



## MEETING AGENDA

TIME/DATE: **9:30 a.m. / Wednesday, October 9, 2024**

LOCATION: **BOARD ROOM  
County of Riverside Administrative Center  
4080 Lemon Street, First Floor, Riverside**

TELECONFERENCE SITES: **COUNCIL CHAMBER CONFERENCE ROOM  
City of Palm Desert  
73510 Fred Waring Drive, Palm Desert**

**LARGE CONFERENCE ROOM  
French Valley Airport  
37600 Sky Canyon Drive, Murrieta**

## COMMISSIONERS

**Chair** – Lloyd White  
**Vice Chair** – Karen Spiegel  
**Second Vice Chair** – Raymond Gregory

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Kevin Jeffries, County of Riverside, District 1  
Karen Spiegel, County of Riverside, District 2  
Chuck Washington, County of Riverside, District 3  
V. Manuel Perez, County of Riverside, District 4  
Yxstian Gutierrez, County of Riverside, District 5  
David Happe / Rick Minjares, City of Banning  
Lloyd White / Julio Martinez, City of Beaumont  
Joseph DeConinck / Johnny Rodriguez, City of Blythe  
Linda Molina / Wendy Hewitt, City of Calimesa  
Jeremy Smith / Jennifer Dain, City of Canyon Lake  
Raymond Gregory / Mark Carnevale, City of Cathedral City  
Steven Hernandez / Stephanie Virgen, City of Coachella  
Wes Speake / Jim Steiner, City of Corona  
Scott Matas / Russell Betts, City of Desert Hot Springs  
Clint Lorimore / Todd Rigby, City of Eastvale  
Linda Krupa / Malcolm Lilienthal, City of Hemet  
Dana Reed / Ty Peabody, City of Indian Wells

Waymond Fermon / Oscar Ortiz, City of Indio  
Brian Berkson / Armando Carmona, City of Jurupa Valley  
Kathleen Fitzpatrick / Deborah McGarrey, City of La Quinta  
Bob Magee / Natasha Johnson, City of Lake Elsinore  
Bill Zimmerman / Dean Deines, City of Menifee  
Ulises Cabrera / Edward Delgado, City of Moreno Valley  
Cindy Warren / Lori Stone, City of Murrieta  
Berwin Hanna / Katherine Aleman, City of Norco  
Jan Harnik / Kathleen Kelly, City of Palm Desert  
Lisa Middleton / Grace Garner, City of Palm Springs  
Michael M. Vargas / Rita Rogers, City of Perris  
To Be Appointed / Lynn Mallotto, City of Rancho Mirage  
Chuck Conder / Patricia Lock Dawson, City of Riverside  
Valerie Vandever / Alonso Ledezma, City of San Jacinto  
James Stewart / Brenden Kalfus, City of Temecula  
Joseph Morabito / Ashlee DePhillippo, City of Wildomar  
Catalino Pining, Governor's Appointee Caltrans District 8

*Comments are welcomed by the Commission. If you wish to provide comments to the Commission, please complete and submit a Speaker Card to the Clerk of the Board.*



# **RIVERSIDE COUNTY TRANSPORTATION COMMISSION**

[www.rctc.org](http://www.rctc.org)

## **MEETING AGENDA\***

**\*Actions may be taken on any item listed on the agenda**

**9:30 a.m.**

**Wednesday, October 9, 2024**

### **Board Room**

**County of Riverside Administrative Center  
4080 Lemon Street, First Floor, Riverside, CA**

### **TELECONFERENCE SITES**

#### **COUNCIL CHAMBER CONFERENCE ROOM**

**City of Palm Desert**

**73510 Fred Waring Drive, Palm Desert, CA**

#### **LARGE CONFERENCE ROOM**

**French Valley Airport**

**37600 Sky Canyon Drive, Murrieta, CA**

This meeting is being conducted in person as well as via teleconference. Please visit <https://rivco.org/constituent-speaking-request> to complete a speaker slip and receive further instructions to participate via teleconference. For members of the public wishing to submit written comments, please email comments to the Clerk of the Board at [lmobley@rctc.org](mailto:lmobley@rctc.org) prior to October 8, 2024, and your comments will be made part of the official record of proceedings.

*In compliance with the Brown Act and Government Code Section 54957.5, agenda materials distributed 72 hours prior to the meeting, which are public records relating to open session agenda items, will be available for inspection by members of the public prior to the meeting at the Commission office, 4080 Lemon Street, Third Floor, Riverside, CA, and on the Commission's website, [www.rctc.org](http://www.rctc.org).*

*In compliance with the Americans with Disabilities Act, Government Code Section 54954.2, and the Federal Transit Administration Title VI, please contact the Clerk of the Board at (951) 787-7141 if special assistance is needed to participate in a Commission meeting, including accessibility and translation services. Assistance is provided free of charge. Notification of at least 48 hours prior to the meeting time will assist staff in assuring reasonable arrangements can be made to provide assistance at the meeting.*

#### **1. CALL TO ORDER**

#### **2. ROLL CALL**

#### **3. PLEDGE OF ALLEGIANCE**

**4. PUBLIC COMMENTS** – *Each individual speaker is limited to speak three (3) continuous minutes or less. The Commission may, either at the direction of the Chair or by majority vote of the Commission, waive this three-minute time limitation. Depending on the number of items on the Agenda and the number of speakers, the Chair may, at his/her discretion, reduce the time of each speaker to two (2) continuous minutes. In addition, the maximum time for public comment for any individual item or topic is thirty (30) minutes. Also, the Commission may terminate public comments if such comments become repetitious. Speakers may not yield their time to others without the consent of the Chair. Any written documents to*

*be distributed or presented to the Commission shall be submitted to the Clerk of the Board. This policy applies to Public Comments and comments on Agenda Items.*

*Under the Brown Act, the Commission should not take action on or discuss matters raised during public comment portion of the agenda that are not listed on the agenda. Commission members may refer such matters to staff for factual information or to be placed on the subsequent agenda for consideration.*

5. **ADDITIONS / REVISIONS** – *The Commission may add an item to the Agenda after making a finding that there is a need to take immediate action on the item and that the item came to the attention of the Commission subsequent to the posting of the agenda. An action adding an item to the agenda requires 2/3 vote of the Commission. If there are less than 2/3 of the Commission members present, adding an item to the agenda requires a unanimous vote. Added items will be placed for discussion at the end of the agenda.*
  
6. **PUBLIC HEARING – ADOPT FIVE RESOLUTIONS OF NECESSITY FOR THE ACQUISITION OF VARIOUS INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTIES, BY EMINENT DOMAIN, FOR THE MID COUNTY PARKWAY RAMONA EXPRESSWAY CONSTRUCTION CONTRACT 3 PROJECT, IN RIVERSIDE COUNTY, CALIFORNIA**

**Page 1**

**Overview**

This item is for the Commission to:

- 1) Conduct a hearing to consider the adoption of Resolutions of Necessity, including providing all parties interested in the affected properties and their attorneys, or their representatives, an opportunity to be heard on the issues relevant to the Resolutions of Necessity;
- 2) Make the following findings as hereinafter described in this report:
  - a) The public interest and necessity require the proposed project;
  - b) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
  - c) The real properties to be acquired are necessary for the project; and
  - d) The offers of just compensation have been made to the property owners;
- 3) Adopt Resolution of Necessity No. 24-009/RCPN 1230 described as *“Adoption of a Resolution of Necessity for the Acquisition of One (1) Temporary Construction Easement Interest in a Portion of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Number 425-100-017, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), in the city of San Jacinto, Riverside County, California”*;
- 4) Adopt Resolution of Necessity No. 24-010/RCPN 1234 described as *“Adoption of a Resolution of Necessity for the Acquisition of Eight (8) Partial Fee Interests and Four (4) Temporary Construction Easement Interests in portions of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Numbers 308-140-003, 308-150-005, 308-190-006, 308-190-009, 308-190-010, 308-190-011 and 308-190-012, for Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), in Riverside County, California”*;

- 5) Adopt Resolution of Necessity No. 24-011/RCPNs 1232 & 1245 described as *“Adoption of a Resolution of Necessity for the Acquisition of Three (3) Partial Fee Interests and Two (2) Temporary Construction Easement Interests in Portions of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Numbers 425-110-014, 425-110-015, and 426-060-022, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), in Riverside County, California”*;
- 6) Adopt Resolution of Necessity No. 24-012/RCPN 1229 described as *“Adoption of a Resolution of Necessity for the Acquisition of Three (3) Partial Fee Interests in portions of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Numbers 308-150-003, 308-150-004 and 426-020-006, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), in Riverside County, California”*; and
- 7) Adopt Resolution of Necessity No. 24-016/RCPNs 1237, 1238 & 1240 described as *“Adoption of a Resolution of Necessity for the Acquisition of one (1) Partial Fee Interest and seven (7) Temporary Construction Easement Interests in portions of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Numbers 425-120-002; 425-120-011; 425-140-011; 425-140-006; 425-140-007; 425-160-002; 426-150-017 and 426-150-020 , for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), in Riverside County, California”*.

**7. PUBLIC HEARING – ADOPT TWO RESOLUTIONS OF NECESSITY FOR THE ACQUISITION OF VARIOUS INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTIES, BY EMINENT DOMAIN, FOR THE STATE ROUTE 60/POTRERO BOULEVARD INTERCHANGE PHASE II PROJECT, IN THE CITY OF BEAUMONT, IN RIVERSIDE COUNTY, CALIFORNIA**

*Page 86*

**Overview**

This item is for the Commission to:

- 1) Conduct a hearing to consider the adoption of Resolutions of Necessity, including providing all parties interested in the affected properties and their attorneys, or their representatives, an opportunity to be heard on the issues relevant to the Resolutions of Necessity;
- 2) Make the following findings as hereinafter described in this report:
  - a) The public interest and necessity require the proposed project;
  - b) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
  - c) The real properties to be acquired are necessary for the project; and
  - d) The offers of just compensation have been made to the property owners;
- 3) Adopt Resolution of Necessity No. 24-014/RCPN 1248 described as *“Adoption of a Resolution of Necessity for the Acquisition of a Permanent Utility Easement Interest and a Temporary Construction Easement Interest in a portion of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Numbers 414-120-038 and 414-120-039, for the SR-60/Potrero Boulevard Interchange Phase II Project (Potrero) in the city of Beaumont, Riverside County, California”*; and

- 4) Adopt Resolution of Necessity No. 24-015/RCPN 1247 described as *“Adoption of a Resolution of Necessity for the Acquisition of a Permanent Utility Easement Interest and a Temporary Construction Easement Interest in a portion of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Number 424-050-011, for the SR-60/Potrero Boulevard Interchange Phase II Project (Potrero) in the city of Beaumont, Riverside County, California”*.

**8. CONSENT CALENDAR** – *All matters on the Consent Calendar will be approved in a single motion unless a Commissioner(s) requests separate action on specific item(s). Items pulled from the Consent Calendar will be placed for discussion at the end of the agenda.*

**8A. APPROVAL OF MINUTES – SEPTEMBER 11, 2024**

**Page 118**

**8B. MONTHLY INVESTMENT REPORT**

**Page 133**

**Overview**

This item is for the Commission to:

- 1) Receive and file the Monthly Investment Report for the month ended August 31, 2024.

**8C. STATE AND FEDERAL LEGISLATIVE UPDATE**

**Page 136**

**Overview**

This item is for the Commission to:

- 1) Receive and file a state and federal legislative update.

**8D. CONTRACTS AND COOPERATIVE AGREEMENTS FOR THE WILDOMAR TRAIL AND BUNDY CANYON ROAD INTERCHANGE IMPROVEMENT PROJECTS**

**Page 141**

**Overview**

This item is for the Commission to:

- 1) Award Agreement No. 25-72-015-00 between the Commission and HDR Engineering for completion of a project study report for the Wildomar Trail Interchange improvement project in the amount of \$851,324, plus a contingency amount of \$85,132, for a total amount not to exceed \$936,456;
- 2) Award Agreement No. 25-72-017-00 between the Commission and HDR Engineering for completion of a project study report for the Bundy Canyon Road Interchange improvement project in the amount of \$750,163, plus a contingency amount of \$75,016, for a total amount not to exceed \$825,179;

- 3) Approve Cooperative Agreement No. 25-72-016-00 between the Commission and Caltrans for project review and oversight services for the Wildomar Trail Interchange improvement project, in the amount of \$300,000;
- 4) Approve Cooperative Agreement No. 25-72-018-00 between the Commission and Caltrans for project review and oversight services for the Bundy Canyon Road Interchange improvement project, in the amount of \$300,000; and
- 5) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreement on behalf of the Commission.

**8E. ON-CALL DESIGN ENGINEERING AND ENVIRONMENTAL SERVICES FOR THE CONSTRUCTION OF COMMUTER RAIL STATION CAPITAL IMPROVEMENT PROJECTS**

***Page 271***

***Overview***

This item is for the Commission to:

- 1) Award the following agreements to provide on-call design engineering and environmental services for the construction of commuter rail station capital improvement projects for a three-year term, and one two-year option to extend the agreement, in an amount not to exceed an aggregate value of \$12,000,000;
  - a) Agreement No. 24-33-097-00 Moffat & Nichol;
  - b) Agreement No. 24-33-130-00 HDR Engineering, Inc.;
  - c) Agreement No. 24-33-131-00 HNTB Corporation;
  - d) Agreement No. 24-33-132-00 WSP USA Inc.;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements, including option years, on behalf of the Commission; and
- 3) Authorize the Executive Director, or designee, to execute task orders awarded to the consultants under the terms of the agreements.

**8F. AGREEMENT FOR CLOSED CIRCUIT TELEVISION SYSTEM MAINTENANCE/REPAIR AND INSTALLATION SERVICES FOR RCTC RAIL STATIONS**

***Page 418***

***Overview***

This item is for the Commission to:

- 1) Approve Agreement No. 24-24-097-00 with American System Integrators, Inc. to provide closed circuit television (CCTV) system maintenance/repair and installation services for a three-year base period plus two, one-year options to extend the agreement for a total period of performance of up to five years for a total amount not to exceed \$4,953,600;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement, on behalf of the Commission.

**8G. CITIZENS AND SPECIALIZED TRANSIT ADVISORY COMMITTEE TRANSIT NEEDS PUBLIC HEARING UPDATE**

**Page 471**

**Overview**

This item is for the Commission to:

- 1) Receive and file an update on the Citizens and Specialized Transit Advisory Committee (CSTAC) Transit Needs Public Hearing.

**9. PROPOSED PAY OFF OF THE 2017 TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT LOAN FOR THE INTERSTATE 15 EXPRESS LANES**

**Page 479**

**Overview**

This item is for the Commission to:

- 1) Adopt Resolution No. 24-013 authorizing prepayment of the 2017 United States Department of Transportation (US-DOT), Transportation Infrastructure Finance and Innovation (TIFIA) loan (2017 TIFIA Loan) for I-15 Express Lanes Project (I-15 ELP) in the amount of \$173,747,433;
- 2) Approve the Inter-Fund Loan Agreement between Measure A and the I-15 Express Lanes for purposes of repayment of the 2017 TIFIA Loan up to \$48,700,000, and authorize the Executive Director to execute said agreement;
- 3) Approve the Funding Plan for repayment of 2017 TIFIA Loan, utilizing a combination of I-15 Toll Revenue, Measure A Inter-Fund Loan, and Measure A Contribution, and establish a \$5,000,000 operating reserve for a total of \$178,747,433;
- 4) Authorize the Executive Director to execute the Prepayment and Termination Acknowledgement correspondence to TIFIA and US Bank (trustee for the I-15 Express Lanes); and
- 5) Approve budget adjustments to the Fiscal Year 2024-25 Budget in the amounts of up to \$173,747,450 for pay off of the 2017 TIFIA Loan; up to \$35,040,000 for transfer to the I-15 Express Lanes representing the Measure A Contribution; up to \$9,000,000 for extinguishment of Measure A funded reserves required by the 2017 TIFIA Loan; and up to \$1,900,000 for the I-15 Express Lanes to transfer to Measure A for accrued compounded interest owed for its contribution towards a 2017 TIFIA Loan Reserve.

