interagency Technical Advisory Committee
- Email notifications via GovDelivery

After the conclusion of the 90 day public comment period over 40 comments were received from various sources including: local municipalities, members of the public, advisory committees, the

Board of Directors, and Santa Cruz METRO staff. The list of comments received along with a brief response can be seen on **Attachment A**.

Based on the comments received, several changes are being made to the SRTP. These changes include:

- Clearer introductory text
- New chapter on performance measures and standards
- Changes and phased expansion to the proposed Transit Emphasis Corridors policy
- Updates to the financial plan
- Other updates on ParaCruz, park-and-ride lots, marketing partnerships, and bicycle assess

A more detailed summary of the more substantive changes can be reviewed on **Attachment B** which is a memo from the consulting team to Santa Cruz METRO staff regarding comments and changes to the SRTP.

Santa Cruz METRO Staff recommends that the Board of Directors provide feedback or other comments so that staff and the consulting team can begin to finalize the SRTP for adoption. The final adoption of the SRTP is scheduled to be at the April 25, 2014 Board of Directors meeting.

IV. FINANCIAL CONSIDERATIONS

The SRTP is funded out of Santa Cruz METRO's general fund. The base Service Change Recommendations were designed to be as "cost/revenue neutral" as possible over the five year planning horizon. The SRTP base Service Change Recommendations are anticipated to increase overall service hours by 1% should the entire set of recommendations be implemented. Additionally the SRTP identifies \$62.1 million in capital projects over the next five years.

V. ATTACHMENTS

Attachment A: SCMTD SRTP – Comments on SRTP

Attachment B: Memo: Update on Changes to Draft Short Range Transit Plan

Prepared By: Erich R. Friedrich, Senior Transportation Planner
Date Prepared: April 3, 2014

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Attachment A



COMMENTS AND PROPOSED RESPONSES

Commenter	Comment	Preliminary Response – For Discussion
Santa Cruz METRO Staff	Add add'l language to introduction re: SRTP rationale and process.	Will do.
Santa Cruz METRO Staff	Move the Policy and Practice Recommendations section to the beginning of Chapter 9.	Will do.
Santa Cruz METRO Staff	Start the service planning section talking about the need for policy and that the recommended policies outlined in the chapter are the main driver of service changes. It would be good to include language that speaks to this process as a preface paragraph to introduce Chapter 9.	Will do.
Santa Cruz METRO Staff	In the Fixed Route Service Recommendations section, we need to include introductory language that emphasizes that the recommendations are consistent with the policies and that these recommendations should be developed in further detail only after the policies are in place.	Will do.
Board	Revise the proposed route change of the Route 71 to include Aptos Village	Will do.
Board	Consider development at Aptos Village/Safeway	Will do.
Board	Expand the scope and scale of the proposed Transit Emphasis Corridor Policy to include: -Capitola Road -Portola Avenue -Brommer Avenue -Scotts Valley Drive -Highway 1 HOV prospectively	Will identify as possible future corridors (if supportive land use changes).
Board	Reconsider and possibly strike out the North County / South County Equity section found on page 83 of the SRTP.	This is in the stakeholder comments summary section – will reword language
Board	Expand on the role, duties, and services that Santa Cruz METRO's Mobility Trainer offers to the public	Will add language to Marketing chapter.
RTC	We request that the the draft policies and investment strategies be reflected in this SRTP update.	Will add language briefly describing RTP, noting general consistency with SRTP (including support for sustainability and safety goals as noted in comments), and clarifying that SRTP is short-term in nature while RTP is longer-term
RTC	Please advise if policies that encourage expanded	The needs of limited-mobility users were a core concern of

Attachment A

SCMTD SRTP – Comments on Draft SRTP

Commenter	Comment	Preliminary Response – For Discussion
	paratransit service need to be revisited in the 2014 RTP.	recommendations development for both paratransit as well as fixed-route service. At this time, no expansion of paratransit service is recommended.
RTC	When discussing transit emphasis corridors, the SRTP should consider those routes identified as high quality transit corridors and major transit stops in the Draft 2035 Metropolitan Transportation Plan/Sustainable Communities Strategies (MTP/SCS). If changes are needed to the MTP/SCS, please inform AMBAG no later than April 8.	Will check for consistency.
RTC	Policies related to transit emphasis corridors should be coordinated with the RTC, in addition to the affected local jurisdictions, to provide for a comprehensive, cooperative and continuing coordination for achieving regional transit goals.	Will add language noting that efforts should be coordinated with RTC.
RTC	Serious consideration should be given to establishing a South County Park and Ride lot either near Metro's transit center or along a transit emphasis corridor to allow commuters traveling from Watsonville to jobs in other areas to ride transit for the majority of their commute.	Will add language encouraging Metro to study idea.
RTC	Consider coordinating performance measures, where feasible, related to "coverage standards" with those included in the 2014 RTP, such as increasing the percentage of people that can travel to key destinations within a 30-minute transit trip, and in the 2035 MTP/SCS which measures the percent of jobs within ½ miles of high quality transit stop.	Will review standards for opportunities to make reference to RTP standards.
RTC	RTC's Commute Solutions service delivers information, resources and support to help travelers of all modes (including transit) to effectively use the transportation system. In light of this common interest and affinity between RTC and Santa Cruz METRO, a number of partnership projects of mutual benefit to both agencies could be considered. These might include joint agency efforts to conduct employee commute surveys at large employers, implement individualized marketing programs, and co-host campaigns specifically targeted towards increasing transit use. A partnership for delivering traveler information could also be considered for the new Pacific Station.	Will add language to Marketing chapter.

Attachment A

SCMTD SRTP – Comments on Draft SRTP

Commenter	Comment	Preliminary Response – For Discussion
RTC	A new 511 traveler information service for Santa Cruz County is currently being developed by the RTC. Since transit information is a key component of this service, we look forward to working closely with Santa Cruz METRO to provide highly relevant transit information and, when it becomes available, real-time information about bus arrival times.	See above.
RTC	Transportation Development Act (TDA) Local Transportation Fund (LTF) is derived from a ¼ cent of the general sales tax collected statewide, and the table on page 140, Figure 63 states that TDA funds will increase at an annual rate of 10.8%. A more realistic growth rate, based upon the past ten years' data, suggests that a 2% annual growth would be more realistic. Similarly, a 3.5% annual growth rate for Sales Tax revenues also seems unrealistic.	Will revise TDA projections
RTC	Page 84 – Citation #9 in the second paragraph references a Caltrans webpage instead of a page on RTC's website. Please update the text to reference www.sccrtc.org .	Will do.
City of Watsonville	The City supports designating Freedom Boulevard as Transit-Emphasis Corridor. Was Main Street not included because it is a State Highway? If the State relinquishes Main Street to the City, could it be a candidate for designation as Transit-Emphasis Corridor?	Can include with above.
City of Watsonville	The City reserves comment on the revised policy on Stop-Spacing and wishes to discuss it on a case by case basis. The City would prefer to discuss the proposed new policies of improvements to the right of way, at intersections, at stops and to pedestrian connections on case by case basis.	Will add language to Corridors section making clearer that METRO must partner with Cities.
E&D TAC	Request that a mission statement be included in the SRTP that would include a commitment to meet the needs of both people with and people without other transportation choices.	Will do.
E&D TAC	Request that the SRTP be based on local conditions, not industry standards. If current and local data is available about where people are currently getting on and off, would be helpful if it were analyzed, referenced and included in an appendix of the SRTP. If local and current data is unavailable, there is a concern about the basis for decisions about service parameters (route, stops, etc.).	Will add language clarifying that all decisions re: stop location should be made on individual basis taking into account contextual factors.
E&D TAC	Request that the changes proposed to the distance between bus stops include language that it is a target, rather than a minimum; and that conditions -- such as origins, destinations, population and topography/hills -- be taken into account.	See above.

