

RESOLUTION NO. 2022-77

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
AUTHORIZING PURSUIT OF A LEASE AGREEMENT WITH THE
TRANSPORTATION AGENCY OF MONTEREY COUNTY TO LEASE A
PORTION OF THE MONTEREY BRANCH LINE TO BE USED FOR
RECREATIONAL PURPOSES, SELECTING AN OPERATOR FOR THE
MONTEREY BRANCH LINE, AND DETERMINING THE TERM OF LEASE
FOR THE OPERATOR.

WHEREAS, the City of Marina received two unsolicited proposals for temporary recreational use of a portion of the Monterey Branch Line; and

WHEREAS, the City Council can reject both proposals or select one to operate within the Monterey Branch Line right-of-way on a temporary basis; and

WHEREAS, the decision of the City Council authorizes City staff to formalize a lease agreement with the selected operator, perform any required CEQA analysis, and issue any required permits prior to use of the Monterey Branch Line.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Marina that does hereby:

- (1) Select Museum of Handcar Technology to operate within the Monterey Branch Line right-of-way on a temporary basis, subject to the conditions of approval in a valid lease agreement and any required permits; and
- (2) Direct staff to formalize a lease agreement with Museum of Handcar Technology, perform any required CEQA analysis, and issue any required permits prior to use of the Monterey Branch Line.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of June, by the following vote:

AYES, COUNCIL MEMBERS: Berkley, Biala, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: Medina Dirksen, Burnett

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

Building

Parking, restroom facilities, path of travel from parking to the designated loading area

Fire

1. Fire is requiring an Emergency Response Plan to be approved by the Fire Department prior to operation that includes Seaside Fire (This project falls within both the Marina and Seaside Fire Departments' response area)
2. All adopted Marina City Fire Code ordinances are followed
3. The final plot plan to be approved by the Fire Department. The Fire Department will check for access and hydrants

Engineering

Museum of Handcar Technology

1. Any improvements or staging within the City right-of-way will require an Encroachment Permit. Review the attached permit application form for standard conditions and submittal requirements.
2. The following additional information and clarifications will be required for your permit application:
 - a. Provide a structural section for the parking lot road base. Show grades (directional % grades and spot elevations) for the general parking lot area.
 - b. For the ADA parking space, a site-specific detail will be required showing compliance to current parking standards.
 - c. Since your proposed operational window is year-round, provide a plan sheet for how stormwater best management practices will be implemented on your project site.
 - d. Provide details for installation of the proposed wooden fencing. Will this require concrete foundations for your posts?
 - e. Will the ticket booth and handcar shed require a concrete foundation?
 - f. Will any grading take place (e.g. moving dirt to level the site)? Moving more than 2,500 sq ft or 50 cubic yards of soil will require a grading permit.
 - g. Will there be any trimming or other impacts to local trees? Please see City Municipal Code Chapter 17.62 and coordinate directly with the Planning Division should any trees be impacted in the vicinity of your project site.
3. The location proposed for the storage containers is not approved as it blocks an emergency access road that traverses parallel to Marina Drive. Relocate your storage containers off of the access road.
4. Any addressing for the site will require a New Address application through the Public Works Department.

Mendocino Railway

1. Any improvements or staging within the City right-of-way will require an Encroachment Permit. Review the attached permit application form for standard conditions and submittal requirements.
2. Submit a preliminary site plan showing the locations of:
 - a. Storage container(s)
 - b. Staging area
 - c. Turntables
 - d. Charging stations
 - e. Parking area

DRAFT - LEASE

This LEASE AGREEMENT, hereinafter called “LEASE” is made between the TRANSPORTATION AGENCY FOR MONTEREY COUNTY, hereinafter called “LESSOR” and the CITY OF MARINA, hereinafter called “LESSEE” as of the last date opposite the respective signatures below as follows:

1. DESCRIPTION OF PREMISES

The LESSOR hereby leases to LESSEE, and TENANT hires from LESSOR, on the terms and conditions hereinafter set forth, in a nonexclusive grant lease, those certain premises (Premises) known as the property (hereafter referred to as the “Property”).