**10. CLIMATE ACTION PLAN FOR TRANSPORTATION INFRASTRUCTURE UPDATE**

**Page 506**

**Overview**

This item is for the Commission to:

- 1) Receive and file an update on the California State Transportation Agency's (CalSTA's) Climate Action Plan for Transportation Infrastructure (CAPTI); and



- 2) Discuss and provide direction to staff regarding public education and engagement on CalSTA's proposed updates to CAPTI and related legislation.

**11. ITEM(S) PULLED FROM CONSENT CALENDAR AGENDA**

**12. EXECUTIVE DIRECTOR REPORT**

**13. COMMISSIONER COMMENTS**

***Overview***

This item provides the opportunity for brief announcements or comments on items or matters of general interest.

**14. ADJOURNMENT**

The next Commission meeting is scheduled to be held at 9:30 a.m. on **Wednesday, November 13, 2024.**



**AGENDA ITEM 6**

**PUBLIC HEARING**



**RIVERSIDE COUNTY TRANSPORTATION COMMISSION**

DATE:	October 9, 2024
TO:	Riverside County Transportation Commission
FROM:	Hector Casillas, Right of Way Manager Erick Gutierrez, Senior Management Analyst – Right of Way
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	Adopt Five Resolutions of Necessity for the Acquisition of Various Interests in Portions of Certain Real Properties, by Eminent Domain, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project, in Riverside County, California

**STAFF RECOMMENDATION:**

This item is for the Commission to:

- 1) Conduct a hearing to consider the adoption of Resolutions of Necessity, including providing all parties interested in the affected properties and their attorneys, or their representatives, an opportunity to be heard on the issues relevant to the Resolutions of Necessity;
- 2) Make the following findings as hereinafter described in this report:
  - a) The public interest and necessity require the proposed project;
  - b) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
  - c) The real properties to be acquired are necessary for the project; and
  - d) The offers of just compensation have been made to the property owners;
- 3) Adopt Resolution of Necessity No. 24-009/RCPN 1230 described as *“Adoption of a Resolution of Necessity for the Acquisition of One (1) Temporary Construction Easement Interest in a Portion of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Number 425-100-017, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), in the city of San Jacinto, Riverside County, California”*;
- 4) Adopt Resolution of Necessity No. 24-010/RCPN 1234 described as *“Adoption of a Resolution of Necessity for the Acquisition of Eight (8) Partial Fee Interests and Four (4) Temporary Construction Easement Interests in portions of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Numbers 308-140-003, 308-150-005, 308-190-006, 308-190-009, 308-190-010, 308-190-011 and 308-190-012, for Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), in Riverside County, California”*;
- 5) Adopt Resolution of Necessity No. 24-011/RCPNs 1232 & 1245 described as *“Adoption of a Resolution of Necessity for the Acquisition of Three (3) Partial Fee Interests and Two*

- (2) Temporary Construction Easement Interests in Portions of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Numbers 425-110-014, 425-110-015, and 426-060-022, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), in Riverside County, California”;*
- 6) Adopt Resolution of Necessity No. 24-012/RCPN 1229 described as *“Adoption of a Resolution of Necessity for the Acquisition of Three (3) Partial Fee Interests in portions of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Numbers 308-150-003, 308-150-004 and 426-020-006, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), in Riverside County, California”;* and
- 7) Adopt Resolution of Necessity No. 24-016/RCPNs 1237, 1238 & 1240 described as *“Adoption of a Resolution of Necessity for the Acquisition of one (1) Partial Fee Interest and seven (7) Temporary Construction Easement Interests in portions of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Numbers 425-120-002; 425-120-011; 425-140-011; 425-140-006; 425-140-007; 425-160-002; 426-150-017 and 426-150-020 , for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), in Riverside County, California.”*

### **MCP3 Project Description**

Mid County Parkway Ramona Expressway Construction Contract 3 (MCP3) Project is a partnership between the Commission and the county of Riverside. The MCP3 proposes to construct improvements along 8.6 miles of Ramona Expressway from one mile east of Rider Street to Warren Road in the county of Riverside. This segment of Ramona Expressway currently has one lane in each direction with passing lanes between 5th Street and Bridge Street. The improvements will provide two lanes in each direction, add a raised median to separate eastbound and westbound lanes, add a Class II bike lane in each direction, build a bridge over the San Jacinto River, modify three existing signalized intersections, install one new signalized intersection, and construct a wildlife crossing. The improvements are focused on safety and access. RCTC is the lead agency and has partnered with the County of Riverside on final design of the MCP3.

It is anticipated the project will commence construction in 2025.

### **Description of Properties to Be Acquired**

1. Assessor Parcel No. 425-100-017 (RCPN 1230) is owned by Peter Boersma and Rita Gayle Boersma, Trustees of the Peter and Rita Gayle Boersma Family Trust, Julie Ann Boersma, and Eric Jon Boersma. The property consists of four parcels totaling 100.82 acres located at 40400 Ramona Expressway in the city of San Jacinto in Riverside County, California. The design of the MCP3 Project requires that the Commission acquire a portion of the property. The legal definitions, description and depiction of the property to be acquired are attachments to Resolution No. 24-009.

2. Assessor Parcel Nos. 308-140-003, 308-150-005, 308-190-006, 308-190-009, 308-190-010, 308-190-011 and 308-190-012 (RCPN 1234 and 1235) are owned by La Moda Ontario EB-5 Investment, LLC. The property consists of seven vacant parcels totaling 21.689 acres located on the south side of Ramona Expressway, east of Martin Street, in unincorporated Riverside County, California. The design of the MCP3 Project requires that the Commission acquire a portion of the property. The legal definitions, description and depiction of the property to be acquired are attachments to Resolution No. 24-010.
3. Assessor Parcel Nos. 425-110-014 and 425-110-015 (RCPN 1232) is owned by the George and Yoshiko Harada Trust. Assessor Parcel Nos. 425-110-014 and 425-110-015 consists of two vacant parcels totaling 120.77 acres located north of Ramona Expressway, west of Bridge Street, in unincorporated Riverside County, California. The design of the MCP3 Project requires that the Commission acquire a portion of the property.

Assessor Parcel No. 426-060-022 (RCPN 1245) is owned by the Darlene Harada, Successor Trustee of the George and Yoshiko Harada Trust and Gary Harada. Assessor Parcel No. 426-060-002 consists of one vacant parcel totaling 29.9 acres located on the south side of Ramona Expressway, west of Reservoir Avenue. The design of the MCP3 Project requires that the Commission acquire a portion of the property. The legal definitions, description and depiction of the property proposed to be acquired from APNs 425-110-014, 425-110-015, and 426-060-022 are attachments to Resolution No. 24-011.

4. Assessor Parcel Nos. 308-150-003, 308-150-004 and 426-020-006 (RCPN 1229) are owned by Alphan Atay and Oguzhan Atay. The property consists of three vacant parcels totaling 8.93 acres located on the south side of Ramona Expressway, west of Avenue C, in unincorporated Riverside County, California. The design of the MCP3 Project requires that the Commission acquire a portion of the property. The legal definitions, description and depiction of the property to be acquired are attachments to Resolution No. 24-012.
5. Assessor Parcel Nos. 425-120-002; 425-120-011; 425-140-011; 425-140-006; 425-140-007; 425-160-002; 426-150-017 and 426-150-020 (RCPNS 1237, 1238, 1240) are owned by Nuevo Development Company, LLC. The property consists of eight vacant parcels totaling 276.05 acres located on the south side of Ramona Expressway, between Hansen Avenue and Boundary Road, in unincorporated Riverside County, California. The design of the MCP3 Project requires that the Commission acquire a portion of the property. The legal definitions, description and depiction of the property to be acquired are attachments to Resolution No. 24-016.

Preliminary title reports were obtained from Commonwealth Title Insurance Company to confirm and identify the record owners of the parcels affected by the project. The Commission

then served the affected property owners with notices of the Commission's decision to appraise the properties.

The Commission had the properties appraised and made offers to the record owners for the acquisition of the various interests in the properties. Negotiations have been unsuccessful for the purchase of the interests needed for the project. Therefore, it may be necessary to acquire the interests described in the attachments by eminent domain. The initiation of the eminent domain process is accomplished by the Commission's adoption of Resolutions of Necessity for the affected properties. Negotiations will continue after adoption of Resolutions of Necessity for the property interests.

### **Hearings and Required Findings**

The action requested of the Commission at the conclusion of this hearing is the adoption of Resolutions of Necessity, authorizing the acquisition of real property interests by eminent domain. The property owners are:

1. Peter Boersma and Rita Gayle Boersma, Trustees of the Peter and Rita Gayle Boersma Family Trust, Julie Ann Boersma, and Eric Jon Boersma: one temporary construction easement totaling 0.032 acres or 1,400 square feet, more or less;
2. La Moda Ontario EB-5 Investment, LLC: eight partial fee interests totaling 2.162 acres or 94,110 square feet, more or less, and four temporary construction easements totaling 1.016 acres or 44,260 square feet, more or less;
3. George and Yoshiko Harada Trust; Darlene Harada, Successor Trustee of the George and Yoshiko Harada Trust and Gary Harada: two partial fee interests totaling 2.273 acres or 98,991 square feet, more or less; and one partial fee interest totaling 0.104 acres or 4,539 square feet, more or less, and two temporary construction easements totaling 0.177 acres 7,730 square feet, more or less;
4. Alphan Atay and Oguzhan Atay: three partial fee interests totaling 4.407 acres or 191,961 square feet, more or less; and
5. Nuevo Development Company, LLC: one partial fee interest totaling 1.025 acres or 44,660 square feet, more or less, and seven temporary construction easements totaling 0.298 acres or 12,973 square feet, more or less.

The properties are further identified in the legal definitions, descriptions and depictions attached hereto in each respective resolution of necessity.

California eminent domain law provides that a public entity may not commence with eminent domain proceedings until its governing body has adopted a Resolution of Necessity, which resolution may only be adopted after the governing body has given each party with an interest



in the affected property, or their representatives, a reasonable opportunity to appear and be heard on the following matters:

1. The public interest and necessity require the proposed project;
2. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
3. The real properties to be acquired are necessary for the project; and
4. The offers of just compensation have been made to the property owners.

Notices of the hearing were sent by first class mail to the property owners and stated the Commission's intent to consider the adoption of resolutions, the right of the property owners to appear and be heard on these issues, and that failure to file a written request to appear may result in a waiver of the right to appear and be heard. The Commission has scheduled this hearing at which all persons who filed a written request within 15 days of the date of notice was mailed may appear and be heard. The Commission's legal counsel mailed the required notices to the property owners, on September 10, 2024, and September 11, 2024, in accordance with California Code of Civil Procedure, section 1245.235.

The four required findings are addressed as follows:

1. Public Interest and Necessity Require the Proposed Project

The project will improve traffic flow and enhance safety.

2. The Project Is Planned Or Located In A Manner That Will Be Most Compatible With The Greatest Public Good And The Least Private Injury

A thorough analysis was conducted to find the best location for this project. Environmental analyses and findings indicate that this site uniquely satisfies the engineering, public health, and environmental issues, and this location is the most compatible with the greatest public good. This location will result in the least private injury.

3. The Properties Sought To Be Acquired Are Necessary For The Proposed Project

As described above, a careful analysis was performed regarding this location and what properties and property rights were needed, and these parcels meet all the desired characteristics for the construction of the improvements for the project. Based on that analysis, the acquisitions of the properties are necessary for construction of the project.

4. The Offers Of Just Compensation Have Been Made

Appraisals were prepared by the Commission's appraisers J. Richard Donahue, MAI, CRE, and Stephanie Kavanaugh, CRE, of CBRE, Inc., to establish the fair market value of the

real properties the Commission is seeking to acquire from the interests owned by the property owners identified herein. Offers of just compensation were made to the property owners to purchase the property interests, based on the approved appraisals, as required by Section 7267.2 of the California Government Code. Although negotiated settlements may still be possible, and will be pursued by staff, it is appropriate to commence the procedures to acquire the interests sought through eminent domain, in order to meet upcoming certification and funding deadlines.

### **Environmental Analysis**

Compliance with the California Environmental Quality Act has been satisfied. At its April 2015 meeting, the Commission as the lead agency under the California Environmental Quality Act (CEQA) certified the final environmental impact report, adopted findings pursuant to CEQA, adopted a mitigation monitoring and reporting program, adopted a statement of overriding considerations, and approved the Mid County Parkway (MCP) Project. The final environmental impact statement was approved on April 15, 2015, and a record of decision was issued for the MCP Project in August 2015. The determination finds the project will have a significant effect on the environment and mitigation measures would be prepared.

### **FISCAL IMPACT:**

No fiscal impacts.

### **Notice of Public Hearing**

Notices of Hearing to property owners were mailed on September 10, 2024, and September 11, 2024, to all record owners of the properties.

### **Attachments:**

- 1) Resolution No. 24-009
- 2) Resolution No. 24-010
- 3) Resolution No. 24-011
- 4) Resolution No. 24-012
- 5) Resolution No. 24-016

## RESOLUTION NO. 24-009

ADOPTION OF A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF ONE TEMPORARY CONSTRUCTION EASEMENT INTEREST IN A PORTION OF CERTAIN REAL PROPERTY, BY EMINENT DOMAIN, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NUMBER 425-100-017, FOR THE MID COUNTY PARKWAY RAMONA EXPRESSWAY CONSTRUCTION CONTRACT 3 PROJECT (MCP3), IN THE CITY OF SAN JACINTO, RIVERSIDE COUNTY, CALIFORNIA.

**WHEREAS**, the Riverside County Transportation Commission (the "Commission") proposes to acquire one (1) temporary construction easement interest in a portion of certain real property, located in the city of San Jacinto, Riverside County, California, more particularly described as Assessor Parcel Number 425-100-017, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), pursuant to the authority granted to it by section 130220.5 of the California Public Utilities Code; and

**WHEREAS**, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a public hearing for Wednesday, October 9, 2024, at 9:30 a.m., at the County Administration Building, County Board Room, at 4080 Lemon Street, Riverside, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

**WHEREAS**, said hearing has been held by the Commission, and the affected property owner was afforded an opportunity to be heard on said matters; and

**WHEREAS**, the Commission may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure;

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:**

**Section 1. Compliance with California Code of Civil Procedure.** There has been compliance by the Commission with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

**Section 2. Public Use.** The public use for the temporary construction easement interest in a portion of the property to be acquired is for the MCP3 Project in Riverside County, California. Section 130220.5 of the California Public Utilities Code authorizes the Commission to acquire, by eminent domain, property necessary for such purposes.

**Section 3. Description of Property.** Attached and marked as Exhibit “A” are the legal definitions, description and depiction of the interests to be acquired by the Commission, which describe the general location and extent of the property with sufficient detail for reasonable identification.

