



Chair, **Christina Fugazi**, City of Stockton  
Vice Chair, **Leo Zuber**, City of Ripon  
Commissioner, **Jose Nuño**, City of Manteca  
Commissioner, **Mikey Hothi**, City of Lodi

Commissioner, **Nancy Young**, City of Tracy  
Commissioner, **Kathy Miller**, San Joaquin County  
Commissioner, **Melissa Hernandez**, Alameda County  
Commissioner, **Lily Mei**, City of Fremont

Executive Director, **Stacey Mortensen**

## SAN JOAQUIN REGIONAL RAIL COMMISSION TELECONFERENCE SPECIAL BOARD MEETING

October 29, 2021 – 8:00 am

Call-In Information: **+1 (646) 749-3335** Access Code: 733-401-277  
GoToMeeting Link: <https://global.gotomeeting.com/join/733401277>

### SPECIAL NOTICE Coronavirus COVID-19

In accordance with Assembly Bill 361 (AB 361), San Joaquin Regional Rail Commission Board Members will be attending this meeting via teleconference or videoconference. Members of the public may observe the meeting by dialing **+1 (646) 749-3335** with access code: 733-401-277

or log-in using a computer, tablet or smartphone at [GoToMeeting.com](https://global.gotomeeting.com/join/733401277) using link: <https://global.gotomeeting.com/join/733401277>

Please note that all members of the public will be placed on mute until such times allow for public comments to be made. If a person wishes to make a public comment during the meeting, to do so they must either 1) use GoToMeeting and will have the option to notify SJRRC staff by alerting them via the “Chat” function or they can 2) contact SJRRC staff via email at [publiccommentssjrrc@acerail.com](mailto:publiccommentssjrrc@acerail.com) in which staff will read the comment aloud during the public comment period. Emailed public comments should be limited to approximately 240 words as comments will be limited to two (2) minutes per comment.

*This Agenda shall be made available upon request in alternative formats to persons with a disability, as required by the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132) and the Ralph M. Brown Act (California Government Code § 54954.2). Persons requesting a disability related modification or accommodation in order to participate in the meeting should contact San Joaquin Regional Rail Commission (SJRRC) staff, at (209) 944-6220, during regular business hours, at least twenty-four hours prior to the time of the meeting.*

*All proceedings before the Commission are conducted in English. Anyone wishing to address the SJRRC Board is advised to have an interpreter or to contact SJRRC during regular business hours at least 48 hours prior to the time of the meeting so that SJRRC can provide an interpreter. Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available upon request in both English and Spanish for public inspection at the Office of the Executive Director located at 949 East Channel Street, Stockton, California, 95202 during normal business hours or by calling (209) 944-6220. The Agenda is available on the San Joaquin Regional Rail Commission website: [www.sjrrc.com](http://www.sjrrc.com).*



949 East Channel Street

Stockton, CA 95202

(800) 411-RAIL (7245)

[www.acerail.com](http://www.acerail.com)

## 1. Call to Order, Pledge of Allegiance, Roll Call

Chair Fugazi

Roll Call: Hernandez, Mei, Hothi, Miller, Nuño, Young, Vice Chair Zuber, Chair Fugazi

Ex- Officios: Nguyen, Salazar, Zoslocki, Agar

## 2. Public Comments

Persons wishing to address the Commission on any item of interest to the public regarding rail shall state their names and addresses and make their presentation. Please limit presentations to two minutes. The Commission cannot take action on matters not on the agenda unless the action is authorized by Section 54954.2 of the Government Code. Materials related to an item on the Agenda submitted to the Board of Directors after distribution of the agenda packet are available for the public inspection in the Commission Office at 949 E. Channel Street during normal business hours. These documents are also available on the San Joaquin Regional Rail Commission website at <https://www.sjrrc.com/> subject to staff's ability to post the documents prior to the meeting.