- a. Exhibit A depicts three sub-components of the Property, identified as Area 1, Area 2 and Area 3.
- b. The Property includes an encroachment into the LESSOR’s railroad right of way, located in the County of Monterey, for an approximate length of three and a half (3.5) miles from the Palm Avenue and Marina Drive intersection in Marina, under the Highway 1 overcrossing and over the bike path, to the balloon spur tracks in the Fort Ord Dunes State Park (Area 1), with a possible additional two and a half (2.5) miles towards Sand City (Area 2). There is also an area of fifty (50) by two hundred and twenty-five (225) feet for a fenced in storage area along the railroad tracks in the City of Marina near Marina Drive and Palm Avenue (Area 3). Besides the railroad track, there are no buildings or permanent structures on the Premises.
- c. The LESSEE is directly overseeing recreational uses outlined in the SUBLESSEE’s proof of concept for the Project (Project).
- d. LESSEE agrees to prohibit entry to the Property to anyone not participating in the leased activities.

2. TERM

The initial term shall be two (2) years and the term of this Lease shall begin on **xx date** (“Lease Commencement Date”) and will continue until **xx date** terminated sooner as provided for hereinafter in **Section 16**. Upon completion of the initial lease term, the LESSOR and LESSEE may renew the Lease for **xx additional term**. During initial or renewed lease term, LESSOR reserves the right to end lease term. LESSEE shall give LESSOR written notice of its intent to renew sixty (60) days prior to expiration of initial lease term. Said

advance notice period of sixty (60) days may be altered by mutual consent. LESSOR shall give LESSEE advance written notice of its intent to end lease term thirty (30) days prior to end of lease term.

3. TERMINATION BY LESSOR

- a. LESSEE understands and agrees that the LESSOR has future plans for the Property, such as the SURF! Busway and Bus Rapid Transit Project, and other transportation uses. Thus, LESSEE agrees to vacate the Property during the term of the Agreement or any renewal or extension of the Lease, without liability to the LESSOR.
- b. LESSOR may terminate this LEASE if there is a default by the LESSEE with respect to any of the provisions of this LEASE or LESSEE's obligations under it, including the payment of the Rent, after giving LESSEE notice of default and failure by LESSEE to cure the default within thirty (30) days. This provision, however, shall not be deemed to extend the term of the LEASE by any cure period.

4. DESIGNATION OF LEAD AGENCY

The California Environmental Quality Act ("CEQA") provides that where a proposed project is to be carried out or approved by more than one public agency, an agency is to be determined to be the Lead Agency under CEQA, and such Lead Agency is to be responsible for preparing the appropriate environmental documentation. Section 15051(d) of CEQA Guidelines (14 CCR § 15051) also provides that where more than one public agency meets the criteria for being a Lead Agency, the public agencies may designate a Lead Agency by agreement. The Parties agree that the CITY OF MARINA, the LESSEE, shall be designated as the Lead Agency for the purpose of environmental review, or any other review or oversight process such as environmental compliance and site inspections before or during the LEASE period.

The CITY OF MARINA, as Lead Agency, shall be responsible for the costs of conducting any said environmental review, up to and including possible approval of the environmental document, and litigation (if any) related to such approval.

5. PAYMENT FOR COST RECOVERY

LESSEE agrees to pay LESSOR a non-refundable payment of Twenty Thousand Dollars (\$20,000) upon execution of the LEASE as a not-to-exceed amount for LESSOR staff and legal counsel for certain reasonable and necessary costs for the timely review, processing,

and administration time to oversee and verify compliance with this LEASE, such as environmental compliance and site inspections before, during, and after the TERM period.