**Section 4. Findings.** The Commission hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The property defined and described in Exhibit “A” is necessary for the proposed project; and
- (d) The offer required by section 7267.2 of the California Government Code was made.

**Section 5. Use Not Unreasonably Interfering with Existing Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the Commission and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the Commission is authorized to acquire the herein described interest subject to such existing public use pursuant to section 1240.510 of the California Code of Civil Procedure.

**Section 6. More Necessary Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the Commission finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the Commission is authorized to acquire the herein described real property appropriated to such existing public uses pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the affected real property that it determines are reasonably necessary to mitigate any adverse impact upon the existing public use.

**Section 7. Further Activities.** Counsel for the Commission is hereby authorized to acquire the hereinabove described real property in the name of and on behalf of the Commission by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the Commission to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action, or other proceedings or transactions required to acquire the subject real property.

**Section 8. Effective Date.** This Resolution shall take effect upon adoption.

**APPROVED AND ADOPTED** this 9th day of October, 2024.

---

Lloyd White, Chair  
Riverside County Transportation Commission

ATTEST:

---

Lisa Mobley, Clerk of the Board Riverside  
County Transportation Commission

## **LEGAL DEFINITIONS**

**“Temporary Construction Easement (TCE)”** refers to the right of RCTC, its successors and assigns, to engage in construction and related activities for the project, together with all necessary rights of ingress and egress to the easement area in connection with the exercise of any of the easement rights.

Such right shall be exercised for a period of 36 (thirty-six) months, commencing in April of 2025 and expiring April of 2028.

The duration of the rights under this easement shall not extend beyond April 2028, or upon filing of a Notice of Completion, whichever is sooner.

Property Owner shall not cause, directly or indirectly or negligently, any interference with or harm to the rights conveyed here under.

**LEGAL DESCRIPTION**

**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1230**  
**APN 425-100-017**

A Portion of Parcel 1, Parcel Map No. 11978, Parcel Map 71 Page 95 through 100 inclusive, in the Office of the County Recorder, Riverside County, State of California, being a portion of Rancho San Jacinto Nuevo, Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 798 BB, which bears South 52°32'53" East a distance of 3,042.16 feet from a point of curvature, said point of curvature being South 19°04'33" West a distance of 0.29 feet from an IP Found, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 37°27'07" West a distance of 71.00 feet to the southerly edge of right of way and the **POINT OF BEGINNING**;

**THENCE** along said southerly edge of right of way South 52°32'53" East a distance of 70.00 feet;

**THENCE** departing said southerly edge of right of way South 37°27'07" West a distance of 20.00 feet

**THENCE** North 52°32'53" West a distance of 70.00 feet;

**THENCE** North 37°27'07" East a distance of 20.00 feet to said southerly edge of right of way at the **POINT OF BEGINNING**.

**CONTAINING** 0.032 acres (1,400 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date

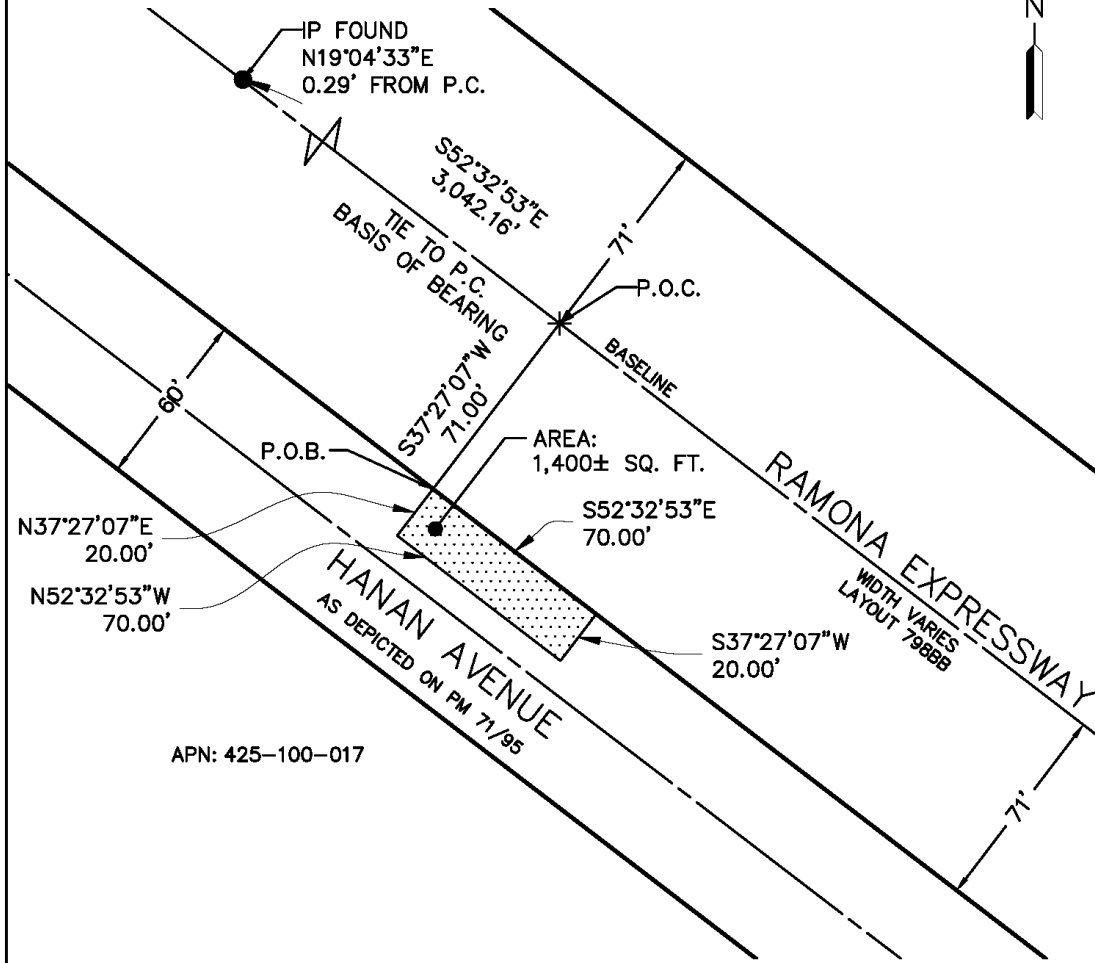
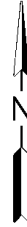


SCALE: 1"=50'

### EXHIBIT "B"

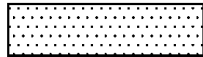
SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT  
RCPN: 1230  
APN: 425-100-017  
A PORTION OF PARCEL 1 PARCEL MAP NO. 11978, PM 71/95  
RANCHO SAN JACINTO NUEVO, T4S R2W, SBM



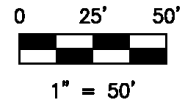
APN: 425-100-017

P.O.C. - POINT OF COMMENCEMENT  
P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:



DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**



## RESOLUTION NO. 24-010

ADOPTION OF A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF EIGHT PARTIAL FEE INTERESTS AND FOUR TEMPORARY CONSTRUCTION EASEMENT INTEREST IN PORTIONS OF CERTAIN REAL PROPERTY, BY EMINENT DOMAIN, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NUMBERS 308-140-003, 308-150-005, 308-190-006, 308-190-009, 308-190-010, 308-190-011 AND 308-190-012, FOR THE MID COUNTY PARKWAY RAMONA EXPRESSWAY CONSTRUCTION CONTRACT 3 PROJECT (MCP3), IN RIVERSIDE COUNTY, CALIFORNIA..

**WHEREAS**, the Riverside County Transportation Commission (the "Commission") proposes to acquire eight (8) partial fee interests and four (4) temporary construction easement interests in portions of certain real property, located in unincorporated Riverside County, California, more particularly described as Assessor Parcel Numbers 308-140-003, 308-150-005, 308-190-006, 308-190-009, 308-190-010, 308-190-011 and 308-190-012, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), pursuant to the authority granted to it by section 130220.5 of the California Public Utilities Code; and

**WHEREAS**, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a public hearing for Wednesday, October 9, 2024, at 9:30 a.m., at the County Administration Building, County Board Room, at 4080 Lemon Street, Riverside, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

**WHEREAS**, said hearing has been held by the Commission, and the affected property owner was afforded an opportunity to be heard on said matters; and

**WHEREAS**, the Commission may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure;

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:**

**Section 1. Compliance with California Code of Civil Procedure.** There has been compliance by the Commission with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

**Section 2. Public Use.** The public use for eight partial fee interests and seven temporary construction easement interests in portions of the properties to be acquired is for the MCP3 Project in Riverside County, California. Section 130220.5 of the California Public Utilities Code authorizes the Commission to acquire, by eminent domain, property necessary for such purposes.

**Section 3. Description of Property.** Attached and marked as Exhibit “A” are the legal definitions, description and depiction of the interests to be acquired by the Commission, which describe the general location and extent of the property with sufficient detail for reasonable identification.

**Section 4. Findings.** The Commission hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The property defined and described in Exhibit “A” is necessary for the proposed project; and
- (d) The offer required by section 7267.2 of the California Government Code was made.

**Section 5. Use Not Unreasonably Interfering with Existing Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the Commission and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the Commission is authorized to acquire the herein described interest subject to such existing public use pursuant to section 1240.510 of the California Code of Civil Procedure.

**Section 6. More Necessary Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the Commission finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the Commission is authorized to acquire the herein described real property appropriated to such existing public uses pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the affected real property that it determines are reasonably necessary to mitigate any adverse impact upon the existing public use.

**Section 7. Further Activities.** Counsel for the Commission is hereby authorized to acquire the hereinabove described real property in the name of and on behalf of the Commission by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the Commission to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action, or other proceedings or transactions required to acquire the subject real property.

**Section 8. Effective Date.** This Resolution shall take effect upon adoption.

**APPROVED AND ADOPTED** this 9th day of October, 2024.

---

Lloyd White, Chair  
Riverside County Transportation Commission

ATTEST:

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Lisa Mobley, Clerk of the Board Riverside  
County Transportation Commission

## **LEGAL DEFINITIONS**

“**Fee**”, also known as fee simple or fee simple absolute, grants to RCTC, absolute ownership of the property.

“**Temporary Construction Easement (TCE)**” refers to the right of RCTC, its successors and assigns, to engage in construction and related activities for the project, together with all necessary rights of ingress and egress to the easement area in connection with the exercise of any of the easement rights.

Such right shall be exercised for a period of 36 (thirty-six) months, commencing in April of 2025 and expiring April of 2028.

The duration of the rights under this easement shall not extend beyond April 2028, or upon filing of a Notice of Completion, whichever is sooner.

Property Owner shall not cause, directly or indirectly or negligently, any interference with or harm to the rights conveyed here under.

**LEGAL DESCRIPTION**

**EXHIBIT "A"  
FEE ACQUISITION  
LEGAL DESCRIPTION  
RCPN: 1234-1A  
APN 308-140-003**

A portion of Lot 8, Rancho San Jacinto Nuevo, in the County of Riverside, State of California, also being a portion of Township 4 South, Range 3 West of the San Bernadino Meridian more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 907.20 from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing said baseline, South 12°14'22" East a distance of 94.00 feet to the southerly right of way line of Ramona Expressway,

**THENCE** along said southerly right of way line of Ramona Expressway South 77°45'38" West a distance of 902.69 feet to the **POINT OF BEGINNING**;

**THENCE** departing said southerly right of way line of Ramona Expressway South 72°32'37" West, 230.96 feet;

**THENCE** South 77°45'38" West, 270.00 feet;

**THENCE** North 12°14'22" West, 21.00 feet to a point on the southerly right of way line of Ramona Expressway;

**THENCE** continuing along said southerly right of way line of Ramona Expressway North 77°45'38" East, 500.00 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.186 acres (8,085 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.



\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24

Date



SCALE: 1"=120'

EXHIBIT "B"

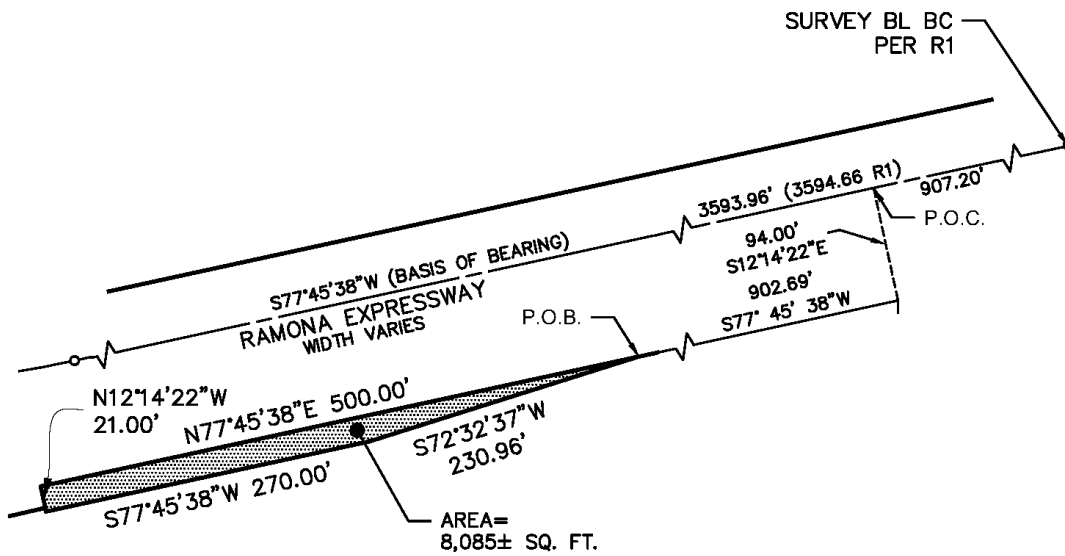
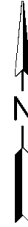
SHEET 1 OF 1

FEE ACQUISITION

RCPN: 1234-1A

APN: 308-140-003

A PORTION OF LOT 8 OF RANCHO SAN JACINTO NUEVO, T4S, R3W, SBM

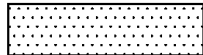


APN: 308-140-003

R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT

P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 60' 120'



1" = 120'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1234-1B**  
**APN 308-140-003**

A portion of Lot 8, Rancho San Jacinto Nuevo, in the County of Riverside, State of California, also being a portion of Township 4 South, Range 3 West of the San Bernadino Meridian, more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 907.20 from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing said baseline, South 12°14'22" East a distance of 94.00 feet to the southerly right of way line of Ramona Expressway and the **POINT OF BEGINNING**;

**THENCE** departing the southerly right of way line of Ramona Expressway South 0°22'40" West, 40.36 feet;

**THENCE** South 82°32'43" West, 250.42 feet;

**THENCE** South 77°45'38" West, 344.33 feet;

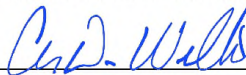
**THENCE** North 12°14' 22" West, 18.50 feet to the southerly right of way line of Ramona Expressway;

**THENCE** along the southerly right of way line of Ramona Expressway North 77°45'38" East, 602.82 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.316 acres (13,767 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=120'