## 3. Consent Calendar

3.1 Approve a Resolution of the Governing Board of the San Joaquin Regional Rail Commission (SJRRRC) Determining to Conduct Meetings of the SJRRRC Board of Commissioners Using Teleconferencing Pursuant to Government Code 54953 as Amended by AB 361 for the Period October 2, 2021 to October 31, 2021 **ACTION**

3.2 Approve a Resolution of the Governing Board of the San Joaquin Regional Rail Commission (SJRRRC) Determining to Conduct Meetings of the SJRRRC Board of Commissioners Using Teleconferencing Pursuant to Government Code 54953 as Amended by AB 361 for the Period November 1, 2021 to November 30, 2021 **ACTION**

4. **Approve a Resolution of the Board of Commissioners of the San Joaquin Regional Rail Commission Approving an Agreement with Mott MacDonald Group, Inc. (MottMac) for Professional Services for the Capital Projects Program for an Amount Not-To-Exceed \$97,000 and Authorizing the Executive Director to Execute Any and All Documents Related to the Project** **ACTION**  
(Stacey Mortensen/Regular Voting Members)

**5. Commissioner's Comments**

**6. Adjournment**

The next regular meeting is scheduled for:  
November 5, 2021 – 8:00 am

**SAN JOAQUIN REGIONAL RAIL COMMISSION**  
Special Meeting of October 29, 2021

STAFF REPORT

**Item 3.1**

**ACTION**

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**Approve a Resolution of the Governing Board of the San Joaquin Regional Rail Commission (SJRRRC) Determining to Conduct Meetings of the SJRRRC Board of Commissioners Using Teleconferencing Pursuant to Government Code 54953 as Amended by AB 361 for the Period October 2, 2021 to October 31, 2021**

Background:

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19. On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings electronically without a physical meeting place.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things, rescinded his prior Executive Order N-29-20, effective October 1, 2021. At that point, agencies would have transitioned back to public meetings held in full compliance with the preexisting Brown Act teleconference rules. Since the Governor issued Executive Order N-08-21, the Delta variant has emerged, causing a spike in cases throughout the state. As a result, the Governor's proclaimed State of Emergency remains in effect, and state and local officials, including San Joaquin Public Health Services, the California Department of Public Health and the Department of Industrial Relations, have imposed or recommended measures to promote social distancing.

On September 16, 2021, Governor signed Assembly Bill (AB) 361 into law, effective October 1, 2021, to allow agencies to use teleconferencing for public meetings during proclaimed state of emergencies without requiring the teleconference locations to be accessible to the public or a quorum of the members of the legislative body of the agency to participate from locations within the boundaries of the agency's jurisdiction. AB 361 will sunset on January 31, 2024.

Under AB 361, a local agency will be allowed to meet remotely without complying with prior Brown Act teleconference requirements when:

- a. The local agency holds a meeting during a state of emergency declared by the Governor, and either
- b. State or local health officials have imposed or recommended measures to promote social distancing, or
- c. The legislative body finds that meeting in person would present imminent risks to the health or safety of attendees.

As discussed above, the state of emergency is currently in effect and state and local officials continue to recommend social distancing. Therefore, the SJRRC may continue to conduct meetings via teleconference, as long as it adheres to the following emergency requirements under Government Code Section 54953(e)(2), added by AB 361:

1. The legislative body gives notice and posts agendas as otherwise required by the Brown Act, including directions for how the public can access the meeting.
2. The legislative body does not take formal action on any item whenever there is a disruption in the meeting broadcast.
3. The public is allowed to provide comment in real time.
4. The legislative body allows time during a public comment period for members of the public to register with any internet website required to submit public comment.

On October 1, 2021, the SJRRC Commission held its regular meeting via teleconference for the first time under AB 361. In accordance with Government Code Section 54953(e)(1), the Commission must make the AB 361 finding within 30 days of the first time it uses AB 361. The resolution accompanying this staff report makes those findings. As a result, any Commission meetings occurring October 1-31 may use the teleconferencing option under AB 361.

For upcoming teleconference meetings, the Board can continue to follow the AB 361 requirements by declaring every 30 days that it has reconsidered the circumstances of the state of emergency and either (1) the state of emergency continues to directly impact the ability of the members to meet safely in person, or (2) state or local officials continue to impose or recommend measures to promote social distancing. Resolutions making those findings will be presented at future meetings for consideration.