6. RENT

LESSOR AND LESSEE agree that the monthly rent for the term of this Lease shall be structured based on the cost of 4.6 cents per square foot per month for Areas 1 and 2 and 14 cents per square foot per month for Area 3.

- a. LESSEE agrees to pay LESSOR non-refundable monthly rent in the amount of Four Thousand, Two Hundred and Forty-Eight Dollars (\$4,248) for Area 1.
- b. LESSEE agrees to pay LESSOR non-refundable monthly rent in the amount of Three Thousand and Thirty-Five Dollars (\$3,035) for Area 2 if and only if LESSEE agrees to the use of Area 2.
- c. LESSEE agrees to pay LESSOR non-refundable monthly rent in the amount of One Thousand, Five Hundred Seventy-Five Dollars (\$1,575) for the use of Area 3.

7. USE/FACILITIES COVERED

The use of the facilities is to be limited to the rail line area noted in the description of premises. Use of the rail line is limited to recreational uses as described **Section 8**. The use of surrounding property for storage is limited to Area 3. Any irreversible changes to the Property must first be proposed to LESSOR and approved by LESSOR. Additionally, any irreversible changes are to be within any safety standards pursuant to the type of changes proposed and it is the LESSEE'S duty to be knowledgeable about and compliant with all legal requirements, including but not limited to, federal, state, and local statutory and regulatory obligations.

8. PERMITTED USES OF ACTIVITY USE AREAS

LESSEE shall be entitled to use or SUBLEASE the Premises for recreational activities including recreational vehicles along Route, vegetation and debris clearing along Route, storage of recreational materials in designated areas, and for giving trainings and guided tours along Route. LESSOR shall be able to use the property to access any areas including, but not limited to, areas relevant to current or future studies, transportation, utilities and engineering projects and other official uses of the Property or Route.

9. MAINTENANCE AND REPAIR

LESSOR makes no representations as to the condition of the Property. LESSEE takes occupancy of this Property in an “as is” condition. LESSEE acknowledges that the Property and all improvements thereon are in good order and condition, and LESSEE hereby covenants and agrees to keep the same in good order and condition during the term of this Lease, and upon the expiration of this Lease and any renewal term to surrender the Property and improvements to LESSOR in as good condition as when received, except for loss or damage by fire, natural disaster, act of God, and reasonable use and wear. LESSOR will not repair or maintain nor contribute funding toward the repair or maintenance of the Property during the term of this LEASE.

10. MODIFICATIONS AND ALTERATIONS

All and any modifications and alterations made by LESSEE or SUBLESSEE shall be approved by the LESSOR as well as any relevant local or state agencies. Any permanent modifications or alterations by the LESSEE or SUBLESSEE to the tracks or railroad ties of the PROPERTY shall be within specifications that have been proposed to LESSOR reviewed by LESSOR and approved by LESSOR. Non-permanent modifications, including but not limited to tenting, portable restrooms, storage units, fencing, signage, waste receptacles and other items utilized during the terms of the Lease will be removed and Area 3 shall be cleaned and restored to its pre-Lease condition once the Lease term has ended. Any issues or complaints related to non-permanent modifications shall be the responsibility of LESSEE to address and, if appropriate, correct.

If the LESSOR approves of a proposed permanent modification, the LESSOR may also require that the LESSEE return the property to its original or improved condition prior to the termination of the LEASE. If LESSOR does in fact require this, the LESSEE will give the LESSOR the opportunity to review the final condition of the property to ensure that the property has in fact been returned to its original or improved condition.