### EXHIBIT "B"

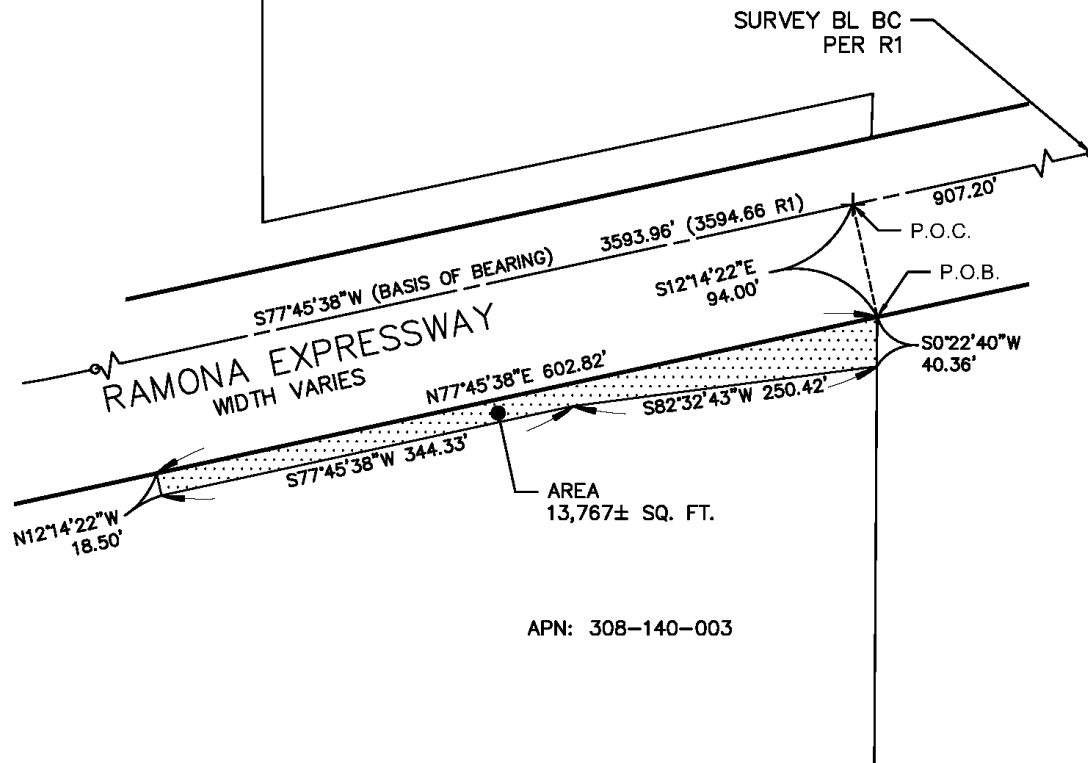
SHEET 1 OF 1

FEE ACQUISITION

RCPN: 1234-1B

APN: 308-140-003

A PORTION OF LOT 8 OF RANCHO SAN JACINTO NUEVO, T4S, R3W, SBM

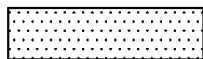


APN: 308-140-003

R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT

P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 60' 120'



1" = 120'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**



**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1234-1C**  
**APN 308-140-003**

A portion of Lot 8, Rancho San Jacinto Nuevo, in the County of Riverside, State of California, also being a portion of Township 4 South, Range 3 West of the San Bernadino Meridian more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 907.20 from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing said baseline, South 12°14'22" East a distance of 94.00 feet to the southerly right of way line of Ramona Expressway;

**THENCE** departing said southerly right of way line of Ramona Expressway South 0°22'40" West a distance of 40.36 feet to the **POINT OF BEGINNING**.

**THENCE** South 0°22'40" West, 20.19 feet;

**THENCE** South 82°32'43" West, 246.83 feet;

**THENCE** South 77°45'38" West, 363.49 feet;

**THENCE** North 12°14'22" West, 18.50 feet;

**THENCE** South 77°45'38" West, 279.09 feet;

**THENCE** South 72°32'37" West, 230.96 feet;

**THENCE** South 77°45'38" West, 290.91 feet;

**THENCE** South 12°14'22" East, 6.07 feet;

**THENCE** South 86°28'12" West, 157.17 feet to the southerly right of way line of Ramona Expressway and the beginning of a non-tangent curve concave southerly, said curve has a radius of 2,920.00 feet, to which a radial line bears North 15°40'56" West;

**THENCE** along said southerly right of way line of Ramona Expressway and easterly along said curve through a central angle of 3°26'34" an arc distance of 175.46 feet;

**THENCE** departing said southerly right of way line of Ramona Expressway South 12°14'22" East, 3.00 feet;

**THENCE** North 77°45'38" East, 270.00 feet;

**THENCE** North 72°32'37" East, 230.96 feet to the southerly right of way line of Ramona Expressway;

**THENCE** along said southerly right of way line of Ramona Expressway North 77°45'38" East, 300.00 feet;

**THENCE** departing said southerly right of way line of Ramona Expressway South 12°14'22" East, 18.50 feet;


**THENCE** North 77°45'38" East, 344.33 feet;

**THENCE** North 82°32'43" East, 250.42 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.713 acres (31,059 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=300'

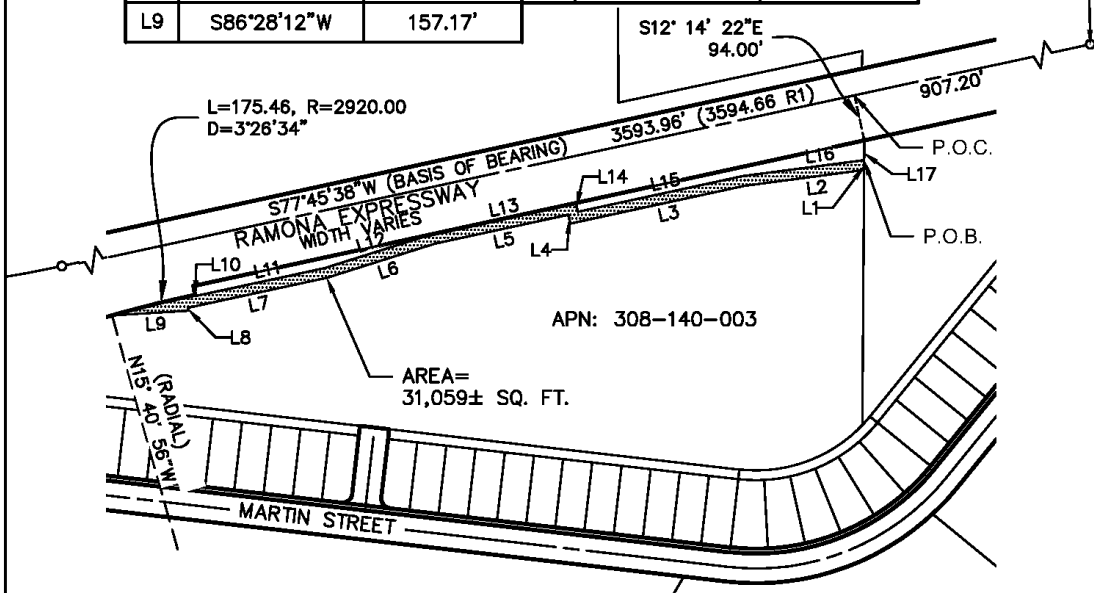
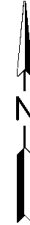
EXHIBIT "B"

SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT  
 RCPN: 1234-1C  
 APN: 308-140-003

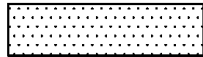
A PORTION OF LOT 8 OF RANCHO SAN JACINTO NUEVO, T4S, R3W, SBM

LINE DATA TABLE					
NO.	BEARING	DISTANCE	NO.	BEARING	DISTANCE
L1	S00°22'40"W	20.19'	L10	S12°14'22"E	3.00'
L2	S82°32'43"W	246.83'	L11	N77°45'38"E	270.00'
L3	S77°45'38"W	363.49'	L12	N72°32'37"E	230.96'
L4	N12°14'22"W	18.50'	L13	N77°45'38"E	300.00'
L5	S77°45'38"W	279.09'	L14	S12°14'22"E	18.50'
L6	S72°32'37"W	230.96'	L15	N77°45'38"E	344.33'
L7	S77°45'38"W	290.91'	L16	N82°32'43"E	250.42'
L8	S12°14'22"E	6.07'	L17	S00°22'40"W	40.36'
L9	S86°28'12"W	157.17'			



R1: RIVERSIDE COUNTY  
 PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT  
 P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 150' 300'



1" = 300'

DATE: NOV. 2, 2023  
 PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1234-2A**  
**APN 308-150-005**

A portion of Lot 5 of Rancho San Jacinto Nuevo, Riverside County, State of California, Township 4 South, Range 3 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 907.20 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 12°14'22" East a distance of 94.00 feet to the southerly edge of right of way at the **POINT OF BEGINNING**;

**THENCE** along said southerly edge of right of way North 77°45'38" East a distance of 584.97 feet to the westerly line of Lot E, MB22/66;

**THENCE** along said westerly line of Lot E, South 39°10'43" West a distance of 146.72 feet;

**THENCE** departing said westerly line of Lot E, South 85°37'16" West a distance of 223.00 feet;

**THENCE** South 82°32'43" West a distance of 259.10;

**THENCE** North 0°22'40" East a distance of 40.36 feet to the **POINT OF BEGINNING**;

**CONTAINING** 0.801 acres (34,877 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date

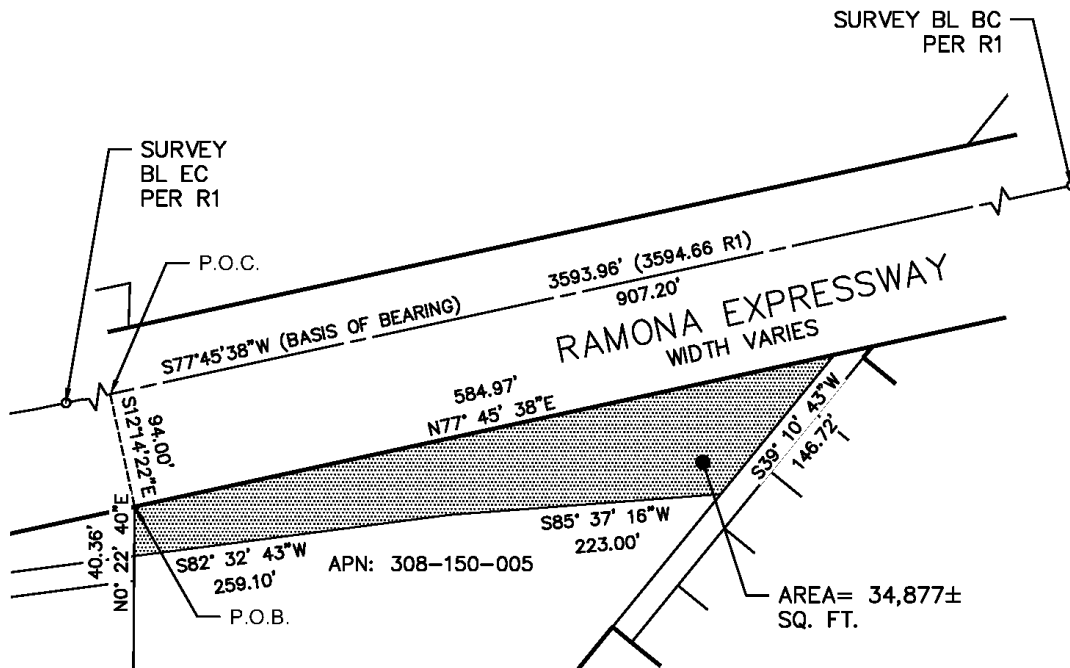


SCALE: 1"=120'

EXHIBIT "B"

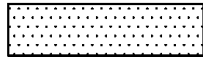
SHEET 1 OF 1

FEE ACQUISITION  
RCPN: 1234-2A  
APN: 308-150-005  
A PORTION OF LOT 5,  
RANCHO SAN JACINTO NUEVO  
T4S R3W, SBM



R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT  
P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 60' 120'



1" = 120'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1234-2B**  
**APN 308-150-005**

A portion of Lot 5 of Rancho San Jacinto Nuevo, Riverside County, State of California, Township 4 South, Range 3 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 907.20 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 12°14'22" East a distance of 94.00 feet to the southerly edge of right of way;

**THENCE** departing said southerly edge of right of way South 0°22'40" West a distance of 40.36 feet to the **POINT OF BEGINNING**;

**THENCE** North 82°32'43" East a distance of 259.10 feet;

**THENCE** North 85°37'16" East a distance of 223.00 feet to the westerly line of Lot E, MB22/66;

**THENCE** along said westerly line of Lot E, South 39°10'43" West a distance of 27.60 feet;

**THENCE** South 85°37'16" West a distance of 203.45 feet;

**THENCE** South 82°32'43" West a distance of 261.31 feet;

**THENCE** North 0°22'40" East a distance of 20.19 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.217 acres (9,469 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date

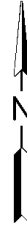


SCALE: 1"=120'

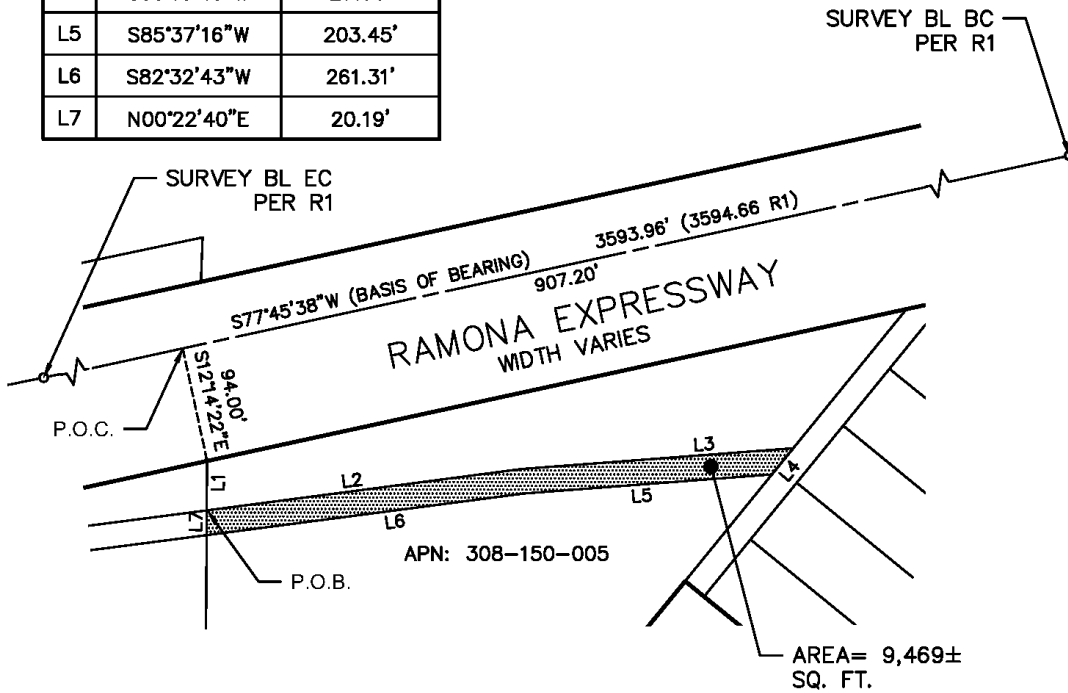
EXHIBIT "B"

SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT  
 RCPN: 1234-2B  
 APN: 308-150-005  
 A PORTION OF LOT 5,  
 RANCHO SAN JACINTO NUEVO  
 T4S R3W, SBM

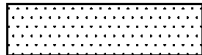


LINE DATA TABLE		
NO.	BEARING	DISTANCE
L1	S00°22'40"W	40.36'
L2	N82°32'43"E	259.10'
L3	N85°37'16"E	223.00'
L4	S39°10'43"W	27.60'
L5	S85°37'16"W	203.45'
L6	S82°32'43"W	261.31'
L7	N00°22'40"E	20.19'