Attachment A

SCMTD SRTP – Comments on Draft SRTP

Commenter	Comment	Preliminary Response – For Discussion
E&D TAC	Assuming the goal is to increase ridership, customer service targets -- such as total travel time, sitting/waiting time, distance and walkable access to routes/stop -- should be included in the SRTP.	See above.
RTC Bicycle Committee	Expand bikes on buses options.	Will add section on bikes.
RTC Bicycle Committee	Consider rear bike rack on Highway 17 bus.	See above.
RTC Bicycle Committee	Ensure there are bike locking posts at any transit stop being improved.	See above.
RTC Bicycle Committee	Explore funding opportunities for subsidizing and/or renting fold-up bikes.	See above.
RTC Bicycle Committee	Participate in any community bike share program.	See above.
RTC Bicycle Committee	Reinstate driver training for bicyclist safety.	See above.
RTC Bicycle Committee	Support safe routes to transit projects.	See above.
Rick Hyman	Please do not significantly cut bus service along the Front-River-Water Streets corridor!	Will add language supporting expansion of Routes 8 and 66 service.
Rick Hyman	SCMTD should be providing frequent bus service along Pacific Avenue.	Staff and consultants have evaluated and concluded that current configuration of downtown service is optimal for transit operations, system legibility and access.
Rick Hyman	Downtown and the Harvey West/Tannery areas could experience a great increase in service if buses at the ends of their routes did not go Out of Service until arriving at the transit yard (and vice versa).	METRO staff will evaluate possibility of limited pilot project.
Rick Hyman	The short-term plan should also consider beach to downtown to visitor-facility shuttles.	This idea was evaluated as part of recommendations development process and was not carried forward primarily due to concerns about reliability of service.
Rick Hyman	The Highway 17 bus should stop more frequently in Santa Cruz.	METRO staff will evaluate stop locations for Hwy 17 service.
Rick Hyman	Out (north) bound on Ocean Street, there is need for an additional stop near the corner of Glenwood.	METRO staff will evaluate.
Rick Hyman	Consideration should be given to a satellite transit center at the entrance to the City from Highway 17.	METRO staff will evaluate stop locations for Hwy 17 service.

Attachment A

SCMTD SRTP – Comments on Draft SRTP

Commenter	Comment	Preliminary Response – For Discussion
Rick Hyman	(Route) the Highway 17 bus all the way to the BART Berryessa station.	METRO staff will evaluate prior to opening of BART extension in 2017.
Rick Hyman	METRO should transition to stopping where passengers request as much as possible (courtesy stops).	METRO staff will evaluate possibility of adopting courtesy-stop policy for evening use.
Rick Hyman	Were (customer service reports) taken into account in preparing this plan?	Common customer concerns were relayed to consultants by staff.

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Attachment B



MEMORANDUM

To: Erich Friedrich, SCMTD
From: Joey Goldman, Nelson\Nygaard
Steve Boland, Nelson\Nygaard
Date: April 2, 2014
Subject: Update on Changes to Draft Short Range Transit Plan

We have reviewed the various comments provided on the Draft SRTP through letters and email correspondence, including those from Santa Cruz resident Rick Hyman, the City of Watsonville, the SCMTD Board of Directors, the RTC E&D TAC, RTC Bike Committee, RTC staff, SCMTD staff and the MAC.

Based on these comments, we are making some changes to the report. Among the most substantive changes are the following:

- Explanatory introductory text about the purpose and focus of the SRTP: that this is a short-range plan designed to be a roadmap for the agency, providing guidance but not specific directives for the agency. This is a policy and planning document to help the Board direct staff on the agency's priorities. This plan recognizes that the public review process is important and would be followed for any service change to be carried forward by the agency.
- We are preparing a new chapter discussing the value of performance measures, and moved the recommended performance measures for SCMTD into this chapter. We are making some adjustments to the presentation about standards and referencing, as appropriate, standards already included in the Regional Transportation Plan.
- We identified specific transit emphasis corridors (TECs) in the original draft document. Several stakeholders have identified other corridors they would like to see added to the list of TECs. Based on current trip generators and densities in these corridors, along with short-term demand assumptions, these additional corridors do not meet the threshold for TECs in the immediate term so we have identified a set of potential longer term TECs.
- We are proposing some changes to Route 71 in the southern part of the county to address concerns from some stakeholders and to serve the proposed new development at Aptos Village.
- Funding growth assumptions modeled from the most recent SCMTD budget were deemed too robust. We are updating the financial plan based on revised assumptions suggested by SCMTD and RTC staff.

In addition to these changes, we are incorporating revised or additional language regarding paratransit recommendations, park-and-ride lots, marketing partnerships with RTC, and better integration of bicycles and transit service.

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SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

DATE: April 11, 2014
TO: Board of Directors
FROM: Leslyn K. Syren, District Counsel
**SUBJECT: CONSIDERATION OF ADOPTION OF SANTA CRUZ METRO'S
PROCUREMENT POLICY**

I. RECOMMENDED ACTION

**ADOPT RESOLUTION TO CREATE TITLE II – PROCUREMENT POLICY TO THE
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT'S ADMINISTRATIVE CODE**

II. SUMMARY OF ISSUES

- Santa Cruz METRO has many of its procurement policies contained in several Administrative Regulations.
- FTA's Triennial Review of Santa Cruz METRO deficiencies were found with USDOT requirements for Procurement.
- The Procurement Manager and District Counsel have been working on development of polices and procedures that assure compliance with state and federal contracting requirements.
- The Procurement Policy being considered by the Board is the policy framework from which Procurement Procedures may be established by the General Manager to assure compliance with both the procurement process and subsequent contract compliance once an award of contract has been made.
- The adoption of Title II to the Administrative Code will replace Administrative Regulations AR-1005, AR-1003 and AR-1027.
- Title II to the Administrative Code adds debarment procedures which would preclude unsatisfactory contractors from bidding or proposing on Santa Cruz METRO's solicitations for a specified time period.

III. DISCUSSION

Santa Cruz METRO has relied upon three procurement policies, adopted at various times, to provide guidance on solicitation for procurements, bidding and bid protests. AR-1003 is the formal bidding procedure policy, AR-1005 is the purchasing contract policy and AR-1027 is the pre-bid, pre-award and post-award protest procedures. The proposed Title II incorporates the policies contained in each of these administrative regulations and includes some additional guidance to the public and staff regarding the procurement polices and processes to be used by the District.

Since this is a change in direction for the District, the first section of the Administrative Code is Title II which will provide guidance for procurements in Chapter 1, which relates to the Solicitation and Award of Contracts. Separate Articles are established for each element of the policy, including a procurement code of conduct, solicitations, advertising, evaluation of solicitations, contract amendments and change orders, bid protests and debarment.

The Administrative Code will be the framework from which the General Manager will establish procedures which direct staff on all procurements for materials, supplies, public works and professional and non-professional services. These procedures will assist the District in achieving compliance with FTA's regulations and cure the deficiencies found in the recent Triennial Review.

Levels of authority are established in this Title, including, increasing the General Manager's authority to authorize solicitations and approve contracts up to \$100,000. This increase in authority will allow the District to more efficiently handle the requisition of supplies and services. The General Manager's authority will be aligned with the budgetary constraints set forth in the District's budget and expenditures will still be reported to the Board by the Finance Department.