11. DESTRUCTION OF PREMISES

LESSEE agrees not to commit or suffer to be committed any waste or injury or any public or private nuisance, and to keep the premises clean and clear of use or storage of hazardous materials as defined by local, state, and federal laws, rules, or regulations, and clear of any refuse and obstructions, and to dispose of all garbage, trash, and rubbish in a manner satisfactory to LESSOR. If the leased premises shall be damaged by LESSEE or SUBLESSEE which damage puts the premises into a condition which is not decent, safe, healthy, and sanitary, LESSEE agrees to make or cause to be made full repair of said damage caused by

LESSEE or SUBLESSEE and to restore the premises to the condition which existed prior to said damage, or LESSEE agrees to clear and remove from the leased premises all debris and contaminants resulting from said damage caused by LESSEE or SUBLESSEE and rebuild or restore the premises to the condition which existed prior to such damage. LESSEE agrees to use any insurance proceeds which may become available from any such damage to first pay for the cost of any repairs and restorations.

12. MUTUAL INDEMNIFICATION AND INSURANCE

a. INDEMNIFICATION

- i. In consideration for use of the Property, LESSEE agrees to indemnify, defend, and save harmless LESSOR and its officers, agents, and employees, from and against any and all claims, liabilities, or losses whatsoever arising out of or in any way related to LESSEE'S use of the Property under this LEASE, including but not limited to claims for Property damage, personal injury, death, injuries to reputation, economic losses, and emotional distress, and any legal expenses (such as attorney's fees, court costs, investigation costs, and expert fees) incurred by the LESSOR in connection with such claims. "LESSEE'S use" includes LESSEE'S or SUBLESSEE'S action or inaction and the action or inaction of its officers, employees, and agents, including but not limited to SUBLESSEE'S customers. The obligation of LESSEE to indemnify does not extend to claims or losses arising out of the sole negligence or willful misconduct of the LESSOR or LESSOR'S directors, officers, agents, or employees.
- ii. LESSEE agrees to indemnify, defend, and save harmless LESSOR and its directors, officers, agents, and employees from and against any equipment or bodily injury damages sustained by any party using the Property.

b. INSURANCE

- i. Commercial general liability insurance including but not limited to premises, personal injuries, products, operations and completed operations, to protect against loss from liability imposed by law for damages occurring on account of bodily injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever, resulting directly or indirectly from any act or activities of LESSOR or LESSEE, its SUBLESSEE or any person acting for LESSOR or LESSEE or under its control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from acts or activities of LESSOR or LESSEE, or its SUBLESSEE, or

any person acting for LESSOR or LESSEE, or under its control or direction. Such insurance shall also provide for and protect LESSOR against incurring any legal cost in defending claims for alleged loss. Such public liability and property damage insurance shall be maintained in full force and effect during the entire term of this Lease in the amount of not less than \$1,000,000 combined single limit per occurrence and \$2,000,000 in the aggregate. Coverage shall be at least as broad as ISO Commercial General Liability Occurrence Form CG0001.

- ii. Workers' Compensation Insurance. If LESSEE or SUBLESSEE employs others in the performance of this contract, LESSEE or SUBLESSEE shall procure and maintain during the entire term of this Lease a Workers' Compensation Insurance Policy in accordance with California Labor Code section 3700 and with a minimum of \$1,000,000 per occurrence for employer's liability.
- iii. All insurance required by this LEASE shall be with a company acceptable to LESSOR and authorized by law to transact insurance business in the State of California. All such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of two years following termination of this LEASE. Each liability policy shall provide that LESSOR shall be given notice in writing at least thirty (30) days in advance of any endorsed reduction in coverage or limit, cancellation or intended non-renewal thereof.
- iv. Liability policies shall provide an endorsement naming LESSOR, their directors, officers, agents, and employees, as Additional Insureds and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the LESSOR and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by LESSEE'S insurance.
- v. Prior to execution of this LEASE by LESSOR, LESSEE shall file certificates of insurance with LESSOR, showing that the LESSEE has in effect the insurance required by this LEASE. LESSEE shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy that would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. LESSEE agrees that the provisions of this section as to insurance shall not be construed as limiting in any way the extent to which the LESSEE may be held responsible for the payment of damages to

persons or property resulting from LESSEE's activities, the activities of its SUBLESSEE or the activities of any person or persons for which Tenant is otherwise responsible.