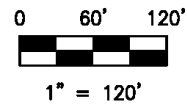
R1: RIVERSIDE COUNTY  
 PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT  
 P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:



DATE: NOV. 2, 2023  
 PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1234-3A**  
**APN 308-190-006**

A portion of Lot E, Map Book 22 Page 66, being a portion of Lot 5 of Rancho San Jacinto Nuevo, Riverside County, State of California, Township 4 South, Range 3 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 290.16 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 12°14'22" East a distance of 94.00 feet to the southerly edge of right of way at the northeasterly corner of Lot E, MB22/66 and the **POINT OF BEGINNING**;

**THENCE** along the easterly boundary of said Lot E South 39°10'43" West a distance of 152.77 feet;

**THENCE** departing said easterly boundary of Lot E South 85°37'16" West a distance of 27.60 feet to the westerly boundary of Lot E;

**THENCE** along the westerly boundary of said Lot E North 39°10'43" East a distance of 146.72 feet to said southerly edge of right of way;

**THENCE** along said southerly edge of right of way North 77°45'38" East a distance of 32.07 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.069 acres (2,995 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date





SCALE: 1"=50'

EXHIBIT "B"

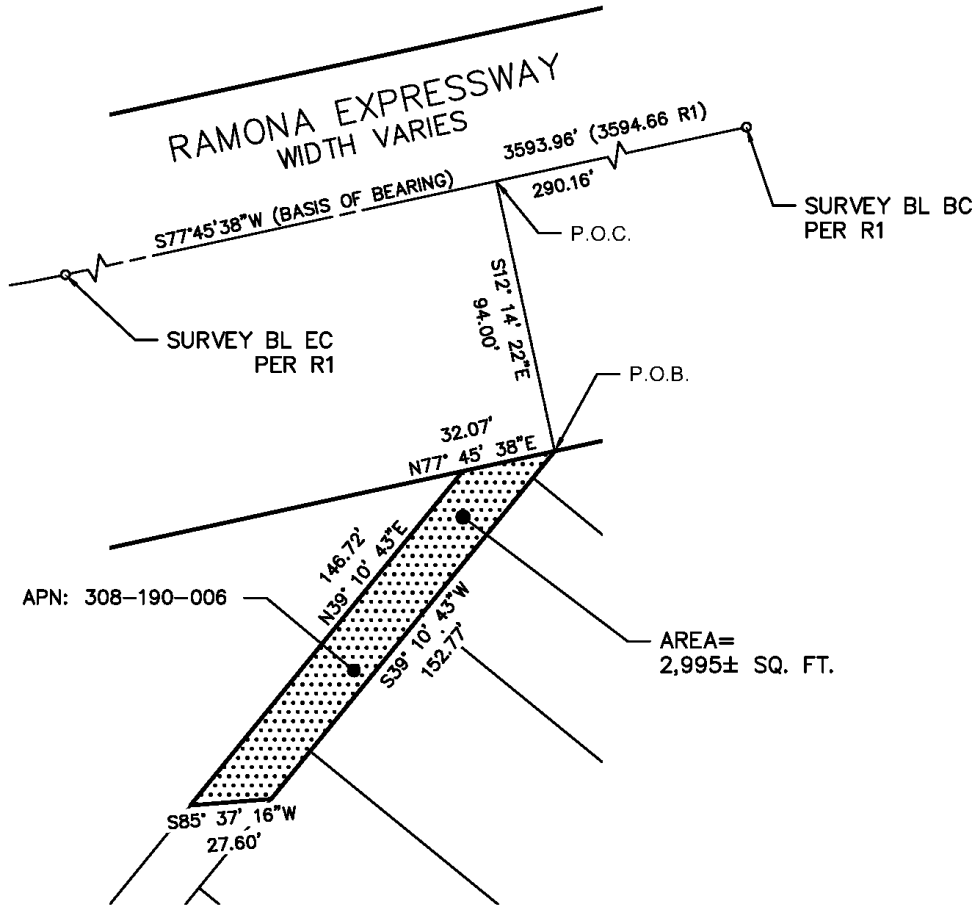
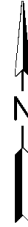
SHEET 1 OF 1

FEE ACQUISITION

RCPN: 1234-3A

APN: 308-190-006

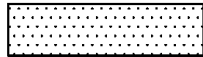
A PORTION OF LOT E, MB22/66, RANCHO SAN JACINTO NUEVO, T4S R3W, SBM



R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT

P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 25' 50'



1" = 50'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1234-3B**  
**APN 308-190-006**

A portion of Lot E, Map Book 22 Page 66, being a portion of Lot 5 of Rancho San Jacinto Nuevo, Riverside County, State of California, Township 4 South, Range 3 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 290.16 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 12°14'22" East a distance of 94.00 feet to the southerly edge of right of way at the northeasterly corner of Lot E, MB22/66;

**THENCE** along the easterly boundary of said Lot E South 39°10'43" West a distance of 152.77 feet to the **POINT OF BEGINNING**;

**THENCE** continuing along the easterly boundary of said Lot E South 39°10'43" West a distance of 27.60 feet;

**THENCE** departing said easterly boundary of Lot E South 85°37'16" West a distance of 27.60 feet to the westerly boundary of Lot E;


**THENCE** along the westerly boundary of said Lot E North 39°10'43" East a distance of 27.60 feet;

**THENCE** departing said westerly boundary of Lot E North 85°37'16" East a distance of 27.60 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.013 acres (552 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=50'

### EXHIBIT "B"

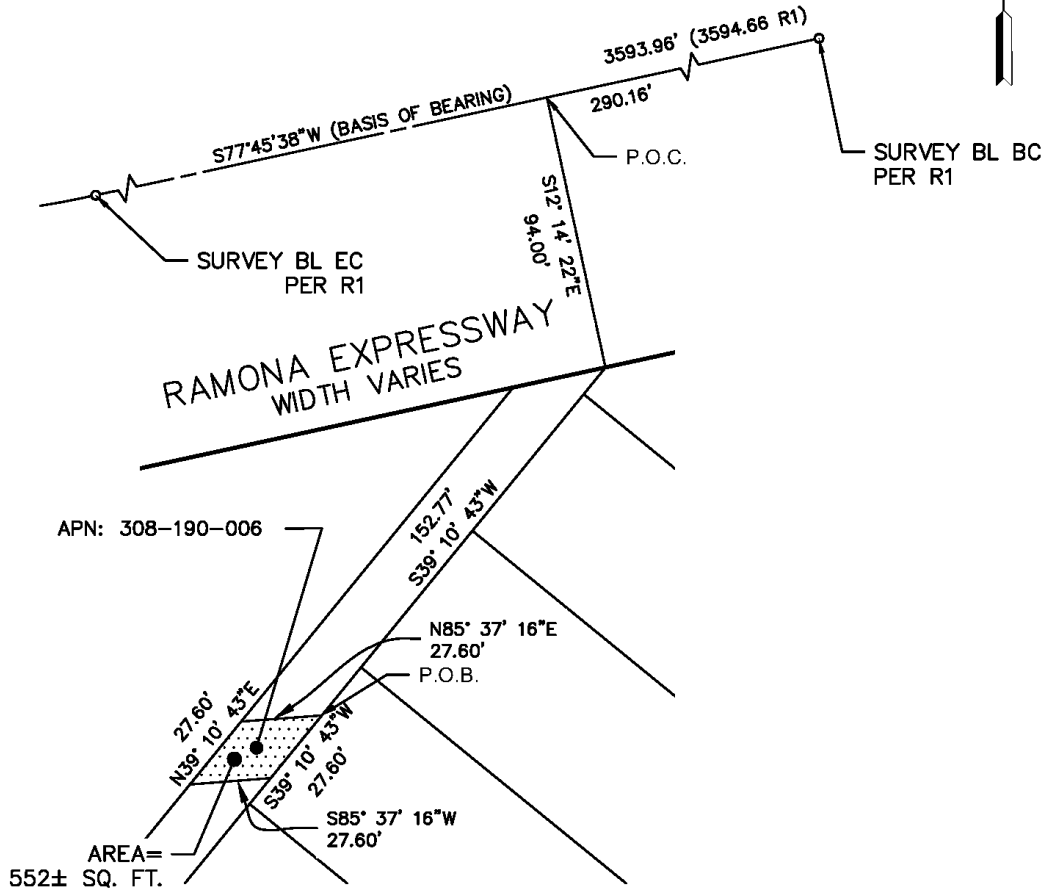
SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT

RCPN: 1234-3B

APN: 308-190-006

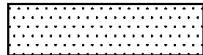
A PORTION OF LOT E, MB22/66, RANCHO SAN JACINTO NUEVO, T4S R3W, SBM



R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT

P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 25' 50'



1" = 50'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

## Jacobs

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1235-1A**  
**APN 308-190-009**

A portion of Lot 64, Map Book 22 Page 66, being a portion of Lot 5 of Rancho San Jacinto Nuevo, Riverside County, State of California, Township 4 South, Range 3 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 290.16 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 12°14'22" East a distance of 94.00 feet to the southerly edge of right of way at the northeasterly corner of Lot E, MB22/66;

**THENCE** along the easterly boundary of said Lot E South 39°10'43" East a distance of 131.75 feet to the northwesterly corner of Lot 64, MB22/66 and the **POINT OF BEGINNING**;

**THENCE** along the northeasterly boundary of said Lot 64 South 50°49'17" East a distance of 150.00 feet to the northwesterly edge of Martin Street;

**THENCE** along the northwesterly edge of Martin Street South 39°10'43" West a distance of 2.24 feet;

**THENCE** departing said northwesterly edge of Martin Street North 50°49'17" West a distance of 130.25 feet;

**THENCE** South 85°37'16" West a distance of 27.26 feet to the northwesterly boundary of said Lot 64;

**THENCE** along the northwesterly boundary of said Lot 64 North 39°10'43" East a distance of 21.02 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.012 acres (522 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

3-19-24  
Date



SCALE: 1"=50'

EXHIBIT "B"

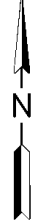
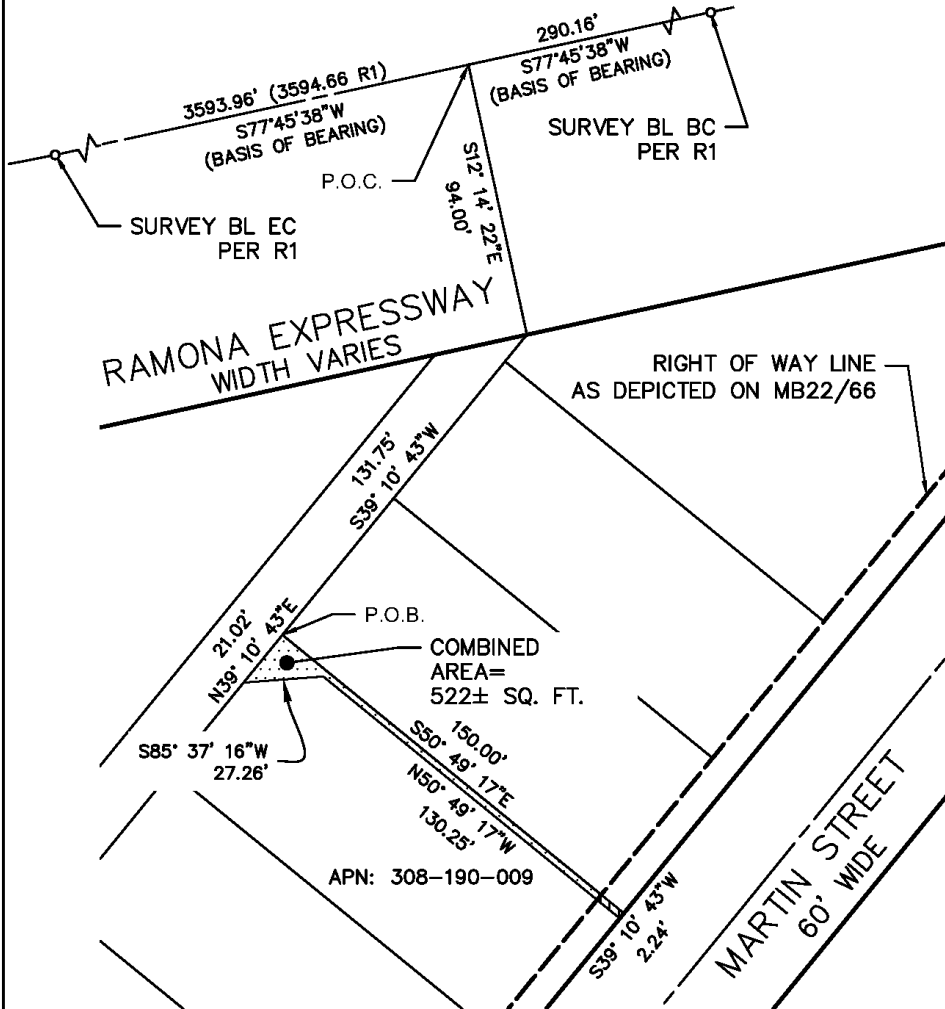
SHEET 1 OF 1

FEE ACQUISITION

RCPN: 1235-1A

APN: 308-190-009

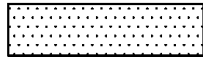
A PORTION OF LOT 64, MB22/66, RANCHO SAN JACINTO NUEVO, T4S R3W, SBM



R1: RIVERSIDE COUNTY PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT

P.O.B. - POINT OF BEGINNING

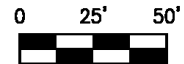


APN BOUNDARY



ADDITIONAL AREA

RESERVED FOR COUNTY:



1" = 50'

DATE: MAR. 7, 2024  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1235-1B**  
**APN 308-190-009**

A portion of Lot 64, Map Book 22 Page 66, being a portion of Lot 5 of Rancho San Jacinto Nuevo, Riverside County, State of California, Township 4 South, Range 3 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 290.16 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 12°14'22" East a distance of 94.00 feet to the southerly edge of right of way at the northeasterly corner of Lot E, MB22/66;

**THENCE** along the easterly boundary of said Lot E South 39°10'43" West a distance of 152.77 feet to the **POINT OF BEGINNING**;

**THENCE** departing said easterly boundary of Lot E North 85°37'16" East a distance of 27.26 feet;

**THENCE** South 50°49'17" East a distance of 130.25 feet to the northwesterly edge of Martin Street;

**THENCE** along the northwesterly edge of Martin Street South 39°10'43" West a distance of 20.00 feet;

**THENCE** departing said northwesterly edge of Martin Street North 50°49'17" East a distance of 122.26 feet;

**THENCE** South 85°37'16" West a distance of 38.28 feet to the northwesterly boundary of said Lot 64;

**THENCE** along the northwesterly boundary of said Lot 64 North 39°10'43" East a distance of 27.60 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.073 acres (3,180 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

3-19-24  
Date



SCALE: 1"=50'