Finally, the District will establish a due process procedure for debarring certain non-performing contractors from bidding or submitting proposals on solicitations where they have been found to be subject to debarment by the General Manager and the Board.

It is the intent of the Legal Department to continue to consolidate many of the current District policies into the Administrative Code, which will be available to the public on our website. It is hoped this will provide better access to Santa Cruz METRO policies as we move forward with this project.

IV. FINANCIAL CONSIDERATIONS

No direct budgetary impact as the result of this action.

V. ATTACHMENTS

Attachment A: Resolution Adopting Title II to the Santa Cruz METRO Administrative Code and text of Title II (Exhibit A to the Resolution)

ATTACHMENT A

BEFORE THE BOARD OF DIRECTORS OF THE SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

Resolution No. _____

On the Motion of Director _____

Duly seconded by Director _____

The following Resolution is Adopted:

A RESOLUTION ESTABLISHING TITLE II TO THE ADMINISTRATIVE CODE OF THE SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

WHEREAS, the Santa Cruz Metropolitan Transit District was created pursuant to the "Santa Cruz Metropolitan Transit District Act of 1967" as codified in Public Utilities Code sections 9800 et seq; and

WHEREAS, Board of Directors of the Santa Cruz Metropolitan District may take all actions necessary for the proper administration of the affairs of the district; and

WHEREAS, the Board of Directors pursuant to its authority desires to establish an Administrative Code for the proper administration of procurement; and

NOW THEREFORE, BE IT RESOLVED by the Santa Cruz Metropolitan Transit District as follows:

Title II of the Administrative Code of Santa Cruz Metropolitan Transit District is adopted by the Board of Directors as set forth in Exhibit A to this Resolution.

PASSED AND ADOPTED at a regular meeting of the Santa Cruz Metropolitan Transit District, Santa Cruz, California, this 11th day of April 2014, by the following vote:

AYES: Directors -

NOES: Directors -

ABSTAIN: Directors -

ABSENT: Directors -

APPROVED _____

DENE BUSTICHI
Chair

ATTACHMENT A

Resolution No.

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ATTEST:

LESLIE R. WHITE
CEO/General Manager

APPROVED AS TO FORM:

LESLYN K. SYREN
District Counsel

ATTACHMENT A

SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

ADMINISTRATIVE CODE

TITLE II – PROCUREMENT POLICY

CHAPTER 1

SOLICITATION AND AWARD OF CONTRACTS

(This Chapter replaces AR-1005, AR-1003 and AR-1027)

Table of Contents:

Article I	General Requirements
Article II	Santa Cruz METRO Code of Conduct
Article III	Contents of Solicitation Documents
Article IV	Solicitation Procedures
Article V	Evaluation of Bids and Proposals
Article VI	Awarding Procurements and Issuing Change Orders
Article VII	Bid/Proposal Protest Procedures
Article VIII	Debarment

Article 1 General Requirements

§ 1.101 Definitions

The following capitalized words and phrases whenever used in this Chapter shall be construed as defined below:

BOARD shall mean the Board of Directors of the Santa Cruz Metropolitan Transit District (Santa Cruz METRO).

CONTRACT shall mean a written agreement, binding the parties thereto to legal obligations; including, without limitation, letter of agreement, memorandum of understanding, contract, contract change order, purchase order, or an amendment or supplemental agreement to any of the foregoing.

FTA shall mean the United States Department of Transportation, Federal Transit Administration.

ATTACHMENT A

GENERAL MANAGER shall mean the chief executive officer of Santa Cruz METRO appointed by the Board of Directors.

INVITATION FOR BIDS (IFB) shall mean a solicitation for submittal of bids for SUPPLIES, NONPROFESSIONAL SERVICES or PUBLIC WORKS.

NONPROFESSIONAL SERVICES shall mean and include services of a nonprofessional character of any type, description or variety, including, without limitation, landscape maintenance services, janitorial services, repair of office machines and equipment, and security guard services.

PROCUREMENT shall mean a CONTRACT for SUPPLIES, SERVICES, or PUBLIC WORKS.

PROFESSIONAL SERVICES shall mean and include professional services of any type or variety, including, without limitation, services rendered by accountants, actuaries, appraisers, architects, attorneys, consultants, doctors, and engineers.

PUBLIC WORKS shall mean a project for the erection, construction, alteration, repair or improvement of any kind. (*Public Contract Code* §1101.)

PURCHASE shall mean the acquisition, renting, or leasing of SUPPLIES.

"Santa Cruz METRO" shall mean the Santa Cruz Metropolitan Transit District as established and operated under Part 10, Division 10 of the *California Public Utilities Code*.

REQUEST FOR PROPOSAL (RFP) shall mean a solicitation for submittal of proposals for PROFESSIONAL SERVICES.

REQUEST FOR QUALIFICATIONS (RFQ) shall mean a solicitation for submittal of qualifications to perform PROFESSIONAL SERVICES.

SERVICES shall mean PROFESSIONAL or NONPROFESSIONAL SERVICES, or both, in accordance with the solicitation.

SUPPLIES shall mean and include personal property, goods, equipment and materials, including, without limitation, materials required for the maintenance and repair of any property of Santa Cruz METRO or of any other person or agency for which it is the duty of Santa Cruz METRO to maintain or repair.

§1.102 Administrative Procedures

The GENERAL MANAGER shall approve administrative procedures to carry out the intent of this Chapter. The procedures shall establish a system for informal bidding or informal proposals when advertising for bids or proposals is not required. The procedures shall establish additional guidance for staff and the public with regard to

ATTACHMENT A

Santa Cruz METRO's formal procurement requirements, as an addition to this Chapter.

§1.103 Unauthorized Procurement

Any CONTRACT made contrary to the provisions of this Chapter shall be null and void unless the contrary action is waived or the CONTRACT is ratified by the BOARD upon a determination that it is in the best interest of Santa Cruz METRO to do so. Notwithstanding the foregoing, a CONTRACT for PROFESSIONAL or NONPROFESSIONAL SERVICES approved by the BOARD or GENERAL MANAGER shall not be void or voidable by either party to the CONTRACT or any third party due to failure to adhere to any solicitation procedure set forth in Article III of this Chapter, or the Procedures adopted by the GENERAL MANAGER.

§ 1.104 Splitting Procurement Prohibited

Splitting or separating PROCUREMENTS into smaller units for the purpose of evading the provisions of this Chapter is prohibited. Splitting or separating a PROCUREMENT shall mean and include reducing the amount of any SUPPLIES, SERVICES, or PUBLIC WORKS to be furnished when there is reasonable knowledge that the same SUPPLIES, SERVICES, or PUBLIC WORKS will be additionally required within the same Santa Cruz METRO fiscal year, and when the primary purpose of splitting or separating the PROCUREMENT is to evade the purposes of this Chapter, including formally calling for bids or proposals.

§ 1.105 Collusion with Bidder or Proposer

A Santa Cruz METRO officer or employee is prohibited from engaging in collusion with a bidder or proposer. Collusion includes, without limitation, knowingly doing any of the following:

- A. Aiding or assisting a bidder or proposer in securing a PROCUREMENT at a higher price than that proposed by any other bidder or proposer; or
- B. Favoring one bidder or proposer over another by giving or withholding information; or
- C. Willfully misleading any bidder or proposer as the character of the work or service to be performed or product to be supplied; or
- D. Accepting SUPPLIES, SERVICES, or PUBLIC WORKS that are inferior to that called for in the CONTRACT; or
- E. Falsely reporting the receipt of a greater amount or different kind of SUPPLIES, SERVICES or PUBLIC WORKS than has been actually received; or
- F. Intentionally acting or failing to act in relation to a bid/bidder or proposal/proposer by wrongfully favoring a bidder's or proposer's interest over Santa Cruz METRO's interests.