- vi. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by LESSOR. At the option of the LESSOR either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or LESSEE shall provide a financial guarantee satisfactory to LESSOR guaranteeing payment of losses and related investigations, claim administration and defense expenses.

13. LIENS

LESSEE agrees to keep the Property free from liens of every character, and in the event that any liens for labor or materials should arise during the term hereof on account of any act or omission by LESSEE arising from LESSEE's use of the Property, LESSEE agrees to discharge and pay the same.

14. NO GIFT OF PUBLIC FUNDS

This LEASE prohibits the giving or lending of public funds to any person or entity, public or private. Prohibition includes aid, making of gift, pledging of credit or payment of liabilities and encompasses the giving of monetary funds and any "thing of value".

15. COMPLIANCE WITH LAWS

LESSEE shall not do, or permit to be done, or keep, or permit to be kept, in or about the Property, anything which shall be a nuisance, or which shall be in violation of any law, ordinance, rule or regulation of any governmental authority, or of any rule or regulation of the, relating to the Property, or which shall increase, or tend to increase, the existing rates of insurance of the Property.

16. TERMINATION

This lease may be terminated by either party as of the last day of any calendar month by giving sixty (60) days prior written notice thereof to the other party. Termination of this lease shall not terminate either party's obligation to defend, indemnify and hold harmless the other, as provided in this Lease, nor shall terminate either party's obligation to maintain sufficient insurance, as provided in this Lease.

17. DEFAULT

- a. The occurrence of any of the following, to the extent of the LESSEE's use, shall constitute a default by the LESSEE: Abandonment and vacation of the Property for thirty (30) days.
- b. Failure to perform any other provision of this LEASE if the failure to perform is not cured within thirty (30) days after notice has been given to LESSEE. If the default cannot be reasonably cured within thirty (30), LESSEE shall not be in default of this LEASE if LESSEE commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default.
- a. Upon default, LESSOR shall have the right to terminate this LEASE and take possession of the Property. Said remedy is not exclusive and is cumulative in addition to other remedies now or later allowed by law.

18. CONDITIONS TO LEASE

LESSOR reserves the right to grant access to people including, but not limited to, TAMC employees, contractors, and TAMC project affiliates. This LEASE certifies that LESSEE and any SUBLESSEES must accommodate the other users of the Route and Property.

19. ASSIGNMENT AND SUBLETTING

LESSEE may not assign this LEASE, or any interest herein, or underlet the Property, or any part thereof, without the prior written consent of the LESSOR which shall not be unreasonably withheld. LESSEE agrees that any SUBLEASE entered cannot conflict with the terms of the LEASE.

20. COORDINATION:

The parties to this LEASE agree that, unless otherwise indicated in writing, the following persons have primary responsibility for liaison and coordination of activities required to carry out this LEASE:

for LESSOR: TAMC

for LESSEE: City of Marina

Todd Muck, Executive Director

Layne Long, City Manager

todd@tamcmonterey.org

llong@cityofmarina.org

21. INSPECTION

LESSOR has the right to inspection of the property within twenty-four (24) hours of a written or verbal notification to the LESSEE.

22. NONDISCRIMINATION:

The LESSEE herein covenants by and for itself, administrators and assigns, and all persons claiming under or through them, and this LEASE is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons on account of race, color creed, disability, religion, sex, marital status, national origin, ancestry, or sexual preference in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the land herein leased, nor shall the LESSEE itself or any person claiming under or through LESSEE establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of lessees, sublessees, or vendees on the Property herein leased.

23. NOTICE

Any notices that either party desires to or is required to give to the other party or any other person shall be sent by email. Such notices shall be addressed to the other party at the address set forth above. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within seventy-two (72) hours from the date of emailing, if emailed as provided in this paragraph. LESSEE shall not assign out rights to any other party.