### EXHIBIT "B"

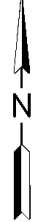
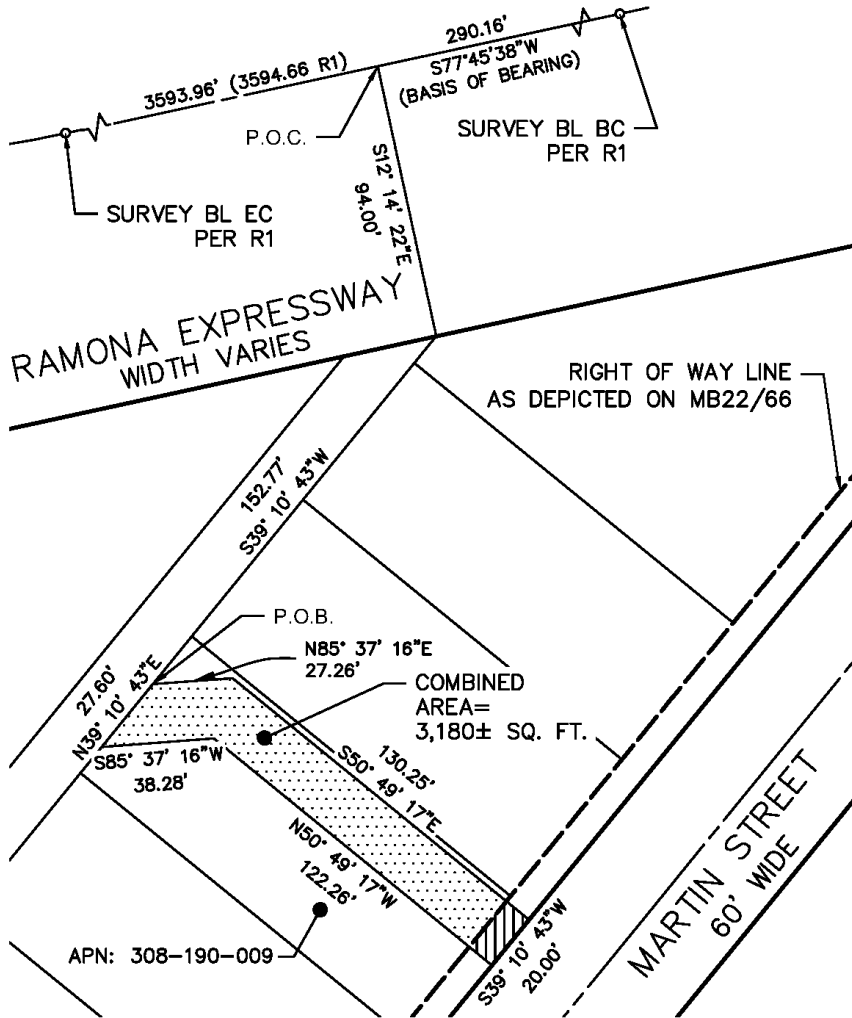
SHEET 1 OF 1

#### TEMPORARY CONSTRUCTION EASEMENT

RCPN: 1235-1B

APN: 308-190-009

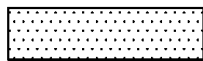
A PORTION OF LOT 64, MB22/66, RANCHO SAN JACINTO NUEVO, T4S R3W, SBM



R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT

P.O.B. - POINT OF BEGINNING



APN BOUNDARY



ADDITIONAL AREA

RESERVED FOR COUNTY:

0 25' 50'



1" = 50'

DATE: MAR. 7, 2024  
PROJECT NO. W9Y38100

## Jacobs

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1235-2**  
**APN 308-190-010**

Lot 65, Map Book 22 Page 66, being a portion of Lot 5 of Rancho San Jacinto Nuevo, Riverside County, State of California, Township 4 South, Range 3 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 290.16 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 12°14'22" East a distance of 94.00 feet to the southerly edge of right of way at the northeasterly corner of Lot E, MB22/66;

**THENCE** along the easterly boundary of said Lot E South 39°10'43" East a distance of 71.75 feet to the northwesterly corner of Lot 65 and the **POINT OF BEGINNING**;

**THENCE** along the northeasterly, southwesterly, and northwesterly boundaries of said Lot 65 and the northwesterly edge of Martin Street the following 4 courses:

- 1 - South 50°49'17" East a distance of 150.00 feet;
- 2 - South 39°10'43" West a distance of 60.00 feet;
- 3 - North 50°49'17" East a distance of 150.00 feet;
- 4 - North 39°10'43" East a distance of 60.00 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.207 acres (9,000 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

3-19-24  
Date





SCALE: 1"=50'

### EXHIBIT "B"

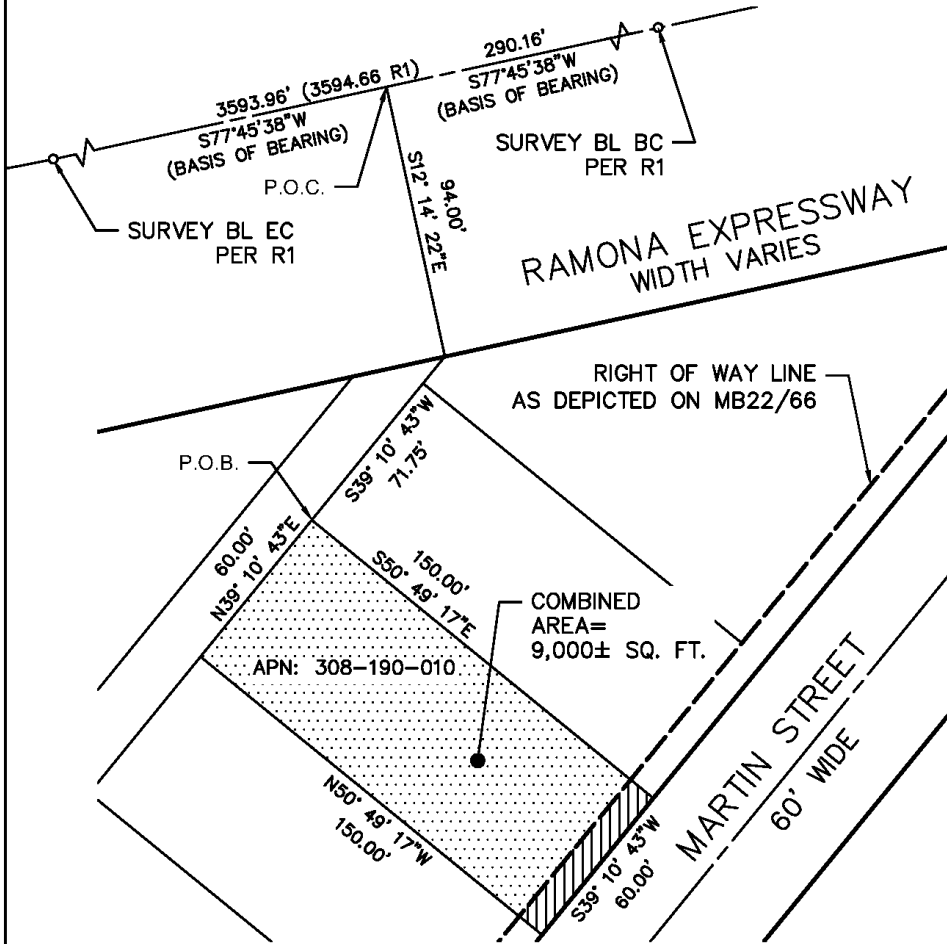
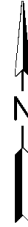
SHEET 1 OF 1

FEE ACQUISITION

RCPN: 1235-2

APN: 308-190-010

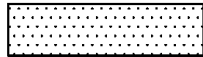
LOT 65, MB22/66, RANCHO SAN JACINTO NUEVO, T4S R3W, SBM



R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT

P.O.B. - POINT OF BEGINNING



APN BOUNDARY



ADDITIONAL AREA

RESERVED FOR COUNTY:



1" = 50'

DATE: MAR. 7, 2024  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1235-3**  
**APN 308-190-011**

Lot 66, Map Book 22 Page 66, being a portion of Lot 5 of Rancho San Jacinto Nuevo, Riverside County, State of California, Township 4 South, Range 3 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 290.16 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 12°14'22" East a distance of 94.00 feet to the southerly edge of right of way at the northeasterly corner of Lot E, MB22/66;

**THENCE** along the easterly boundary of said Lot E South 39°10'43" East a distance of 11.75 feet to the northwesterly corner of Lot 66 and the **POINT OF BEGINNING**;

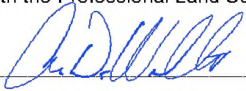
**THENCE** along the northeasterly, southwesterly, and northwesterly boundaries of said Lot 66 and the northwesterly edge of Martin Street the following 4 courses:

- 1 - South 50°49'17" East a distance of 150.00 feet;
- 2 - South 39°10'43" West a distance of 60.00 feet;
- 3 - North 50°49'17" East a distance of 150.00 feet;
- 4 - North 39°10'43" East a distance of 60.00 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.207 acres (9,000 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

3-19-24  
Date



SCALE: 1"=50'

### EXHIBIT "B"

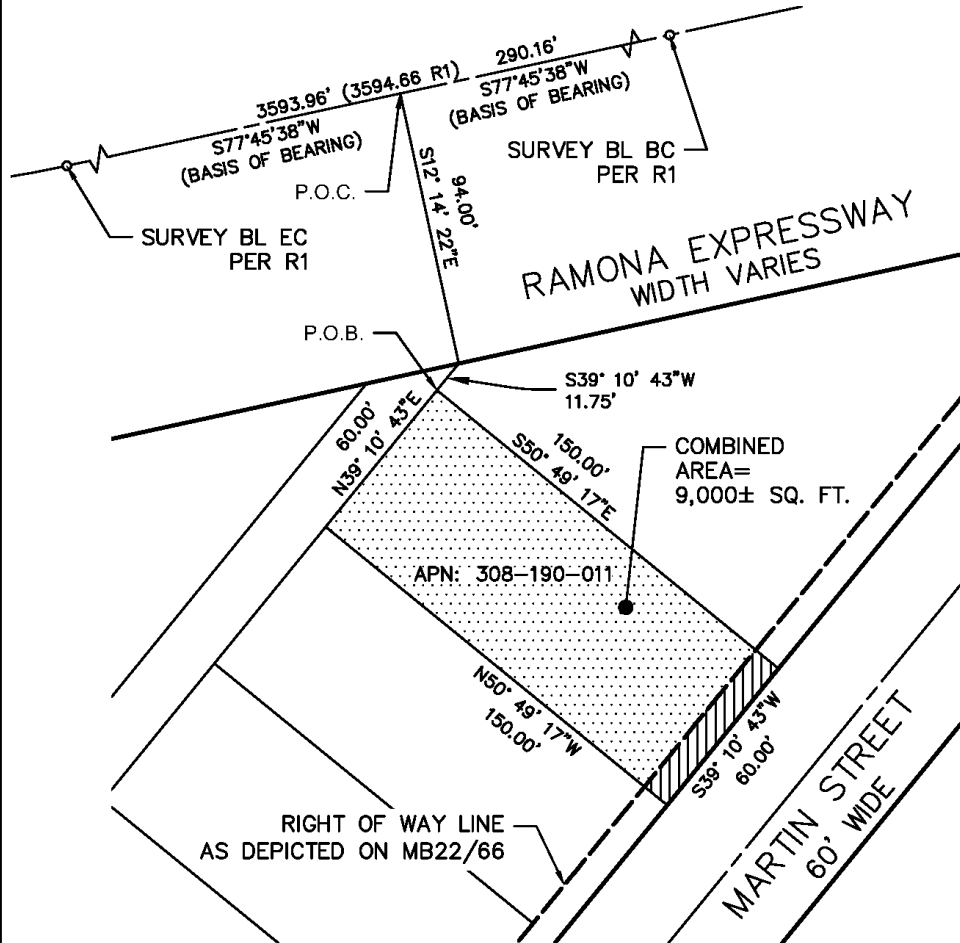
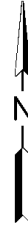
SHEET 1 OF 1

FEE ACQUISITION

RCPN: 1235-3

APN: 308-190-011

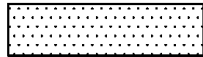
LOT 66, MB22/66, RANCHO SAN JACINTO NUEVO, T4S R3W, SBM



R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT

P.O.B. - POINT OF BEGINNING



APN BOUNDARY



ADDITIONAL AREA

RESERVED FOR COUNTY:



1" = 50'

DATE: MAR. 7, 2024  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1235-4**  
**APN 308-190-012**

A portion of lots 67,68,69, and 70, Map Book 22 Page 66, being a portion of Lot 5 of Rancho San Jacinto Nuevo, Riverside County, State of California, Township 4 South, Range 3 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West a distance of 290.16 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 12°14'22" East a distance of 94.00 feet to the southerly edge of right of way at the northeasterly corner of Lot E, MB22/66 and the **POINT OF BEGINNING**;

**THENCE** along the southerly edge of right of way North 77°45'38" East a distance of 240.53 feet to the northwesterly edge of Martin Street;

**THENCE** along the northwesterly edge of Martin Street South 39°10'43" West a distance of 199.77 feet;


**THENCE** departing said northwesterly edge of Martin Street along the southwesterly boundary of Lot 67 North 50°49'17" East a distance of 150.00 feet to the southwesterly corner of Lot 67 and the northwesterly boundary of said lots;

**THENCE** along the northwesterly boundary of said lots North 39°10'43" East a distance of 11.75 feet to the southerly edge of right of way and the **POINT OF BEGINNING**.

**CONTAINING** 0.364 acres (15,864 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

3-19-24  
Date

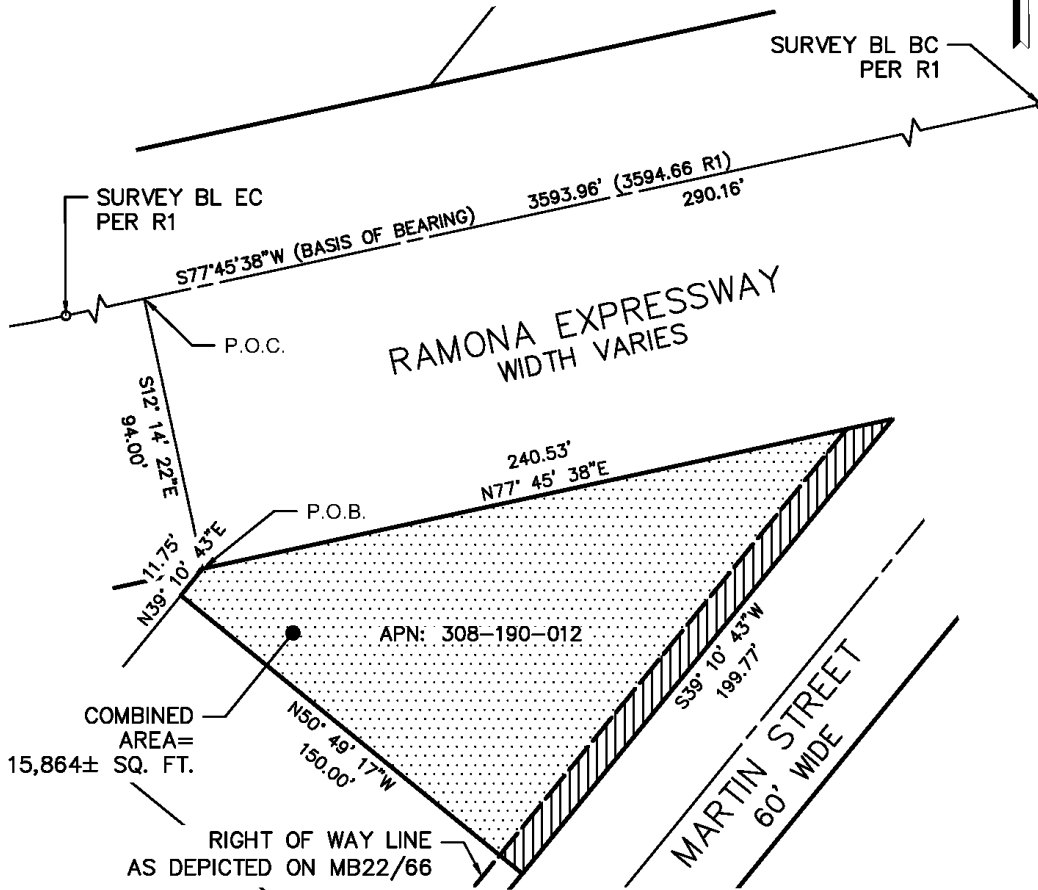


SCALE: 1"=50'

### EXHIBIT "B"

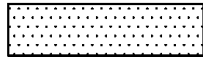
SHEET 1 OF 1

FEE ACQUISITION  
RCPN: 1235-4  
APN: 308-190-012  
A PORTION OF LOTS 67,68,69, AND 70,  
MB22/66, RANCHO SAN JACINTO NUEVO  
T4S R3W, SBM



R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT  
P.O.B. - POINT OF BEGINNING

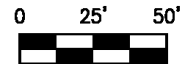


APN BOUNDARY



ADDITIONAL AREA

RESERVED FOR COUNTY:



1" = 50'

DATE: MAR. 7, 2024  
PROJECT NO. W9Y38100

**Jacobs**



## RESOLUTION NO. 24-011

ADOPTION OF A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF THREE PARTIAL FEE INTERESTS AND TWO TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY, BY EMINENT DOMAIN, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NUMBERS 425-110-014, 425-110-015, AND 426-060-022, FOR THE MID COUNTY PARKWAY RAMONA EXPRESSWAY CONSTRUCTION CONTRACT 3 PROJECT (MCP3), IN RIVERSIDE COUNTY, CALIFORNIA.