These findings can be made through the consent calendar.

#### Fiscal Impact:

There is no fiscal impact.

#### Recommendation:

Approve a Resolution of the Governing Board of the San Joaquin Regional Rail Commission (SJRRC) Determining to Conduct Meetings of the SJRRC Board of Commissioners Using Teleconferencing Pursuant to Government Code 54953 as Amended by AB 361 for the Period October 2, 2021 to October 31, 2021

**RESOLUTION SJRRC-R-21/22-**

**RESOLUTION OF THE GOVERNING BOARD OF THE SAN JOAQUIN REGIONAL RAIL COMMISSION (SJRRC) DETERMINING TO CONDUCT MEETINGS OF THE SJRRC BOARD OF COMMISSIONERS USING TELECONFERENCING PURSUANT TO GOVERNMENT CODE 54953 AS AMENDED BY AB 361 FOR THE PERIOD OCTOBER 2, 2021 TO OCTOBER 31, 2021**

WHEREAS, SJRRC is committed to preserving and nurturing public access and participation in meetings of the Board of Commissioners; and

WHEREAS, all meetings of the SJRRC's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), as amended by AB 361 (2021), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, Cal-OSHA adopted emergency regulations (Section 3205) imposing requirements on California employers, including measures to promote social distancing; and

WHEREAS, one or more of the counties within the SJRRC's boundaries remain under a Local Health Emergency due to the COVID-19 pandemic, acknowledging that close contact to other persons increases the risk of transmission; and

WHEREAS, currently the dominant strain of COVID-19 in the country is more transmissible than prior variants of the virus, may cause more severe illness, and that

even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations, therefore, meeting in person would present imminent risks to the health or safety of attendees.

WHEREAS, on October 1, 2021, the SJRRC Board of Commissioners held its regular meeting remotely by teleconference/video conference for the first time in accordance with Government Code Section 54953(e) and hereby desires to adopt this resolution within 30 days of that meeting as required by said section in order to continue to use remote teleconference/videoconference for the 30 days thereafter.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF SJRRC DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Finding of Imminent Risk to Health or Safety of Attendees. The SJRRC Board of Commissioners does hereby find that the current dominant strain of COVID-19 in the country is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations has caused, and will continue to cause, conditions of peril to the safety of persons, thereby presenting an imminent risk to health and/or safety to SJRRC's employees and other representatives, and attendees of SJRRC's public meetings; and

Section 3. Teleconference Meetings. The Board of Commissioners does hereby determine as a result of the State of Emergency proclaimed by the Governor, and the recommended measures to promote social distancing made by State and local officials that the SJRRC Board of Commissioners may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e)(1)(A) and (B) of section 54953, and shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

Section 4. Direction to Staff. The Executive Director and SJRRC staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately.

PASSED AND ADOPTED, by the Board of Commissioners this 29<sup>th</sup> day of October 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

SAN JOAQUIN REGIONAL RAIL  
COMMISSION

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STACEY MORTENSEN, Secretary

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CHRISTINA FUGAZI, Chair

**SAN JOAQUIN REGIONAL RAIL COMMISSION**  
Special Meeting of October 29, 2021

STAFF REPORT

**Item 3.2**

**ACTION**

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**Approve a Resolution of the Governing Board of the San Joaquin Regional Rail Commission (SJRRC) Determining to Conduct Meetings of the SJRRC Board of Commissioners Using Teleconferencing Pursuant to Government Code 54953 as Amended by AB 361 for the Period November 1, 2021 to November 30, 2021**

Background:

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19. On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings electronically without a physical meeting place.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things, rescinded his prior Executive Order N-29-20, effective October 1, 2021. At that point, agencies would have transitioned back to public meetings held in full compliance with the preexisting Brown Act teleconference rules. Since the Governor issued Executive Order N-08-21, the Delta variant has emerged, causing a spike in cases throughout the state. As a result, the Governor's proclaimed State of Emergency remains in effect, and state and local officials, including San Joaquin Public Health Services, the California Department of Public Health and the Department of Industrial Relations, have imposed or recommended measures to promote social distancing.