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§ 1.106 Independent Price Determination

It is prohibited for a bidder or proposer to:

- A. Propose or bid prices that have not been arrived at independently without consultation, communication, or agreement with any other bidder, offeror or competitor for the purpose of restricting competition as to any matter relating to the prices bid or proposed; or
- B. Knowingly disclose any price bid or proposal to any other bidder, offeror, or to any competitor prior to opening of the bids or proposals, unless otherwise required by law; or
- C. Make or attempt to induce any other person, firm or other entity or association to submit or not to submit a bid or proposal for the purpose of restricting competition; or
- D. Knowingly be interested in more than one bid as the principal bidder; provided, however, subcontract bids to the principal bidders or proposers are excluded from this paragraph D.

In case of joint venture bids or proposals, the joint venture itself and each and every member of the joint venture shall, for purposes of the foregoing, be construed to be the person submitting the bid or proposal.

Any bid or proposal received or CONTRACT awarded where there was a violation of this section shall be null and void. Santa Cruz METRO shall dispose of the matter in that manner as if the bidder or proposer involved had failed to enter the CONTRACT after award.

§ 1.107 Compliance with Federal Law

Pursuant to California Government Code section 53702.2, a PROCUREMENT funded in full or in part pursuant to the terms of a federal grant or loan shall be advertised, prepared, awarded, performed, and administered in compliance with all applicable requirements of federal laws, regulations and orders whenever compliance with those laws, regulations and orders is a prerequisite of federal financial assistance.

§ 1.108 Execution of Contracts

The GENERAL MANAGER shall institute control procedures for the execution of CONTRACTS as required herein. Santa Cruz METRO's DISTRICT COUNSEL shall approve the form and legality of all CONTRACTS prior to the execution thereof. If the GENERAL MANAGER will be unavailable to sign a CONTRACT, he/she or the BOARD may delegate such authority in writing to a named Santa Cruz METRO employee who shall be authorized to sign CONTRACTS on behalf of the GENERAL MANAGER. A copy of such authorization shall be filed with the Administrative Services Coordinator to be included in the Santa Cruz METRO official records.

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§ 1.109 Severance

If any provision or part of the Chapter conflicts with state or federal laws, regulations, or grant conditions applicable to Santa Cruz METRO PROCUREMENTS, or decisional law binding upon Santa Cruz METRO, the provision or part in conflict shall be deemed severed from this Chapter, and the remainder shall stay in full force and effect.

Article II

Santa Cruz METRO Code of Conduct

§ 1.201 Purpose And Applicability

- A. As a public entity and recipient of state, federal and local funds, Santa Cruz METRO must be vigilant in its protection of the public trust. Toward that end, employees, officers, and agents of Santa Cruz METRO must conduct themselves in a manner that will foster public confidence in the integrity of the procurement system. This section is intended to prescribe standards of conduct to ensure honesty and integrity in all Santa Cruz METRO procurements.
- B. The standards established herein shall apply to all activities associated with all procurements by METRO.

§ 1.202 Conflict of Interest

- A. No Santa Cruz METRO employee, officer, agent or his/her immediate family member, partner or organization that employs or is about to employ any of the foregoing individuals may participate in the selection, award, or administration of a Santa Cruz METRO contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of those previously listed individuals has a financial or other interest in a firm/individual who may be selected and/or is selected for the award.
- C. Santa Cruz METRO employees, officers and agents are prohibited from making, participating in or in any way attempting to use their METRO employment or affiliation to influence a Santa Cruz METRO decision in which they know or have reason to know they have a financial interest or other interest in the firm/individual who may be selected and/or is selected for the award.
- D. Santa Cruz METRO employees, officers, and agents and their immediate families, their business partners and/or an organization that employs or is about to employ the employee, his/her immediate family and/or his/her business partner, shall not be financially interested in any Santa Cruz METRO contract made by them in their official capacity. They shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity. The Santa Cruz METRO Board of Directors may void a contract made in violation of this section.
- E. Santa Cruz METRO employees, officers and agents shall be subject to the laws of the United States and the State of California concerning conflicts of interest. Anyone found to violate the standards established by such laws may be subject to statutory penalties or sanctions, criminal consequences and disciplinary

ATTACHMENT A

action up to and including employment termination issued by Santa Cruz METRO.

- F. In a procurement in which a Santa Cruz METRO employee, officer and/or agent may have a conflict or potential conflict of interest, such individual(s) must promptly report the conflict in writing to the GENERAL MANAGER or designee so that appropriate action can be taken to assign the work to another employee to avoid the conflict of interest.
- G. In a procurement in which a vendor, contractor or consultant or a prospective vendor, contractor or consultant may have a conflict or potential conflict of interest, such individual or firm shall immediately report the nature of the conflict and the existence or potential existence of the conflict to Santa Cruz METRO's Purchasing Manager who shall in consultation with the Santa Cruz METRO General Manager and the Santa Cruz METRO District Counsel determine the appropriate action to be taken.
- H. Santa Cruz METRO's Purchasing Manager in consultation with the General Manager and the Santa Cruz METRO District Counsel is responsible to identify any real or apparent organizational conflict-of-interests that may exist in each procurement. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract or sub-agreement may, without some restrictions on future activities result in an unfair competitive advantage to the third party contractor or sub-recipient or impair their objectivity in performing the contract work.

§ 1.203

Gifts and Gratuities

- A. No Santa Cruz METRO employee, officer or agent shall solicit or accept gratuities, favors or anything of monetary value, including personal loans, from contractors, subcontractors, consultants, potential contractors, potential consultants, or potential subcontractors, except an unsolicited gift of nominal intrinsic value. Nominal intrinsic value for purposes of this section shall mean a value of less than \$25, within a twelve-month period from a single source.
- B. Invitations for business lunches, parties, or similar functions must be declined if received from bidders or other parties involved in a pending procurement. This policy is intended to avoid any situation, which may give an appearance of improper influence in Santa Cruz METRO procurement activities.

§ 1.204

Contacts with Vendor, Bidders and Proposers

- A. Prior to the issuance of a procurement solicitation, informational and research contacts with prospective vendors may be made for the purpose of gathering data. However, in making such contacts, Santa Cruz METRO employees, officers, and agents shall avoid any commitment, or implication thereof, of a possible future award. Any such proposed contacts must be reported to the Santa Cruz METRO Purchasing Manager.
- b. Accordingly, requests for substantial complimentary services or supplies, which may imply an obligation on the part of Santa Cruz METRO, are prohibited. Requests for testing services, product samples, or demonstrations, or free trips to examine vendor products are prohibited.

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- C. Whenever a procurement is in progress (e.g., during the solicitation, evaluation, negotiation, and award phases) all contacts with potential contractors, consultants or vendors shall be made through the General Manager or the Purchasing Manager.

