

AMENDMENT 2 TO PROJECT MANAGEMENT AGREEMENT
BETWEEN NORTH COAST RAILROAD AUTHORITY AND GUILLON INC.

This agreement is made this 11th day of July, 2018 by and between NORTH COAST RAILROAD AUTHORITY, a public agency created by the California Legislature pursuant to Government Code Sections 93000 et seq., hereinafter referred to as "NCRA;" and GUILLON INC., A California corporation, hereinafter referred to as "GUILLON" and constitutes an amendment to the Project Management Agreement between the parties as cited below.

RECITALS

A. At its April 9, 2014 Board meeting, NCRA and GUILLON entered into an Agency Appointment Agreement appointing Guillon Inc. to act as NCRA's agent for the Ukiah Depot property including negotiating with potential purchasers, a copy of which is attached hereto and incorporated herein as Exhibit A.

B. At its October 8, 2014 Board meeting, NCRA and GUILLON entered into a Project Management Agreement that affirmed and extended the Agency Appointment Agreement and set forth new responsibilities involving planning, development and improvement of the Depot Site Property and the Mason Street Property. Paragraph 3 of the Project Management Agreement provides for it to remain in effect for two years unless extended by the Parties.

C. On April 21, 2016, a purchase of 4.1 acres of the Depot Site by the Judicial Council of California was completed, which was followed by the agreed payment of compensation to Guillon Inc. as set forth in Paragraph 4.1, equal to 6% of the total sale price.

D. On August 10, 2016 the NCRA approved Amendment 1 extending the terms of the October 8, 2014 agreement pursuant to paragraph 3.1 for a period of 2 years until August 10, 2018.

IT IS THEREFORE AGREED BY AND BETWEEN THE PARTIES as follows:

Pursuant to Paragraph 3.1 of the Project Management Agreement, the Term of Agreement is hereby extended for an additional period of one year from the date of this Amendment 2. All other provisions of the Project Management Agreement shall remain unchanged.

NCRA

Guillon, Inc.

By: _____
Hal Wagenet, Chairman Board of Directors

By: _____
Douglas J. Guillon, President

Attest: _____
Mitch Stogner, Clerk of the Board of Directors

By: _____
Stephen D. Honeycutt, Project Manager

PROJECT MANAGEMENT AGREEMENT

This agreement is made this 8th day of October, 2014 by and between NORTH COAST RAILROAD AUTHORITY ("NCRA"), a public authority created by the North Coast Railroad Authority Act (Cal Gov't Code §93000 et seq.) and GUILLON INC., a California Corporation, hereinafter referred to as "GUILLON".

RECITALS

- A. NCRA owns and/or has the right to acquire fee title to certain real property in the City of Ukiah, Mendocino County, California, commonly known as the Ukiah Railroad Depot Property, consisting of approximately 11 acres more or less, designated as Mendocino County Assessor's Parcel Numbers 002-232-12, -13 and 002-282-18 and -19 located south of East Perkins Street and west of Leslie Street in Ukiah, California ("the Depot Property") and consisting additionally of that certain real property located to the north of East Perkins Street and east of Mason Street designated as Mendocino County Assessor's Parcel Number ____-____-__, ("the Mason Street Property"), both of which are more particularly described in the attached Exhibit A. Collectively, the Depot Property and the Mason Street Property are called "the Property" in this Agreement;
- B. The Property was historically utilized for conducting railroad operations including but not limited to passenger and freight locomotive service facilities, sidings, turntable, roundhouse and fueling area dating back to at least 1898 and continuing in a declining intensity to approximately 1998;
- C. With the exception noted below, NCRA has determined that the only portion of the Property that is currently useful, or foreseeably useful, for railroad-related operations is the mainline right-of-way, which is located along and limited to the westerly perimeter of the Depot Property, and also along the easterly perimeter of the Mason Street Property. As a result of this determination, NCRA has declared that the remainder of the Property is excess property no longer required for railroad operations, and is subject to sale, lease, redevelopment or other utilization as determined by NCRA;
- D. The exception to the above excess property declaration is an existing Depot Building recently restored by the City of Ukiah with redevelopment funds and a state grant, and leased to the City for public use. Although not currently used for railroad-related operations, the Depot Building remains available for transportation and other public uses, and is not subject to further development activities that may be contemplated;
- E. Contamination of the soil in portions of the Depot Property occurred while in the control of prior railroad operators, and has recently been the subject of remediation efforts. Remediation has consisted of removal of contaminated soil as set forth in a Remediation Action Plan approved by the North Coast Regional Water Quality Control Board (Regional Board) and is now virtually complete. The Regional Board is in the final stages of accepting the remediation as set forth in a "No Further Action" document. The costly remediation work was funded by a short-term loan provided by the NCRA's railroad operator,