24. SUCCESSORS AND RESTRICTION ON ASSIGNMENT

LESSEE shall not assign its rights under this agreement. This LEASE, and all terms, covenants, and conditions hereof, shall be binding upon and shall inure to the benefit of the heirs, legal representatives, and successors of the respective parties hereto.

25. OWNERSHIP

The LESSOR is the owner of the Property and all site improvements on the Property on the effective date of this LEASE. All right, title, and interest in and to the Property and those site improvements shall belong to the LESSOR, including improvements made by LESSEE as described in Paragraph 10.

26. POSSESSORY INTEREST AND PROPERTY TAXES

Pursuant to California Revenue and Taxation Code section 107.6, notice is hereby given that LESSEE is responsible for any possessory interest, utility or Property taxes that may be imposed as a result of, or related to, this LEASE. Additionally, any fines imposed on the Property during the LEASE period that are a result of LESSEE's actions, or the actions of the use permitted by LESSEE on the property, shall be the sole responsibility of LESSEE.

Transportation Agency for Monterey County – City of Marina Lease

IN WITNESS WHEREOF the parties hereto have executed this LEASE this ____ day of _____, 2022.

CITY OF MARINA, LESSEE:

BY: _____

Layne Long, City Manager

Approved as to form:

City Attorney

TRANSPORTATION AGENCY FOR MONTEREY COUNTY, LESSOR

BY: _____

Todd Muck, Executive Director

Approved as to form:

TAMC Counsel

Exhibit A



Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

**THE CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2022-
AUTHORIZING PURSUIT OF A LEASE AGREEMENT WITH THE
TRANSPORTATION AGENCY OF MONTEREY COUNTY TO LEASE A
PORTION OF THE MONTEREY BRANCH LINE TO BE USED FOR
RECREATIONAL PURPOSES, SELECTING AN OPERATOR FOR THE
MONTEREY BRANCH LINE, AND DETERMINING THE TERM OF
LEASE FOR THE OPERATOR.**

RECOMMENDATION: City Council consider

- (1) Authorizing pursuit of a lease agreement with the Transportation Agency of Monterey County (TAMC) to lease a portion of the Monterey Branch Line to be used for recreational purposes; and,
- (2) Selecting an operator for the Monterey Branch Line and determining the term of lease for the operator.

SUMMARY:

Provides an overview of two unsolicited proposals for temporary recreational use of a portion of the Monterey Branch Line, including a section within Marina City limits.

BACKGROUND:

The Transportation Agency of Monterey County (TAMC) received two unsolicited proposals for temporary use of a portion of the TAMC-owned Monterey Branch Line, including a section within Marina City limits. The TAMC Board of Supervisors directed their staff to pursue leasing a portion of the Monterey Branch Line to the City of Marina, which would ultimately be responsible for performing CEQA analysis for the project and issuing permits to the winning proposal. A lease agreement between TAMC, the City of Marina, and the winning proposal would formalize operation requirements and conditions of approval.

The City Council may reject both proposals or decide to pursue a lease agreement with one of the operators. Due to the nature of each operation and the linear arrangement of the Monterey Branch Line, both operations cannot use the right-of-way in tandem. The staging area for either operation would be located in the City of Marina near the intersection of Del Monte Boulevard and Palm Avenue, and the City will take the lead in determining what conditions of approval should apply to a permitted temporary use.

Planning staff have analyzed proposals from the Museum of Handcar Technology (received April 12, 2022) and Mendocino Railway (received April 20, 2022) for completeness, intensity of proposed uses, types of improvements proposed at the staging area, and impacts to surrounding land uses, including residential uses. Either use presents challenges, and a design review committee (DRC) was assembled to review and provide input on each proposal. DRC comments are included in **EXHIBIT A**. An analysis of each proposal is included below.