§ 1.205 Release and Use of Information

- A. With the exception of formally advertised sealed bid procurements (i.e., Invitations for bid (IFB)) all cost and pricing information received by Santa Cruz METRO in negotiated procurements is to be treated as confidential, until the selection and award.
- B. All technical data received in response to Requests for Proposals (RFP), with the exception of data contained in any contracts awarded by Santa Cruz METRO shall be maintained in a confidential manner until the selection and award.
- C. No Santa Cruz METRO employee, officer, or agent shall use confidential information obtained through procurement for the actual or anticipated benefit of themselves, their relatives, persons with whom they have a common financial interest or any person.

Article III

Contents of Solicitation Documents

§ 1.301 Bid Forms

All formal bids shall be made on forms provided by Santa Cruz METRO. The execution of the forms by bidders shall be subject to procedures formulated by the GENERAL MANAGER and shall include controls over erasures, corrections, and interlineations.

§ 1.302 Invitation for Bids (IFB)

All IFBs shall at a minimum, include all of the following information:

- A. A description of the PUBLIC WORKS, NONPROFESSIONAL SERVICES or SUPPLIES required without use of brand or trade names except as authorized by state law or federal grant conditions. (Public Contract code §3400.)
- B. Time for performance or delivery.
- C. The time period that the bidder's offer must be held open for Santa Cruz METRO acceptance.
- D. Disadvantaged Business Enterprise goals and good faith efforts requirements if required by the terms of the federal grant.
- E. Criteria for CONTRACT award to the lowest responsive and responsible bidder.
- F. Date and time for bid submittal.
- G. Bid protest procedures as set forth in Article VII of this Chapter.
- H. For PUBLIC WORKS projects, the contractor licensing and subcontractor listing requirements, prevailing wage notification, the required bid security as set out in Section 1.305, and all statutorily required bonds.

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- I. Federal and/or state requirements, including contract clauses, certifications, and bonds (bid, maintenance, performance, and payment). For federally funded SUPPLY and NONPROFESSIONAL SERVICES CONTRACTS, Santa Cruz METRO may allow submittal of an irrevocable letter of credit or other negotiable instrument in-lieu of a bond.
- J. Santa Cruz METRO contract clauses.
- K. Notification that Santa Cruz METRO reserves the right to reject all bids and to waive minor irregularities in a bidder's bid.

Notwithstanding the foregoing, an RFP may be issued for NONPROFESSIONAL SERVICES if approved by the BOARD or GENERAL MANAGER.

§ 1.303 Request for Proposals (RFP)

All REQUESTS FOR PROPOSALS shall include at a minimum all the following information:

- A. A description of the type of SERVICES required.
- B. Time for performance or length of service.
- C. The time period that the proposer's proposal must be held open for Santa Cruz METRO acceptance.
- D. The required work products and/or tasks.
- E. A request for a description of the firm's qualifications, size and prior experience in performing similar PROFESSIONAL SERVICES, unless a prior REQUEST FOR QUALIFICATIONS was issued to pre-qualify potential proposers.
- F. Disadvantaged business enterprise goals and good faith efforts requirements if required by the terms of a federal grant.
- G. Consultant selection criteria, weighting factors and selection process.
- H. Date and time for proposal submittal.
- I. Protest procedures as set out in Article VII of this Chapter.
- J. Federal and/or state contract clauses, certifications and insurance requirements.

Notwithstanding the foregoing, an RFQ may be issued for SERVICES if approved by the BOARD.

§ 1.304 Request for Qualifications (RFQ)

An RFQ may be issued in order to pre-qualify proposers for a particular RFP or to establish a listing of pre-qualified proposers when several RFPs for separate CONTRACTS will be issued for the same discipline of PROFESSIONAL SERVICES. The listing of pre-qualified professionals shall be effective if approved by the GENERAL MANAGER, unless BOARD approval is required. The listing must be approved by the BOARD to be effective if: (i) any one CONTRACT would require BOARD approval as set forth in Section 1.603 or (ii) the list will be effective for more

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than three years. The RFQ shall, at a minimum, include or request all of the following information:

- A. Description of the type of PROFESSIONAL SERVICES required.
- B. Number of years that the firm has provided such services.
- C. Size of firm and, if applicable, a breakdown of number of employees by employment classification.
- D. Prior experience in performing desired PROFESSIONAL SERVICES, and, if applicable, same work products.
- E. Listing of references.

§ 1.305 Bid Security on Public Works Contracts

For any PUBLIC WORKS CONTRACT, the solicitation documents shall require the bidder to submit with the bid as security one of the following:

- A. Cash; or
- B. Cashier's check or certified check made payable to Santa Cruz METRO; or
- C. Bidder's bond executed by an admitted surety insurer and made payable to Santa Cruz METRO.

The security shall be an amount determined by Santa Cruz METRO to be sufficient, but shall not exceed 10% of the bid amount.

If within twenty calendar days after CONTRACT award, the successful bidder fails to enter into the CONTRACT or, if applicable, provide all required insurance certificates and bonds, the bid security shall be forfeited in favor of Santa Cruz METRO. Upon good cause being shown, the GENERAL MANAGER in his/her discretion may extend the time for the bidder to enter the CONTRACT for a period not to exceed thirty (30) additional days.

Upon award to the lowest responsible bidder, the security of an unsuccessful bidder shall be returned no later than sixty (60) days after CONTRACT award. However, if a bid protest is timely filed, the security of unsuccessful bidders shall not be returned until the expiration of the bid validity period. The bid security of the successful bidder shall be returned after execution of the CONTRACT and receipt of the applicable insurance certificate and performance, payment and service disruption bonds. (Public CONTRACT Code §20322.)

Article IV Solicitation Procedures

§ 1.401 Santa Cruz METRO's Current Needs

Santa Cruz METRO staff may contract/purchase only for Santa Cruz METRO's current and reasonably expected public transportation needs and may not add

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quantities or options to its third party contracts solely to permit assignment to another party at any time.

§ 1.402 Approval of Solicitations

For a PROCUREMENT expected to be awarded for an amount equal to or greater than the amount set out in Section 1.302 for a CONTRACT for PUBLIC WORKS, SUPPLIES, NONPROFESSIONAL SERVICES or PROFESSIONAL SERVICES, respectively, a written IFB or RFP must be prepared and thereafter authorized for issuance by either the BOARD or the GENERAL MANAGER or his/her designee prior to its release. BOARD approval for the release of the IFB or RFP is required if the resulting contract would require BOARD approval as set forth in Section 1.603 of this Chapter.

§ 1.403 Submittal of Sealed Bids and Proposals

All bids/proposals for CONTRACTS expected to be awarded for an amount in excess of Ten Thousand Dollars (\$10,000) for PUBLIC WORKS, and Fifty Thousand Dollars (\$50,000) for SUPPLIES, NONPROFESSIONAL and PROFESSIONAL SERVICES shall be sealed, identified as a bid/proposal on the envelope, and shall be submitted to the GENERAL MANAGER or his/her designee at the place and time specified in the public notice inviting bids/proposals. The time specified in the public notice may be extended and notice of the extension may be given by addendum. Submittals received after the time shall not be accepted and shall be returned to the bidder or proposer unopened.

The GENERAL MANAGER shall issue procurement policies for the procurement of PUBLIC WORKS, SUPPLIES, NON-PROFESSIONAL and PROFESSIONAL SERVICES in excess of the amounts set forth above, which shall include provisions for procurement procedures that require a price or cost analysis/independent cost estimate and the acquisition of quotes, bids or proposals.

§ 1.406 Opening of Bids

Bids shall be opened by the GENERAL MANAGER or his/her designee, in public, at the time and place designated in the notice inviting bids or any extension that may be given by addendum to the bid documents.