**WHEREAS**, the Riverside County Transportation Commission (the "Commission") proposes to acquire three (3) partial fee interests and two (2) temporary construction easement interests in portions of certain real property, located in unincorporated Riverside County, California, more particularly described as Assessor Parcel Numbers 425-110-014, 425-110-015, and 426-060-022, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), pursuant to the authority granted to it by section 130220.5 of the California Public Utilities Code; and

**WHEREAS**, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a public hearing for Wednesday, October 9, 2024, at 9:30 a.m., at the County Administration Building, County Board Room, at 4080 Lemon Street, Riverside, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

**WHEREAS**, said hearing has been held by the Commission, and the affected property owner was afforded an opportunity to be heard on said matters; and

**WHEREAS**, the Commission may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure;

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:**

**Section 1. Compliance with California Code of Civil Procedure.** There has been compliance by the Commission with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

**Section 2. Public Use.** The public use for the partial fee interests in portions of the properties to be acquired is for the MCP3 Project in Riverside County, California. Section 130220.5 of the California Public Utilities Code authorizes the Commission to acquire, by eminent domain, property necessary for such purposes.

**Section 3. Description of Property.** Attached and marked as Exhibit “A” are the legal definitions, description and depiction of the interests to be acquired by the Commission, which describe the general location and extent of the property with sufficient detail for reasonable identification.

**Section 4. Findings.** The Commission hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The property defined and described in Exhibit “A” is necessary for the proposed project; and
- (d) The offer required by section 7267.2 of the California Government Code was made.

**Section 5. Use Not Unreasonably Interfering with Existing Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the Commission and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the Commission is authorized to acquire the herein described interest subject to such existing public use pursuant to section 1240.510 of the California Code of Civil Procedure.

**Section 6. More Necessary Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the Commission finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the Commission is authorized to acquire the herein described real property appropriated to such existing public uses pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the affected real property that it determines are reasonably necessary to mitigate any adverse impact upon the existing public use.



**Section 7. Further Activities.** Counsel for the Commission is hereby authorized to acquire the hereinabove described real property in the name of and on behalf of the Commission by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the Commission to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action, or other proceedings or transactions required to acquire the subject real property.

**Section 8. Effective Date.** This Resolution shall take effect upon adoption.

**APPROVED AND ADOPTED** this 9th day of October, 2024.

---

Lloyd White, Chair  
Riverside County Transportation Commission

ATTEST:

---

Lisa Mobley, Clerk of the Board Riverside  
County Transportation Commission

## LEGAL DEFINITIONS

**"Fee"** also known as fee simple or fee simple absolute, grants to RCTC, absolute ownership of the property.

**"Temporary Construction Easement (TCE)"** refers to the right of RCTC, its successors and assigns, to engage in construction and related activities for the project, together with all necessary rights of ingress and egress to the easement area in connection with the exercise of any of the easement rights.

Such right shall be exercised for a period of 36 (thirty-six) months, commencing in April of 2025 and expiring April of 2028.

The duration of the rights under this easement shall not extend beyond April 2028, or upon filing of a Notice of Completion, whichever is sooner.

Property Owner shall not cause, directly or indirectly or negligently, any interference with or harm to the rights conveyed here under.

# LEGAL DESCRIPTION

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1232-1**  
**APN 425-110-014**

A Portion of Block 6, Amended Map No. 1 Of Lakeview, Map Book 2, Page 24, in the Office of the County Recorder, Riverside County, State of California, being a portion of Rancho San Jacinto Nuevo, Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 798 BB, which bears North 89°59'21" West a distance of 913.74 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway North 0°00'39" East a distance of 71.00 feet to the northerly edge of right of way and the **POINT OF BEGINNING**;

**THENCE** departing said northerly edge of right of way, North 0°00'03" East a distance of 51.00 feet;

**THENCE** South 89°59'21" East a distance of 401.36 feet;

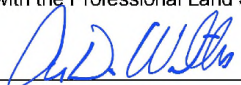
**THENCE** South 0°00'39" West a distance of 51.00 feet to said northerly edge of right of way;

**THENCE** along said northerly edge of right of way North 89°59'21" West a distance of 401.35 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.470 acres (20,469 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=60'

### EXHIBIT "B"

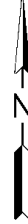
SHEET 1 OF 1

FEE ACQUISITION

RCPN: 1232-1

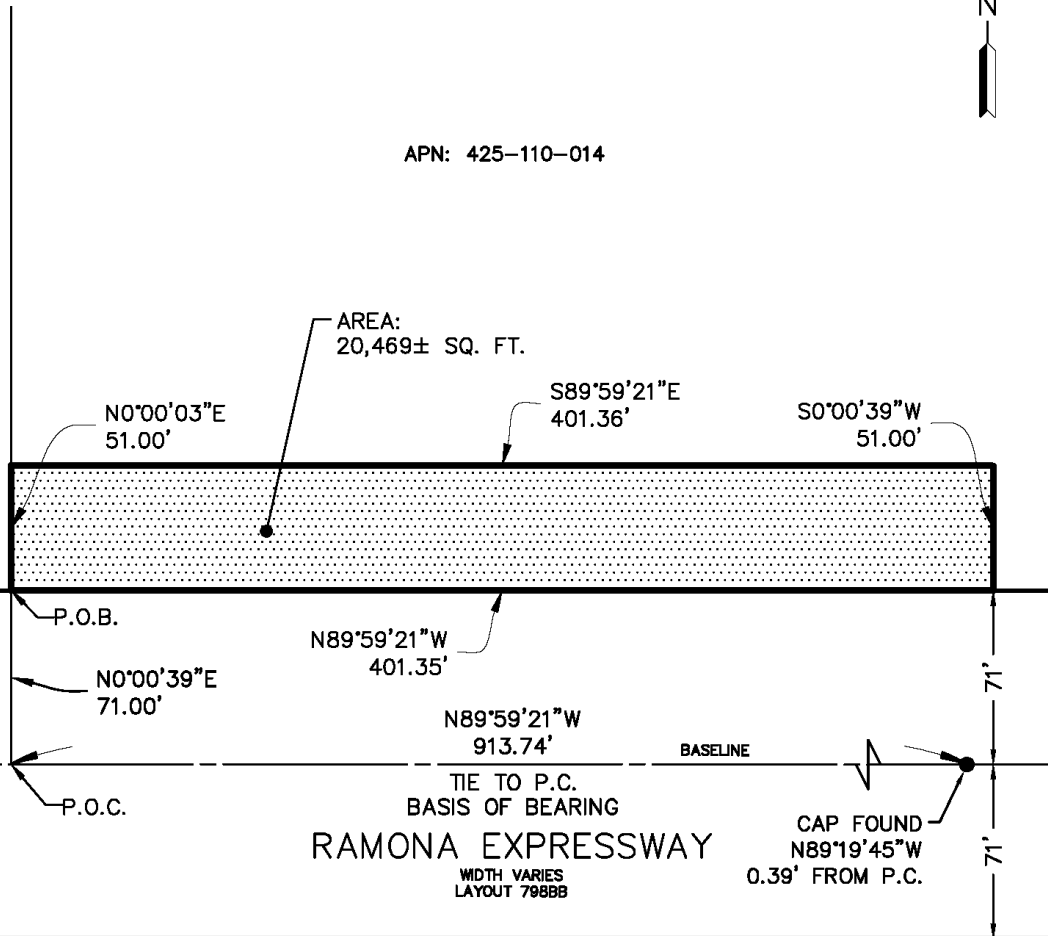
APN: 425-110-014

A PORTION OF BLOCK 6, AMENDED MAP NO. 1 OF LAKEVIEW, MB 2/24  
RANCHO SAN JACINTO NUEVO, T4S R2W, SBM

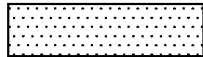


APN: 425-110-014

AREA:  
20,469± SQ. FT.



P.O.C. – POINT OF COMMENCEMENT  
P.O.B. – POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 30' 60'



1" = 60'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1232-2**  
**APN 425-110-015**

A Portion of Blocks 6 and 7, Amended Map No. 1 Of Lakeview, Map Book 2, Page 24, in the Office of the County Recorder, Riverside County, State of California, being a portion of Rancho San Jacinto Nuevo, Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 798 BB, which bears North 89°59'21" West a distance of 913.74 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway North 0°00'39" East a distance of 71.00 feet to the northerly edge of right of way and the **POINT OF BEGINNING**;

**THENCE** along said northerly edge of right of way North 89°59'21" West a distance of 1,539.65 feet;

**THENCE** departing said northerly edge of right of way North 0°00'39" East a distance of 51.00 feet;

**THENCE** South 89°59'21" East a distance of 1,539.64 feet;

**THENCE** South 0°00'03" West a distance of 51.00 feet to said northerly edge of right of way and the **POINT OF BEGINNING**.

**CONTAINING** 1.803 acres (78,522 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
\_\_\_\_\_  
Date



SCALE: 1"=250'

### EXHIBIT "B"

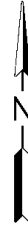
SHEET 1 OF 1

FEE ACQUISITION

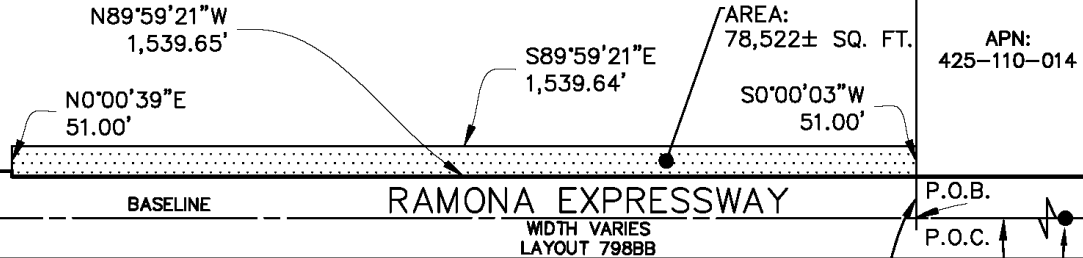
RCPN: 1232-2

APN: 425-110-015

A PORTION OF BLOCKS 6 AND 7, AMENDED MAP NO. 1 OF LAKEVIEW, MB 2/24  
RANCHO SAN JACINTO NUEVO, T4S R2W, SBM

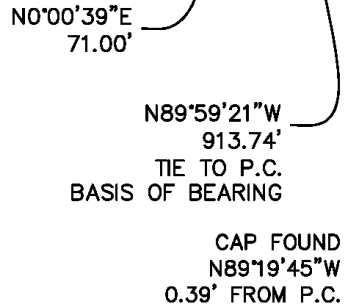


APN: 425-110-015

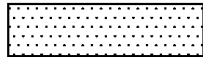


RAMONA EXPRESSWAY  
WIDTH VARIES  
LAYOUT 798BB

APN: 425-120-002



P.O.C. - POINT OF COMMENCEMENT  
P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 125' 250'



1" = 250'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1245-1**  
**APN 426-060-022**

A portion of Lots 187, 189, and a portion of "Eighth" Street as depicted in Map Book 10, Page 22, being a portion of Rancho San Jacinto Nuevo, Riverside County, State of California, portion of Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point of tangency along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 70°01'24" East, with all bearings hereon being referenced to this line;

**THENCE** along a curve concave northeasterly of radius 4,000 feet, a distance of 474.69 feet;

**THENCE** departing the baseline of Ramona Expressway South 13°10'38" West a distance of 94.00 feet along a radial line to the southerly edge of right of way and the **POINT OF BEGINNING**;

**THENCE** along said southerly edge of right of way southeasterly along a curve concave northerly of radius 4,094 feet through a central angle of 1°55'36" a distance of 137.67 feet;

**THENCE** departing said southerly edge of right of way South 11°15'02" West a distance of 25.50 feet;

**THENCE** North 82°11'56" West a distance of 157.42 feet;

**THENCE** North 38°50'34" East a distance of 42.07 feet to said southerly edge of right of way at the **POINT OF BEGINNING**.