Museum of Handcar Technology

The proposal consists of human-powered push handcars operating on a 4-mile segment of rail between Marina and a point near the southern edge of Fort Ord Dunes State Park. The operator would serve about 1,300 customers per month, primarily on Saturdays and Sundays with some trips on Fridays and holidays. The operator seeks to provide trips year-round but is amenable to seasonal operations if the City will not sanction year-round use of the staging area. Hours of operation would be 9 a.m. to 5 p.m. (8 p.m. during the summer).

The operator proposes to surface a portion of the TAMC and City right-of-way with compacted road base to accommodate 25 parking spaces and one paved ADA-compliant space. Access to the parking area would be via Marina Drive. A split-rail fence would be installed around the parking and staging area. The operator also proposes to install an at-grade crossing where the railway intersects with the Monterey Bay Coastal Recreation Trail, approximately one-third mile south of the staging area.

The operator has prior experience working in Marina and utilized the same staging area and a similar stretch of railway for operations last year. Additional changes to this year's proposal include storage containers for overnight storage of handcars (as opposed to metal security fencing), a portable audio system for safety briefings oriented toward Del Monte Boulevard (as opposed to residences on Marina Drive), and a loading area consisting of a platform of stone pavers (as opposed to an unimproved surface). The operator is requesting to be assigned an address and requires 200-amp electrical service.

Mendocino Railway

The proposal consists of human- and battery-powered railbikes operating on a 4-mile segment of rail between Marina and a point near the southern edge of Fort Ord Dunes State Park. The operator would serve 8,000 customers in the first year of operations and more than 20,000 customers in subsequent years. The operator seeks to provide trips year-round. Hours of operation would be 8 a.m. to 9 p.m., with seasonal adjustments as necessary.

The operator has no prior experience working in Marina. The proposal includes a storage container within the staging area where bikes would be stored and charged overnight. Electrical power would be provided by a solar array on the roof of the storage container or via a connection from a nearby PG&E line. The project would require 6-10 employees.

DISCUSSION:

The DRC reviewed both proposals and provided comments, included in **EXHIBIT A**. Concerns center primarily on providing adequate access to and from the site, providing appropriate facilities on site, making improvements to accommodate operations, and mitigating potential impacts to adjacent uses, including multifamily residences near the staging area. Specific points of concern include the lack of restroom facilities in each proposal, the need to move storage containers out of an emergency access road parallel to Marina Drive, insufficient information about proposed facilities, and questions about how trash, noise, and traffic impacts will be addressed.

The City Council has discretion to determine which proposal, if any, may operate within the TAMC right-of-way. If the City Council selects a proposal, the operator will be required to obtain an encroachment permit from the Public Works Department and sign a lease agreement with the city. City staff will attach relevant findings and conditions of approval to the encroachment permit and/or lease agreement.

Attached is the draft lease agreement from TAMC (**“EXHIBIT B”**). Key provisions of the agreement are:

- The initial term of the agreement will be up to two (2) years
- The city will be the lead agency under the California Environmental Quality Act (CEQA).
- The lease is \$4,248 for Area 1 then \$3,035 for Area 2 (if needed) and Area 3 \$1175 for the parking and storage area.
- The TAMC lease will only allow for recreational uses within the project area.

FISCAL IMPACT:

Planning staff would develop a fee agreement with the selected proposal and require the applicant to cover all costs associated with staff review and analysis prior to issuing any permits. There would be no direct impact to the budget.

ENVIRONMENTAL REVIEW:

After a proposal is selected by the City Council, staff will determine what level of CEQA analysis is required prior to issuing permits. As the lead agency, City staff will coordinate CEQA analysis with Monterey County and TAMC. Currently we are expecting a Notice of Exemption with detailed background material to cost the selected vendor between \$5,000-\$10,000 as the railway already has detailed habitat and plant species documented for the project area.

CONCLUSION:

This request is submitted for City Council consideration and comment.

Respectfully submitted,

Alec Barton, AICP
Contract Planner
City of Marina

REVIEWED/CONCUR:

Guido F. Persicone, AICP
Community Development Director
City of Marina

Layne Long
City Manager
City of Marina