the Northwestern Pacific Railroad (NWP). NCRA is to repay the loan to NWP from the proceeds of an anticipated sale of a portion of the Depot Property;

F. The Union Pacific Railroad, as successor to Southern Pacific Transportation Company, retains fee simple interest in the easterly two parcels (Assessor Parcel Numbers 002-232-12 and 002-282-18), which were retained due to the soil contamination. NCRA currently owns a surface easement over these parcels, and Union Pacific is obligated to convey fee title upon NCRA's request upon completion of the remediation;

G. NCRA desires to return the Property to its maximum utility and/or revenue potential to support the operations of the NCRA in meeting its duties as established by the California Legislature; including, but not limited to, possible utilization of a 4.1 acre portion of the Ukiah Depot Property for development and construction of a new Mendocino County Superior Court Building, and the creation and improvement of other parcels to be marketed or otherwise utilized or disposed of in a beneficial manner. It is specifically recognized that all of the excess property should be subject to such planning and disposition, so as to maximize the highest and best uses of the land by coordinated and productive means;

H. NCRA recognizes that in order to achieve its purposes and objectives with respect to the Property, it should obtain expertise in the development and implementation of a master planned approach that considers the full range of issues as described herein. Such development expertise and capability is offered by Guillon, which during the past two years has become uniquely well-positioned and familiar with the Property and the constraints and opportunities and is willing and able to assist NCRA with planning and development of the Property;

I. NCRA and Guillon have previously intended and attempted to enter into an Option Agreement to enable Guillon to credibly pursue the disposition of the Property and negotiate with potentially involved and/or interested parties such as the Administrative Office of the Courts, the superior court judges, the City of Ukiah and others. Due to the numerous variables and uncertainties involved, these efforts were unsuccessful, and an Agency Agreement was substituted as set forth below;

J. NCRA and Guillon entered into an Agency Agreement dated April 9, 2014 which appointed Guillon as the agent for the planning and negotiation with various involved parties. The Agency Agreement was without compensation, pending entry into an option agreement.

K. Guillon's efforts to date have been performed in good faith since early 2013, without compensation or the promise thereof, and have resulted in substantial benefit to NCRA with regard to:

- a. expert development guidance to the NCRA Board of Directors and staff;
- b. representation of NCRA's project interests in numerous communications and meetings with the AOC staff, local judges, Mendocino county staff, and others;
- c. master planning of the site to maximize overall land value and marketability;

- d. obtaining and coordinating the support and assistance of the City of Ukiah as to the provision of municipal utilities, the analysis and conceptual design of traffic-related improvements, support and assistance in obtaining needed services including land appraisal and civil engineering, consulting and assistance with environmental and entitlement requirements, and other project needs essential to the achievement of NCRA's goals and objectives.
- e. obtaining the approval of affected superior court judges and AOC agreement on a parcel configuration that is significantly more advantageous with respect to development of the overall acreage.
- f. obtaining AOC approval of a "two-stage" land purchase intended to provide funds for the design and construction of basic on-site and off-site infrastructure to the benefit of the overall Property.

AGREEMENTS

In consideration of the status of the project and the facts as set forth above, the parties hereby agree as follows:

1. Extension of Appointment of Agency

NCRA affirms and extends its prior appointment of Guillon as its agent for the purposes of developing a master plan for the disposition of those portions of the Depot Property and expressly extends such appointment to include the Mason Street Property.