On September 16, 2021, Governor signed Assembly Bill (AB) 361 into law, effective October 1, 2021, to allow agencies to use teleconferencing for public meetings during proclaimed state of emergencies without requiring the teleconference locations to be accessible to the public or a quorum of the members of the legislative body of the agency to participate from locations within the boundaries of the agency's jurisdiction. AB 361 will sunset on January 31, 2024.

Under AB 361, a local agency will be allowed to meet remotely without complying with prior Brown Act teleconference requirements when:

- a. The local agency holds a meeting during a state of emergency declared by the Governor, and either
- b. State or local health officials have imposed or recommended measures to promote social distancing, or

- c. The legislative body finds that meeting in person would present imminent risks to the health or safety of attendees.

As discussed above, the state of emergency is currently in effect and state and local officials continue to recommend social distancing. Therefore, the SJRRC may continue to conduct meetings via teleconference, as long as it adheres to the following emergency requirements under Government Code Section 54953(e)(2), added by AB 361:

1. The legislative body gives notice and posts agendas as otherwise required by the Brown Act, including directions for how the public can access the meeting.
2. The legislative body does not take formal action on any item whenever there is a disruption in the meeting broadcast.
3. The public is allowed to provide comment in real time.
4. The legislative body allows time during a public comment period for members of the public to register with any internet website required to submit public comment.

On October 1, 2021, the SJRRC Commission held its regular meeting via teleconference for the first time under AB 361. In accordance with Government Code Section 54953(e)(1), the Commission must make the AB 361 findings within 30 days of the first time it uses AB 361. Item 3.1 sought adoption of a resolution making those findings. That resolution addressed SJRRC teleconference meeting occurring through October 31.

For upcoming teleconference meetings through November 30, 2021, the Board can continue to follow the AB 361 requirements by declaring that it has reconsidered the circumstances of the state of emergency and either (1) the state of emergency continues to directly impact the ability of the members to meet safely in person, or (2) state or local officials continue to impose or recommend measures to promote social distancing. Resolutions making those findings will be presented at future meetings for consideration. The resolution accompanying this staff report makes those findings. Upon adoption, Commission meetings through November 30, including the November 5, 2021, regular meeting may be by teleconference in accordance with AB 361.

These findings can be made through the consent calendar.

Fiscal Impact:

There is no fiscal impact.

Recommendation:

Approve a Resolution of the Governing Board of the San Joaquin Regional Rail Commission (SJRRC) Determining to Conduct Meetings of the SJRRC Board of Commissioners Using Teleconferencing Pursuant to Government Code 54953 as Amended by AB 361 for the Period November 1, 2021 to November 30, 2021.

**RESOLUTION SJRRC-R-21/22-**

**RESOLUTION OF THE GOVERNING BOARD OF THE SAN JOAQUIN REGIONAL RAIL COMMISSION (SJRRC) DETERMINING TO CONDUCT MEETINGS OF THE SJRRC BOARD OF COMMISSIONERS USING TELECONFERENCING PURSUANT TO GOVERNMENT CODE 54953 AS AMENDED BY AB 361 FOR THE PERIOD NOVEMBER 1, 2021 TO NOVEMBER 30, 2021**

WHEREAS, SJRRC is committed to preserving and nurturing public access and participation in meetings of the Board of Commissioners; and

WHEREAS, all meetings of the SJRRC's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), as amended by AB 361 (2021), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, Cal-OSHA adopted emergency regulations (Section 3205) imposing requirements on California employers, including measures to promote social distancing; and

WHEREAS, one or more of the counties within the SJRRC's boundaries remain under a Local Health Emergency due to the COVID-19 pandemic, acknowledging that close contact to other persons increases the risk of transmission; and

WHEREAS, currently the dominant strain of COVID-19 in the country is more transmissible than prior variants of the virus, may cause more severe illness, and that

even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations, therefore, meeting in person would present imminent risks to the health or safety of attendees.