Article V

Evaluation of Bids and Proposals

§ 1.501 Responsibility Factors

In determining whether a bidder is responsible, consideration shall be given to each of the following factors:

- A. The ability, capacity and skill of the bidder to satisfactorily perform the CONTRACT;

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- B. The ability of the bidder to perform the CONTRACT within the time specified, without delay;
- C. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- D. The bidder possesses the required licenses/certifications and is not on any suspended or debarment list; and
- E. The quality of bidder's performance on previous CONTRACTS with Santa Cruz METRO.

§ 1.502 Responsiveness

- A. A bid/proposal is responsive if the bidder/proposer submits all information and documents required by the IFB, RFP, or RFQ in the form and at the time required by the IFB, RFP or RFQ, and the bidder/proposer is offering to perform pursuant to the IFB, RFP, or RFQ requirements.
- B. The BOARD may adopt programs or procedures to promote the participation and use of minority, women-owned or disadvantaged business enterprises, and/or small business enterprises.

§ 1.503 Application of Responsibility Factors

The BOARD or GENERAL MANAGER shall award CONTRACTS for PUBLIC WORKS, SUPPLIES, or NONPROFESSIONAL SERVICES to the lowest bidder submitting a responsive bid as provided by Section 1.601 of this Chapter, unless the BOARD or GENERAL MANAGER makes a finding that such bidder is not responsible based upon its failure to satisfy one or more of the criteria set forth in Section 1.501 of this Chapter.

§ 1.504 Evaluation of Professional Service Proposals

Proposals for PROFESSIONAL SERVICES shall be evaluated based upon the criteria set out in the RFP. Santa Cruz METRO may reject any proposer that is nonresponsive or any proposal that is nonresponsive, it may waive any required information for all proposers, and it may waive minor irregularities in any proposal as provided in Section 1.608 of this Chapter.

§ 1.505 Noncompetitive and Sole Source Procurement

A noncompetitive or sole source PROCUREMENT is the award of CONTRACT to only one source. An amendment to an existing CONTRACT to include PUBLIC WORKS, SUPPLIES, or SERVICES outside the scope of that CONTRACT is also deemed a sole source PROCUREMENT. Noncompetitive and sole source PROCUREMENTS are not permitted unless at least one of the following circumstances occurs:

- A. The BOARD or GENERAL MANAGER, as applicable, has determined that the PUBLIC WORKS, SUPPLIES, or SERVICES can be provided only by one firm and that efforts to seek competition would be futile. The GENERAL MANAGER may not delegate his/her authority to make such a determination. However, if the GENERAL MANAGER is unavailable and has delegated authority for execution of

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CONTRACTS, such delegation may also include his/her authority under this paragraph.

- B. For PROCUREMENT involving an expenditure in excess of Fifty Thousand Dollars (\$50,000) for SUPPLIES or Ten Thousand Dollars (\$10,000) for PUBLIC WORKS, upon four-fifths (4/5) vote of the BOARD if it finds that an emergency exists and that it is in the best interests of Santa Cruz METRO to suspend competitive bidding.
- C. Noncompetitive PROCUREMENT is otherwise authorized under applicable federal and state statutes and/or case law.

§ 1.506 Alternative Procurement Methods

The GENERAL MANAGER may establish procedures for Santa Cruz METRO's participation in Joint Procurements, State and Local Government Purchasing Schedules or Contracts and use of existing contract rights for the purchase of SUPPLIES, MATERIALS or SERVICES.

Article VI

Awarding Procurements and Issuing Change Orders

§1.601 Award to Lowest Responsive Bidder (IFB)

CONTRACTS involving expenditures in excess of Ten Thousand Dollars (\$10,000) for PUBLIC WORKS and Fifty Thousand Dollars (\$50,000) for SUPPLIES, MATERIALS, and NONPROFESSIONAL SERVICES shall be awarded to the responsible bidder submitting the lowest responsive bid.

§1.602 Award of Contracts

A CONTRACT for PROFESSIONAL SERVICES shall be awarded to the responsible firm whose proposal is deemed responsive and with the highest rank based on evaluation criteria. Neither the GENERAL MANAGER nor the BOARD is required to award the CONTRACT to the proposer offering the lowest price.

§ 1.603 Authority to Award Procurements Exceeding \$100,000

Unless otherwise provided herein, all PROCUREMENTS involving an expenditure exceeding One-Hundred Thousand Dollars (\$100,000) shall be subject to award and/or approval by the BOARD. Said PROCUREMENTS shall be formal written CONTRACTS executed by the BOARD Chair and/or GENERAL MANAGER on behalf of Santa Cruz METRO as set out in the authorizing resolution.

§ 1.604 Authority to Award Procurements of \$100,000 or less

Subject to the availability of funds and the procedures set forth in this Chapter, the GENERAL MANAGER is authorized to award and bind Santa Cruz METRO to

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PROCUREMENTS involving a total expenditure of One-Hundred Thousand Dollars (\$100,000) or less.

§ 1.605 Authority to Approve Amendments to SUPPLY and SERVICE CONTRACTS

The GENERAL MANAGER is authorized to bind Santa Cruz METRO to amendments to BOARD approved SUPPLIES or SERVICE CONTRACTS provided that the sum of all such amendments for any single CONTRACT shall not exceed: \$100,000.

§ 1.606 Authority to Issue Change Orders for Public Works CONTRACTS

Subject to the availability of funds, the GENERAL MANAGER is authorized to bind Santa Cruz METRO to change orders for work being performed under a PUBLIC WORKS CONTRACT provided that the change order meets all of the following requirements:

- A. For CONTRACTS originally awarded for a price of One-Hundred Thousand Dollars (\$100,000) or less, the GENERAL MANAGER shall have authority to issue change orders, provided that the sum of the original CONTRACT price and all such change orders does not exceed One Hundred Thousand Dollars (\$100,000).
- B. For CONTRACTS originally awarded for a price of greater than One Hundred Thousand Dollars (\$100,000) but less than One Million Dollars (\$1,000,000) the GENERAL MANAGER shall have authority to issue change orders, provided that the sum of all such change orders for any single CONTRACT shall not exceed ten percent (10%) of the original CONTRACT price.
- C. For CONTRACTS originally awarded for a price of Million Dollars (\$1,000,000) or more, the GENERAL MANAGER shall have the authority to issue change orders provided, that the sum of all such change orders for any single CONTRACT shall not exceed the following percentages of the original CONTRACT amount: ten percent (10%) of the first Million Dollars, plus eight percent (8%) of the next Nine Million Dollars, plus six percent (6%) of the balance.
- D. Notwithstanding the foregoing, any single change order which exceeds One Hundred Thousand Dollars (\$100,000) shall require BOARD approval.
- E. Notwithstanding the foregoing, the GENERAL MANAGER shall have authority to issue change orders in such sums as may reasonably be necessary if the GENERAL MANAGER determines a change order is required to:
 1. Prevent interruption of the work which would result in a substantial increase in cost to Santa Cruz METRO; or
 2. Protect the work, or equipment or materials to be used in the work, human safety, or the environment at or near the site of the work from substantial and immediate danger or injury; or
 3. Protect the work, or equipment or materials to be used in the work, or human safety or the environment at or near the work site where damage or

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injury has occurred from further or additional damage or injury or deterioration caused by man, nature or other source.

The GENERAL MANAGER shall report such action to the BOARD as soon as reasonably possible but in no event more than thirty (30) days after the action is taken.