2. Project Manager and Construction Manager

In addition to the responsibilities described above relative to development of a master plan for the disposition of the property, Guillon shall oversee and direct the implementation of the various processes, negotiations, approvals, studies, and documents reasonably necessary for accomplishment of the disposition of the Property, as follows:

- 2.1 Coordinate and supervise activities as necessary for completion of the AOC acquisition agreement package, including the preparation of access and utility easements and conceptual design;
- 2.2 Negotiate with City to obtain City-owned parcels fronting upon Leslie Street and manage the merger of those properties into the project;
- 2.3 Continue to develop and refine the master site plan and parcel layout;
- 2.4 Oversee and manage the process to realign existing parcel boundaries to reflect the intended parcel layout;

- 2.5 Pursue and manage the process to obtain an acceptable Major Site Development Permit issued by the City of Ukiah, compliance with the California Environmental Quality Act, and the requisite aspects related thereto, such as traffic studies and mitigation designs required or advisable to gain City approval;
- 2.6 Oversee and manage the professional services provided by others, including civil engineering, hydrogeology, surveying and other disciplines as necessary to the project;
- 2.7 Develop opportunities and negotiate with AOC staff regarding the appropriate and logical sharing of project costs including but not limited to the Low Impact Development requirements of storm water management;
- 2.8 Develop a highest and best use plan for the Mason Street Property including a potential revenue stream to NCRA such as its improvement and use for leased parking;
- 2.9 Oversee and take such actions as necessary to expedite completion of property transactions and escrows;
- 2.10 Provide services to develop and manage the completion and acceptance by involved parties of the improvement design drawings (by others), with emphasis on control of improvement work scope and costs to ensure that such costs remain within budget;
- 2.11 Provide project management services and direction to obtain bids by licensed contractors and subcontractors to implement the agreed project improvements, and assist NCRA staff in the drafting and execution of contract documents;
- 2.12 Supervise the completion of the agreed project improvements, ensuring that NCRA's interests are represented throughout;
- 2.13 Continue communications and coordinated activities with AOC, NWP, City of Ukiah, and the public at large as appropriate to success of the project;
- 2.14 Report to the NCRA Board of Directors, Property Committee and/or staff on a regular basis.

3. Term of Agreement

This agreement shall remain in effect until the earlier of the following events:

- 3.1 Two years from the date of this Agreement unless extended by the Parties;
- 3.2 Completion of the project contemplated herein;
- 3.3 Upon 30 days' notice by either party, subject to payment for services rendered.

4. Compensation

For professional services rendered in connection with the planning, improvement and disposition of the Property, NCRA shall compensate Guillon in accordance with the following schedule:

4.1 Upon sale of the portion of the Property to the Administrative Office of the Courts or such transferee as may be designated, a sum equal to 6% of the total sale price shall be paid to Guillon from escrow.

4.2 Upon completion of construction of the basic property infrastructure improvements and the second stage payment by the Administrative Office of the Courts, a sum equal to 10% of the costs of the infrastructure improvements shall be paid to Guillon.

5. Retention of Approval by Board of Directors

No person including Guillon will have any authority to bind or commit the NCRA to any action absent the approval of the Board of Directors of NCRA of such action.

6. Effective Date

This Agreement shall be effective when executed by the respective parties.

7. Amendments

The parties may amend this Agreement only by a written agreement of the parties that identifies itself as an amendment to this Agreement.

8. Severability

If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement will remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable.

9. Merger

This Agreement constitutes the final agreement between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement. In entering into this Agreement, neither party has relied upon any statement, representation, warranty or agreement of the other party except for those expressly contained in this Agreement. There is no conditions precedent to the effectiveness of this Agreement, other than those expressly stated in this Agreement.

10. Notices

Each Party giving notice or making any request, demand or other communication pursuant to this Agreement shall draft the Notice in writing and shall use one of the following methods of delivery: (1) personal delivery; (2) Certified Mail, Return Receipt Requested and postage prepaid; or (3) Nationally recognized overnight courier, with all fees prepaid. Each party giving a Notice shall address the notice to the appropriate person at the receiving party at the address provided below:


October 8, 2014

NCRA: 419 Talmage Road, Suite M, Ukiah, CA 95482


With copy to C.J. Neary, 110 South Main Street, Suite C, Willits, CA 95490
Lakewest Drive, Suite 50, Chico, CA 95928

NORTH COAST RAILROAD AUTHORITY:

By 
John McCowen, Chairman Board of Directors

Attest: 
Mitch Stogner, Clerk of the Board of Directors

GUILLOIN, INC.

By 
Douglas J. Guillon, President

By 
Stephen D. Honeycutt, Project Manager