WHEREAS, since October 1, 2021, the SJRRC Board of Commissioners has held its meeting remotely by teleconference/video conference in accordance with Government Code Section 54953(e) and hereby desires to adopt this resolution to continue holding its meetings remotely in accordance with that section for the next 30 days.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF SJRRC DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Finding of Imminent Risk to Health or Safety of Attendees. The SJRRC Board of Commissioners does hereby find that the current dominant strain of COVID-19 in the country is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations has caused, and will continue to cause, conditions of peril to the safety of persons, thereby presenting an imminent risk to health and/or safety to SJRRC's employees and other representatives, and attendees of SJRRC's public meetings; and

Section 3. Teleconference Meetings. The Board of Commissioners does hereby determine as a result of the State of Emergency proclaimed by the Governor, and the recommended measures to promote social distancing made by State and local officials that the SJRRC Board of Commissioners may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e)(1)(A) and (B) of section 54953, and shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

Section 4. Direction to Staff. The Executive Director and SJRRC staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect on November 1, 2021 for a period of 30 days.

PASSED AND ADOPTED, by the Board of Commissioners this 29<sup>th</sup> day of October 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

SAN JOAQUIN REGIONAL RAIL  
COMMISSION

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STACEY MORTENSEN, Secretary

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CHRISTINA FUGAZI, Chair

# SAN JOAQUIN REGIONAL RAIL COMMISSION

Special Meeting of October 29, 2021

## STAFF REPORT

Item 4

ACTION

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**Approve a Resolution of the Board of Commissioners of the San Joaquin Regional Rail Commission Approving an Agreement with Mott MacDonald Group, Inc. (MottMac) for Professional Services for the Capital Projects Program for an Amount Not-To-Exceed \$97,000 and Authorizing the Executive Director to Execute Any and All Documents Related to the Project**

Background:

In June 2021, the Rail Commission's Director of Capital Projects left the agency for a job opportunity in the Bay Area. The Director had been mentoring the existing Senior Planner in the department over the prior 8 months on managing the programming effort and capital project support related to the \$1.3B Valley Rail Program.

In discussions with the Rail Commission Chair and Vice-Chair, the initial strategy for keeping the Valley Rail program on track was to allow the Senior Planner to demonstrate success in managing as many projects as he was capable of and to change his title to Manager of Capital Programs. Based upon this approach, the Rail Commission sought to recruit Assistant and Associate level planners. The availability of candidates at the Director position was limited as seen by other local agencies looking for the same position and them not being yet filled.

The now Manager of Capital Programs and Associate Planner kept all projects progressing through the Summer and into the Fall. Recruitments for the Assistant and Associate Planners were underway and resulting in interviews of candidates. However, in late September, the Manager of Capital Programs, who was bearing the majority of the workload, accepted a promotional position in Sonoma County.

Without either of the two (2) senior staff who had been managing over 40 projects, and, given the fact that the job market was not yielding qualified candidates in a timely manner, the Rail Commission Executive Team, in consultation with Counsel, determined quick consultant support was needed to keep the projects moving.

With over forty (40) projects in various stages of environmental review, engineering, right-of-way acquisition and construction, the Executive Team had to rule out many consultants due to their current roles on the projects that could create the perception of a conflict.

Mott MacDonald Group, Inc. (MottMac) however, is not performing any current services for the Rail Commission that could be viewed as a conflict and MottMac is familiar with the agency's programs and history. MottMac was the construction manager for the landmark Rail Maintenance Facility.

MottMac has numerous employees sequestered to VTA for the BART to San Jose expansion. Due to some delays in that work effort, MottMac was able to provide 2 employees for consideration who possess the qualifications needed to help manage the Valley Rail Program in the interim while a recruitment for a Director and Manager of the Capital Projects is underway. The climate for recruiting these particular positions is extremely competitive and the qualified candidate pool is sparse. At this time, SacRT, San Joaquin County, Caltrans, City of Manteca, and several local engineering firms are all looking to fill similar positions. Given the upcoming holiday period and the competitive climate, it is possible the interim consultant support may be needed until Spring. Given the urgent needs of the projects, staff and Counsel have decided that a short-term sole source contract with MottMac meets the requirements of Section 7.1 of the Rail Commission Procurement Manual.