§ 1.607 Delegation of Authority

- A. Notwithstanding anything to the contrary herein, the BOARD may by resolution delegate authority to the GENERAL MANAGER to bind Santa Cruz METRO to a CONTRACT for any amount under the terms and conditions set forth in the resolution delegating such authority.
- B. The GENERAL MANAGER may delegate his or her power under Sections 1.604, 1.605, 1.606 and 1.607 A, to bind Santa Cruz METRO by CONTRACT. The delegation shall be made in writing and shall specifically designate the Santa Cruz METRO employee(s) who may act for the GENERAL MANAGER. Santa Cruz METRO employees who are authorized to act for the GENERAL MANAGER to bind Santa Cruz METRO by CONTRACT shall be bonded for the faithful performance of their duties in such amounts as the GENERAL MANAGER reasonably determines to be adequate. A copy of the written delegation shall be retained in Santa Cruz METRO's official files. Upon request, the Finance Manager shall certify the continuing validity of a written delegation made pursuant to this Section.

§ 1.608 Award in Case of Identical Bids

The GENERAL MANAGER or the BOARD shall determine by lot which bid shall be accepted when two (2) or more responsible bidders submit responsive bids in the same amount. (*Government Code Section 53064.*)

§ 1.609 Rejection of Bids/Proposals; Waiver of Minor Irregularities

The GENERAL MANAGER or the BOARD, as appropriate, may reject any and all bids or proposals and may waive minor irregularities in the bids or proposals. An irregularity in a bid or proposal may be waived if such waiver does not give the bidder/proposer an unfair advantage. If the GENERAL MANAGER or the BOARD rejects all bids or proposals, the GENERAL MANAGER or BOARD shall re-evaluate the cost estimates for the project. The project shall then either be abandoned, a new solicitation issued in the manner prescribed in Article IV. If a new solicitation is issued and the GENERAL MANAGER or BOARD again rejects all bids and proposals submitted, the GENERAL MANAGER or BOARD may proceed with the project using Santa Cruz METRO personnel, or issue another SOLICITATION.

§ 1.610 Alternative Award; Failure to Enter Into Contract

If the bidder or proposer to whom the CONTRACT is awarded fails to enter into the CONTRACT as required, the GENERAL MANAGER or BOARD, as appropriate, may

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declare the award to that bidder or proposer a nullity and award the CONTRACT to the next lowest responsible and responsive bidder or proposer, or re-advertise.

Article VII Bid/Proposal Protest Procedure

§ 1.701 Scope of Protest Procedure

METRO has established these Pre-Bid, Pre-Award and Post-Award Procurement Protest Policy and Procedures so that all procurement protests/disputes are filed, processed and resolved in a manner consistent with the requirements of the Federal Transit Administration (FTA) Circular (4220.1F) *Third Party Contracting Guidance*, dated November 1, 2008, which are on file at METRO's Administrative Offices, 110 Vernon Street, Santa Cruz, CA 95060, and available upon request.

§ 1.702 Types of Protests

There are three basic types of Protests pursuant to this regulation, based on the time in the procurement cycle when they occur:

- A. A pre-bid or solicitation phase Protest is received prior to the bid opening or proposal due date. Pre-bid protests are those based on the content of the initial Notice and/or solicitation published by METRO requesting bids from vendors or other interested parties.
- B. A pre-award Protest is a protest against making an award and is received after receipt of proposals or bids, but before award of a contract.
- C. A post-award Protest is a protest received after award of a contract. A post-award Protest must be received within 5 business days of the making of the award. A post-award Protest generally alleges a violation of applicable federal or state law and/or METRO policy or procedures relative to the seeking, evaluating and/or awarding of the contract.

§ 1.703 Protest Procedures

All Protests must be filed in writing with the METRO Administrative Offices, Finance Manager, Santa Cruz Metropolitan Transit District, 110 Vernon Street, Santa Cruz, CA 95060, or electronically at financemanager@scmttd.com. No other location is acceptable.

- A. The protest must be in writing and set forth the specific grounds of the dispute and shall be fully supported with technical data, test results, or other pertinent information related to the subject being protested. The Protest shall include the name and contact information of the Protester, solicitation/contract number or description, and what remedy the Protester is seeking. The Protester is responsible for adhering to this regulation.
- B. A Protester must exhaust all of METRO's administrative remedies before pursuing a protest with the FTA.

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§ 1.704 Santa Cruz METRO's Response to Protest

- A. METRO's Finance Manager shall make a determination on the Protest generally within ten (10) working days from receipt of the Protest. The Decision of the Finance Manager must be in writing and shall include a response to each substantive issue raised in the Protest.
- B. Any Decision by the Finance Manager may be appealed to the Board of Directors. The Protester has the right within five (5) business days of receipt of the Finance Manager's Decision to file an appeal restating the basis of the Protest and the grounds of the appeal. In the appeal, the Protester is only permitted to raise information and issues previously provided in the Protest or discovered after the Protest was submitted to the Finance Manager for Decision and directly related to the grounds of the Protest. The Protester shall be provided with at least 72-hour notification of when the Board of Directors will hear the Appeal. The Protester may appear, be represented and present evidence and testimony at the Appeal Hearing. The Board of Directors' decision shall constitute METRO's final administrative determination.

§ 1.705 Appeal of Santa Cruz METRO's Decision

- A. In the event that the Protester is not satisfied with METRO's Board of Directors' final administrative determination, he/she may proceed within 90 days of the final decision to State Court for judicial relief. The Superior Court of the State of California for the County of Santa Cruz is the appropriate judicial authority having the jurisdiction over Protest(s) and Appeal(s).
- B. At any time, the Protester may request reconsideration of METRO's Final Decision if data or information becomes available that was not previously known, or there has been an error of law or regulations.
- C. The Protester may withdraw its Protest or Appeal at any time before METRO issues a final decision.
- D. If METRO postpones the date of proposal submission because of a Protest or Appeal of the solicitation specifications, addenda, dates or any other issue relating to the procurement, METRO will notify, via addendum, all parties who are on record as having obtained a copy of the solicitation documents that a Protest/Appeal had been filed, and the due date for proposal submission shall be postponed until METRO has issued its final Decision.
- E. Reviews of Protests by FTA are limited to 1) METRO's failure to have or follow its protest procedures, or its failure to review a complaint or Protest; or 2) violations of Federal law or regulation.
- F. A Protest Appeal to the FTA must be filed in accordance with the provisions of FTA Circular 4220.1F. Any appeal to the FTA shall be made not later than five

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(5) working days after a final decision is rendered under METRO's protest procedure. Protest appeals should be filed with:

Federal Transit Administration

Regional Administrator Region IX
201 Mission Street, Suite 1650
San Francisco, CA 94105-1839
Telephone: (415) 744-3133
Fax: (415) 744-2726

§ 1.706 Santa Cruz METRO's Responsibilities to FTA

METRO's Finance Manager will notify the FTA when he/she receives a third party contract protest to which the FTA Circular (4220.1F) *Third Party Contracting Guidance* applies, and will keep the FTA informed about the status of the Protest including any appeals.

METRO's Finance Manager will provide the following information to FTA:

- A. Subjects: A list of Protests involving third party contracts and potential third party contracts that:
1. Have a value exceeding \$100,000, or
 2. Involve controversial matter, irrespective of amount, or
 3. Involve a highly publicized matter, irrespective of amount.
- B. Details: The following information about each Protest:
1. A brief description of the Protest,
 2. The basis of disagreement, and
 3. If open, how far the Protest has proceeded, or
 4. If resolved, the agreement or decision reached, and
 5. Whether an appeal has been taken or is likely to be taken.
- C. When and Where: METRO will provide this information:
1. In its next quarterly Milestone Progress Report, and
 2. At its next Project Management Oversight review, if any.
- D. FTA Officials to Notify: When METRO's Board of Directors denies a bid Protest, and an appeal is likely to occur, METRO's Finance Manager will inform the FTA Regional Administrator for Region IX, or the FTA Associate Administrator for the program office administering a headquarters project directly about the likely appeal.

METRO's Finance Manager will disclose information about any third party procurement Protest to FTA upon request. FTA reserves the right to require METRO to provide copies of a particular Protest or all Protests, and any or all related supporting documents, as FTA may deem necessary.

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Article VIII Debarment

§ 1.801 Scope of Debarment Procedure

This Article specifies procedures for Santa Cruz METRO's debarring potential bidders or proposers from award of a Santa Cruz METRO CONTRACT. The provisions set forth in 49 CFR Part 29 are hereby incorporated by reference. "Debarment" is defined as an action which excludes a firm from contracting directly with Santa Cruz METRO or participating as a subcontractor for a Santa Cruz METRO CONTRACT.

§ 1.802 Violations Subject to Debarment

A contractor who commits, based on information sufficient to support a reasonable belief, any of the following acts or omissions is subject to a Santa Cruz METRO debarment action:

- A. Any action set forth in 49 CFR Section 29.305; or
- B. Willful failure to perform or violation of any term or condition of a CONTRACT with Santa Cruz METRO, including violation of any federal or state statutory or regulatory provision.

§ 1.803 Debarment Procedures

- A. If a contractor is alleged to have committed any one of the violations set forth in Section 1.802, the GENERAL MANAGER shall give notice in writing by certified mail, return receipt requested, of the reasons for the proposed debarment. The notice shall contain the following information:
 - 1. That debarment is being considered;
 - 2. The reasons for the proposed debarment;
 - 3. Conduct or transaction(s) upon which the action is based;
 - 4. Potential effect of a debarment;
 - 5. Proposed scope of debarment;
 - 6. Proposed period of debarment; and
 - 7. Opportunity to contest proposed debarment.
- B. The contractor shall have thirty (30) days from the date of receipt of the notice of proposed debarment to submit any written objections. After consideration of the contractor's written response, the GENERAL MANAGER shall provide written notice by certified mail, return receipt requested, of the time, date and place of a meeting with the GENERAL MANAGER, or designee, to discuss the proposed debarment.
- C. In actions not based upon a conviction or civil judgment, if the GENERAL MANAGER finds that the contractor's response raises a dispute over facts material to the proposed debarment, the contractor shall be afforded an

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opportunity to appear with a representative before the GENERAL MANAGER, or designee, submit evidence, present witnesses, and confront any witness Santa Cruz METRO presents.

- D. Within thirty (30) days after the meeting, the GENERAL MANAGER shall provide written notice by certified mail, return receipt requested, of the final decision of the GENERAL MANAGER regarding the debarment. Within thirty (30) days after receipt of the GENERAL MANAGER's final decision, the contractor shall give the GENERAL MANAGER written notice of appeal of the debarment decision. Failure to submit a written notice of appeal shall constitute consent to the debarment and the GENERAL MANAGER's decision shall be final as of the date on the notice.
- E. If a written appeal is timely submitted, the GENERAL MANAGER shall provide written notice by certified mail, return receipt requested, of the date, time and place of the BOARD meeting at which the appeal of the contractor shall be considered and the date the contractor must submit written comments for submittal to the BOARD. The BOARD's debarment agenda package shall be sent to the contractor at least five (5) days before the meeting.
- F. At the BOARD meeting in which the matter is scheduled to be heard, the BOARD may elect to receive and file the GENERAL MANAGER's decision, set the matter for hearing at a subsequent BOARD meeting, or hire an impartial hearing officer to conduct a hearing and prepare a written decision, including findings of fact.
- G. Within thirty (30) days after the BOARD meeting, the GENERAL MANAGER shall provide written notification of the BOARD's action via certified mail, return receipt requested, to the appellant. If the BOARD receives and accepts the GENERAL MANAGER's decision, the debarment decision shall be final as of the date of the written notice described in this part.
- H. If the BOARD elects to hold a hearing or to hire an impartial hearing officer to conduct a hearing, Santa Cruz METRO staff and the appellant may present evidence related to the appeal of the GENERAL MANAGER's decision at the hearing. At the beginning of the hearing, the BOARD Chair or hearing officer may announce time limits on testimony and any other procedural rules which, in their sole opinion, are reasonably necessary to preclude repetitious or irrelevant testimony. If either party arranges for the use of a court reporter to transcribe the hearing, the other party shall share the cost of transcribing the hearing if it requests a copy of the transcript.
- I. If an impartial hearing officer conducts the hearing, the GENERAL MANAGER shall provide written notice by certified mail, return receipt requested, of the selected hearing officer, the date, time and place of the BOARD meeting at which the hearing officer's recommendation will be considered for adoption, and the date that the contract must provide written comments for submittal to the BOARD. A copy of the BOARD of Directors' debarment agenda package shall be sent to the contractor at least five (5) days before the meeting.

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- J. In rendering its decision on the debarment, the BOARD may elect to receive and file the GENERAL MANAGER's decision, adopt the written recommendation and findings of fact prepared by the hearing officer, or adopt a separate decision. Santa Cruz METRO shall provide contractor with written notice of the BOARD's decision by certified mail, return receipt requested, within thirty (30) days after the BOARD meeting. All BOARD decisions are final as of the date on the written notice of the BOARD's action.

§ 1.804 General Manager's/Board of Directors' Decision

- A. Debarment shall be imposed by the GENERAL MANAGER or BOARD only when it finds, based on a preponderance of the evidence, that the contract committed one of the violations referenced in Section 1.702 and that debarment is in the best interest of the public and the protection of Santa Cruz METRO. The seriousness of the contractor's acts or omissions and any mitigating factors shall be considered in making any debarment decision.
- B. Debarment constitutes debarment of all divisions or other organizational elements of the contractor, unless the debarment decision is limited by its terms to specific divisions, organizational elements or commodities.
- C. In imposing debarment, the GENERAL MANAGER or BOARD shall specify the scope and term of the debarment. Debarment shall not exceed three (3) years, unless circumstances warrant a longer period.
- D. In order to protect the interests of Santa Cruz METRO, the period of debarment may be extended, modified or suspended by the GENERAL MANAGER or BOARD after compliance with the procedures set forth in Section 1.803. Such actions may be initiated by Santa Cruz METRO or by the contractor after receipt of a written request, including documentation of the proposed modifications.

§ 1.805 Affect of Debarment on Submittal of Bids or Proposals

If the GENERAL MANAGER or BOARD acts to debar a contractor, that contractor shall be precluded from submitting any bids or proposals for a PROCUREMENT as a prime contractor or subcontractor during the time of debarment, unless debarment is limited in scope and the contractor is authorized under the terms of the debarment to submit a bid or proposal for a particular CONTRACT.

A contractor that has been debarred or suspended by the federal government or the state shall be prohibited from submitting any bids or proposals for a federally-funded or State funded PROCUREMENT during the period of debarment or suspension.

If Santa Cruz METRO receives an unauthorized bid or proposal from a contractor debarred by Santa Cruz METRO and/or the federal or state governments, the bid or proposal shall be returned and such bid or proposal shall not be evaluated or considered in determining the lowest responsive and responsible bidder or the highest ranked proposer.