#### Non-Competitive Procurement

Section 7.1 of SJRRC's Procurement Manual sets forth the criteria allowing for sole source purchases. Pursuant to Sections 7.1.1.3 "The sole source must be the only known source of supply with the capability of meeting the bona fide specification requirements." And 7.1.1.5 "[Where] [t]here are other sources of supply but because of financial, schedule, performance, and other factors a single source of supply is immune from effective competition. Such an immunity is created when the award to a different contractor would create a waste of SJRRC funds resulting from a substantial increase in support costs, a substantial schedule delay not owing to poor planning by SJRRC, an unacceptable technical risk towards completion of a project (or continuation of a warranty), or substantial increases in lifecycle costs."

At this time, it is in the Rail Commission's best interest to approve a sole source agreement with Mott MacDonald Group, Inc. for these services based on the following:

- Due to the immediate need for these services, there would be a substantial schedule delay in over 40 projects if these services were not available to the Rail Commission.
- Delays would cause a substantial increase in support costs since projects would be pushed and support staff would have to work more hours to make up for the deficit.
- An unacceptable technical risk towards the project could result in the loss of funding for the Valley Rail Program if certain milestones are not met.

- Substantial increases in lifecycle costs could result due to having to utilize consultants more, increase their contract amounts, or extend their contracts longer.
- The Contracts and Compliance Department and a Director have confirmed that the procurement qualifies as a sole source purchase, budgeted funds are available, and Legal Counsel has been consulted.

Rail Commission staff, in accordance with the procedures set forth in Section 7.1.2 of the Procurement Manual, have determined that this contract qualifies as a non-competitive procurement.

Fiscal Impact:

Funding for this agreement is identified in the FY 21-22 Operating Budget within the Professional Services line item.

Recommendation:

Approve a Resolution of the Board of Commissioners of the San Joaquin Regional Rail Commission Approving an Agreement with Mott MacDonald Group, Inc. (MottMac) for Professional Services for the Capital Projects Program for an Amount Not-To-Exceed \$97,000 and Authorizing the Executive Director to Execute Any and All Documents Related to the Project.

**RESOLUTION SJRRC-R-21/22-**

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE SAN JOAQUIN REGIONAL RAIL COMMISSION APPROVING AN AGREEMENT WITH MOTT MACDONALD GROUP, INC. (MottMac) FOR PROFESSIONAL SERVICES FOR THE CAPITAL PROJECTS PROGRAM FOR AN AMOUNT NOT-TO-EXCEED \$97,000 AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE ANY AND ALL DOCUMENTS RELATED TO THE PROJECT**

WHEREAS, the Rail Commission has over forty (40) projects in various stages of environmental review, engineering, right-of-way acquisition and construction as part of the \$1.3B+ Valley Rail Program expansion; and

WHEREAS, staff vacancies in the Programming and Capital Projects department necessitate immediate support to oversee staff and consultant project managers in order for the projects to continue; and

WHEREAS, consultants available to provide support are limited due to so many consultants being under contract to perform various phases of project work; and

WHEREAS, MottMac has a qualified consultant available to perform the oversight services and MottMac is not performing any other services that could lead to a conflict of interest; and

WHEREAS, at this time, it is in the Rail Commission's best interest to approve a sole source agreement with Mott MacDonald Group, Inc. to support the delivery of the capital projects; and

WHEREAS, Rail Commission staff, in accordance with the procedures set forth in Section 7.1.2 of the Procurement Manual, have determined that this contract qualifies as a non-competitive procurement; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the San Joaquin Regional Rail Commission hereby Approves an Agreement with Mott Macdonald Group, Inc. (MottMac) for Professional Services for the Capital Projects Program For an Amount Not-to-exceed \$97,000 and Authorizing the Executive Director to Execute Any and All Documents Related to the Project.

PASSED AND ADOPTED, by the Board of Commissioners this 29<sup>th</sup> day of October 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

SAN JOAQUIN REGIONAL RAIL  
COMMISSION

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STACEY MORTENSEN, Secretary

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CHRISTINA FUGAZI, Chair