**CONTAINING** 0.104 acres (4,539 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=120'

### EXHIBIT "B"

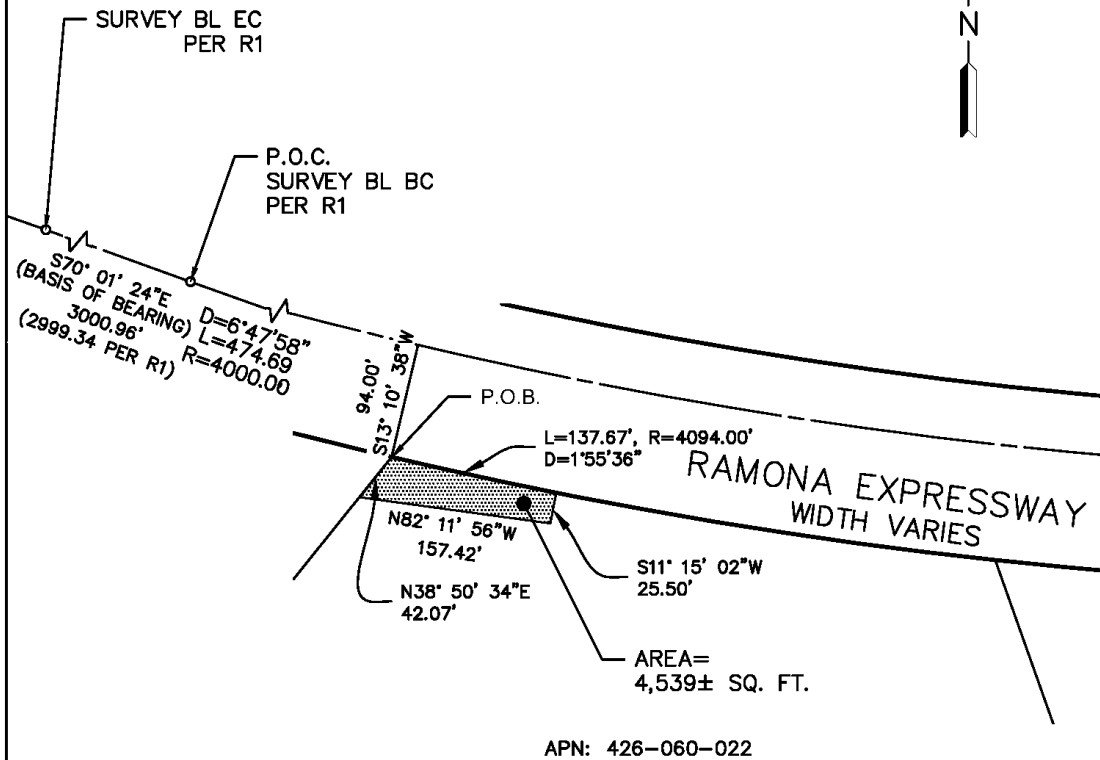
SHEET 1 OF 1

FEE ACQUISITION

RCPN: 1245-1

APN: 426-060-022

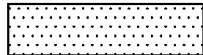
A PORTION OF LOTS 187, 189 AND A PORTION OF EIGHTH STREET, MB10/22, RANCHO SAN JACINTO NUEVO, T4S R2W, SBM



R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT

P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 60' 120'



1" = 120'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**



**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1245-2**  
**APN 426-060-022**

A portion of Lots 187, 189, and a portion of "Eighth" Street as depicted in Map Book 10, Page 22, being a portion of Rancho San Jacinto Nuevo, Riverside County, State of California, portion of Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point of tangency along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 70°01'24" East, with all bearings hereon being referenced to this line;

**THENCE** along a curve concave northeasterly of radius 4,000 feet, a distance of 474.69 feet;

**THENCE** departing the baseline of Ramona Expressway South 13°10'38" West a distance of 94.00 feet along a radial line to the southerly edge of right of way

**THENCE** departing said southerly edge of right of way South 38°50'34" West a distance of 42.07 feet to the **POINT OF BEGINNING**;

**THENCE** South 82°11'56" East a distance of 157.42 feet;

**THENCE** North 11°15'02" East a distance of 25.50 feet to the southerly edge of right of way at a point of non-tangency along a curve of radius 4,094.00, from which a radial line bears South 11°15'02" West;

**THENCE** along said southerly edge of right of way southeasterly along a curve concave northerly of radius 4,094 feet through a central angle of 0°16'48" a distance of 20.00 feet;

**THENCE** South 11°15'02" West a distance of 44.38 feet;

**THENCE** North 82°11'56" West a distance of 188.29 feet;

**THENCE** North 38°50'34" East a distance of 23.34 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.095 acres (4,156 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=120'

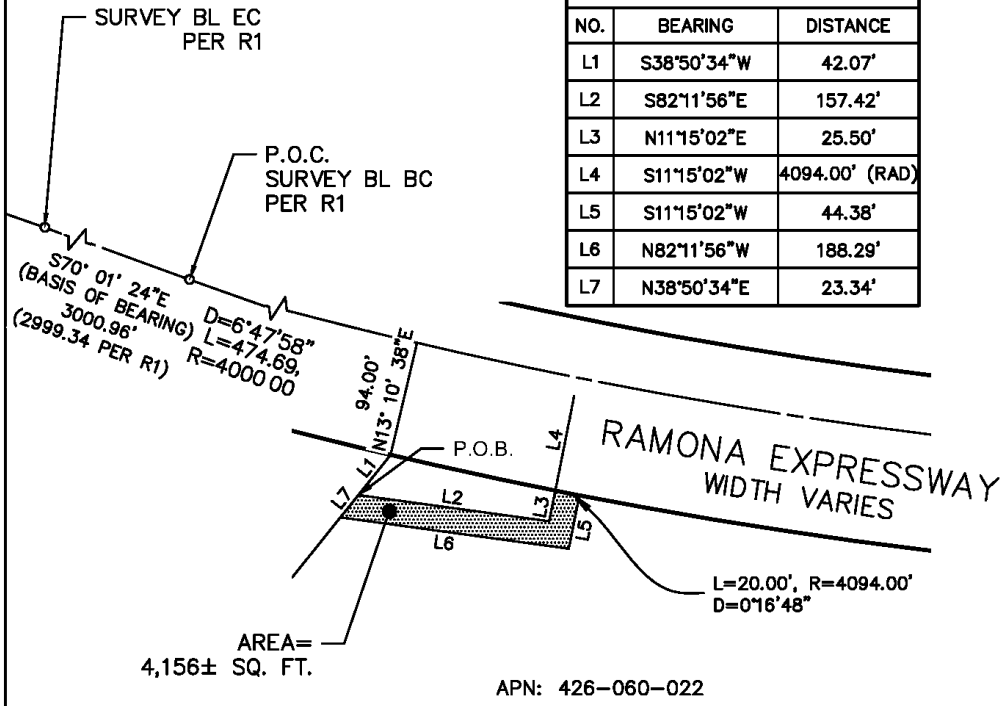
EXHIBIT "B"

SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT  
 RCPN: 1245-2  
 APN: 426-060-022  
 A PORTION OF LOTS 187, 189 AND A PORTION OF EIGHTH  
 STREET, MB10/22, RANCHO SAN JACINTO NUEVO,  
 T4S R2W, SBM

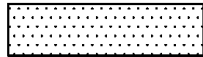


LINE DATA TABLE		
NO.	BEARING	DISTANCE
L1	S38°50'34"W	42.07'
L2	S82°11'56"E	157.42'
L3	N11°15'02"E	25.50'
L4	S11°15'02"W	4094.00' (RAD)
L5	S11°15'02"W	44.38'
L6	N82°11'56"W	188.29'
L7	N38°50'34"E	23.34'



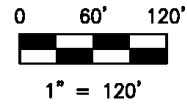
R1: RIVERSIDE COUNTY  
 PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT  
 P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:



DATE: NOV. 2, 2023  
 PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1245-3**  
**APN 426-060-022**

A portion of Lots 187, 189, and a portion of "Eighth" Street as depicted in Map Book 10, Page 22, being a portion of Rancho San Jacinto Nuevo, Riverside County, State of California, portion of Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point of tangency along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 70°01'24" East, with all bearings hereon being referenced to this line;

**THENCE** along a curve concave northeasterly of radius 4,000 feet, a distance of 963.79 feet;

**THENCE** departing the baseline of Ramona Expressway South 06°10'17" West a distance of 94.00 feet along a radial line to the southerly edge of right of way at the **POINT OF BEGINNING**;

**THENCE** departing said southerly edge of right of way South 19°30'39" East a distance of 19.54 feet;

**THENCE** North 85°57'51" West a distance of 168.61 feet;

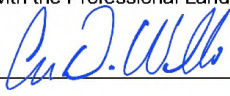
**THENCE** North 08°23'49" East a distance of 27.00 feet to the southerly edge of right of way at a point of non-tangency along a curve of radius 4,094.00, from which a radial line bears South 08°23'49" West;

**THENCE** along said southerly edge of right of way southeasterly along a curve concave northerly of radius 4,094 feet through a central angle of 2°13'32" a distance of 159.02 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.082 acres (3,574 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=120'

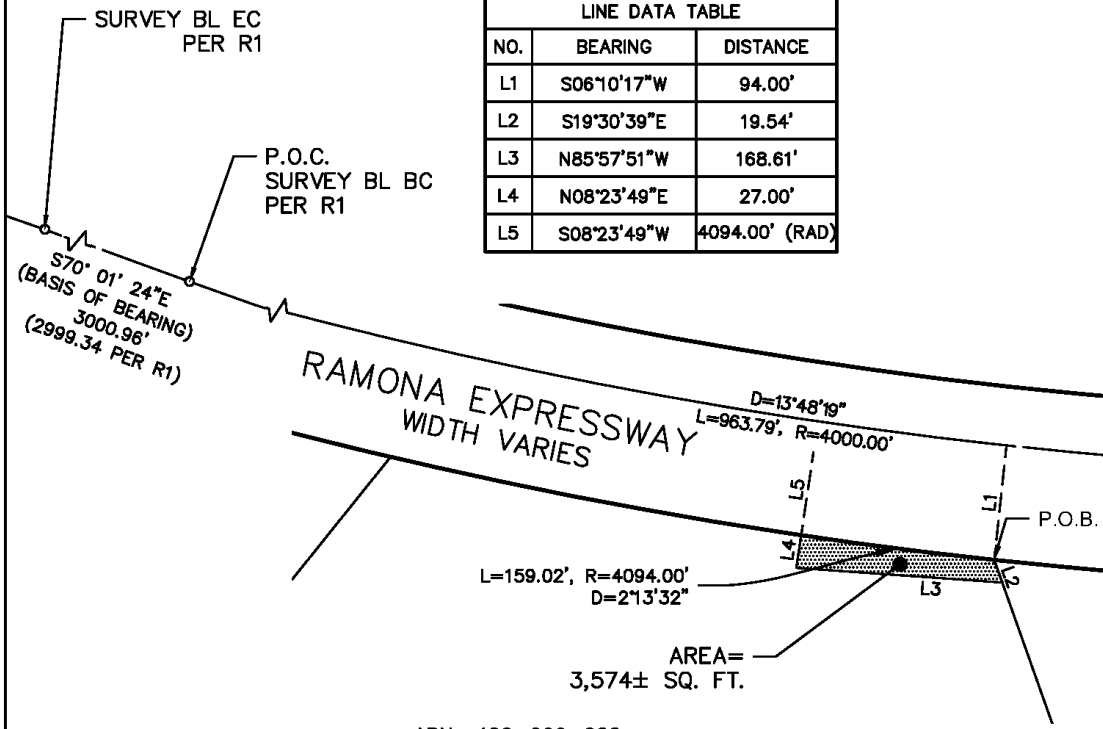
### EXHIBIT "B"

SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT  
 RCPN: 1245-3  
 APN: 426-060-022  
 A PORTION OF LOTS 187, 189 AND A PORTION OF EIGHTH  
 STREET, MB10/22, RANCHO SAN JACINTO NUEVO,  
 T4S R2W, SBM



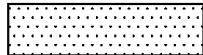
LINE DATA TABLE		
NO.	BEARING	DISTANCE
L1	S06°10'17"W	94.00'
L2	S19°30'39"E	19.54'
L3	N85°57'51"W	168.61'
L4	N08°23'49"E	27.00'
L5	S08°23'49"W	4094.00' (RAD)



APN: 426-060-022

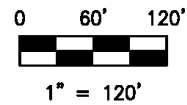
R1: RIVERSIDE COUNTY  
 PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT  
 P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:



DATE: NOV. 2, 2023  
 PROJECT NO. W9Y38100

**Jacobs**

## RESOLUTION NO. 24-012

ADOPTION OF A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF THREE PARTIAL FEE INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY, BY EMINENT DOMAIN, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NUMBERS 308-150-003, 308-150-004 AND 426-020-006, FOR THE MID COUNTY PARKWAY RAMONA EXPRESSWAY CONSTRUCTION CONTRACT 3 PROJECT (MCP3), IN RIVERSIDE COUNTY, CALIFORNIA.

**WHEREAS**, the Riverside County Transportation Commission (the "Commission") proposes to acquire three (3) partial fee interests in portions of certain real property, located in unincorporated Riverside County, California, more particularly described as Assessor Parcel Numbers 308-150-003, 308-150-004 and 426-020-006, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), pursuant to the authority granted to it by section 130220.5 of the California Public Utilities Code; and

**WHEREAS**, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a public hearing for Wednesday, October 9, 2024, at 9:30 a.m., at the County Administration Building, County Board Room, at 4080 Lemon Street, Riverside, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

**WHEREAS**, said hearing has been held by the Commission, and the affected property owner was afforded an opportunity to be heard on said matters; and

**WHEREAS**, the Commission may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure;

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:**

**Section 1. Compliance with California Code of Civil Procedure.** There has been compliance by the Commission with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

**Section 2. Public Use.** The public use for the partial fee interests in portions of the properties to be acquired is for the MCP3 Project in Riverside County, California. Section 130220.5 of the California Public Utilities Code authorizes the Commission to acquire, by eminent domain, property necessary for such purposes.

**Section 3. Description of Property.** Attached and marked as Exhibit "A" are the legal definitions, description and depiction of the interests to be acquired by the Commission, which describe the general location and extent of the property with sufficient detail for reasonable identification.

**Section 4. Findings.** The Commission hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The property defined and described in Exhibit "A" is necessary for the proposed project; and
- (d) The offer required by section 7267.2 of the California Government Code was made.

**Section 5. Use Not Unreasonably Interfering with Existing Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the Commission and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the Commission is authorized to acquire the herein described interest subject to such existing public use pursuant to section 1240.510 of the California Code of Civil Procedure.

**Section 6. More Necessary Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the Commission finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the Commission is authorized to acquire the herein described real property appropriated to such existing public uses pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the affected real property that it determines are reasonably necessary to mitigate any adverse impact upon the existing public use.

**Section 7. Further Activities.** Counsel for the Commission is hereby authorized to acquire the hereinabove described real property in the name of and on behalf of the Commission by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the Commission to take possession of and use said real property at the earliest possible time. Counsel is further

authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action, or other proceedings or transactions required to acquire the subject real property.

**Section 8. Effective Date.** This Resolution shall take effect upon adoption.

**APPROVED AND ADOPTED** this 9th day of October, 2024.

---

Lloyd White, Chair  
Riverside County Transportation Commission

ATTEST:

---

Lisa Mobley, Clerk of the Board Riverside  
County Transportation Commission

## **LEGAL DEFINITIONS**

**"Fee"** also known as fee simple or fee simple absolute, grants to RCTC, absolute ownership of the property.



# LEGAL DESCRIPTION

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1229-1**  
**APN 308-150-003**

A portion of Lot 5 of Rancho San Jacinto Nuevo, Riverside County, State of California, Township 4 South, Range 3 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point of tangency along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West, with all bearings hereon being referenced to this line;

**THENCE** along said baseline and northeasterly along a curve concave southerly of radius 3,000 feet, a distance of 460.02 feet;

**THENCE** departing the baseline of Ramona Expressway South 3°27'13" East a distance of 94.00 feet along a radial line to the southerly edge of right of way at the **POINT OF BEGINNING**;

**THENCE** along said southerly edge of right of way and southeasterly along a curve concave southerly of radius 2,906.00 feet through a central angle of 16°06'20" a distance of 816.87 feet;

**THENCE** South 0°30'25" West a distance of 125.66 feet to a point of non-tangency at a curve of radius 2,914.82 feet, from which a radial line bears North 8°01'43" West;

**THENCE** southwesterly along a curve concave southeasterly of radius 2,914.82 feet through a central angle of 2°23'22" a distance of 121.56 feet to a point of non-tangency at a curve of radius 4,175.00 feet, from which a radial line bears North 8°27'52" East;

**THENCE** northwesterly along a curve concave southerly of radius 4,175.00 feet through a central angle of 7°18'14" a distance of 532.21 feet to a point of non-tangency, from which a radial line bears North 1°09'38" East;

**THENCE** non-tangent to said curve South 20°09'27" West a distance of 82.31 feet;


**THENCE** South 89°45'04" West a distance of 132.65 feet;

**THENCE** North 0°07'21" East a distance of 243.65 feet to the **POINT OF BEGINNING**;

**CONTAINING** 3.397 acres (147,952 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=200'

EXHIBIT "B"

SHEET 1 OF 1

FEE ACQUISITION

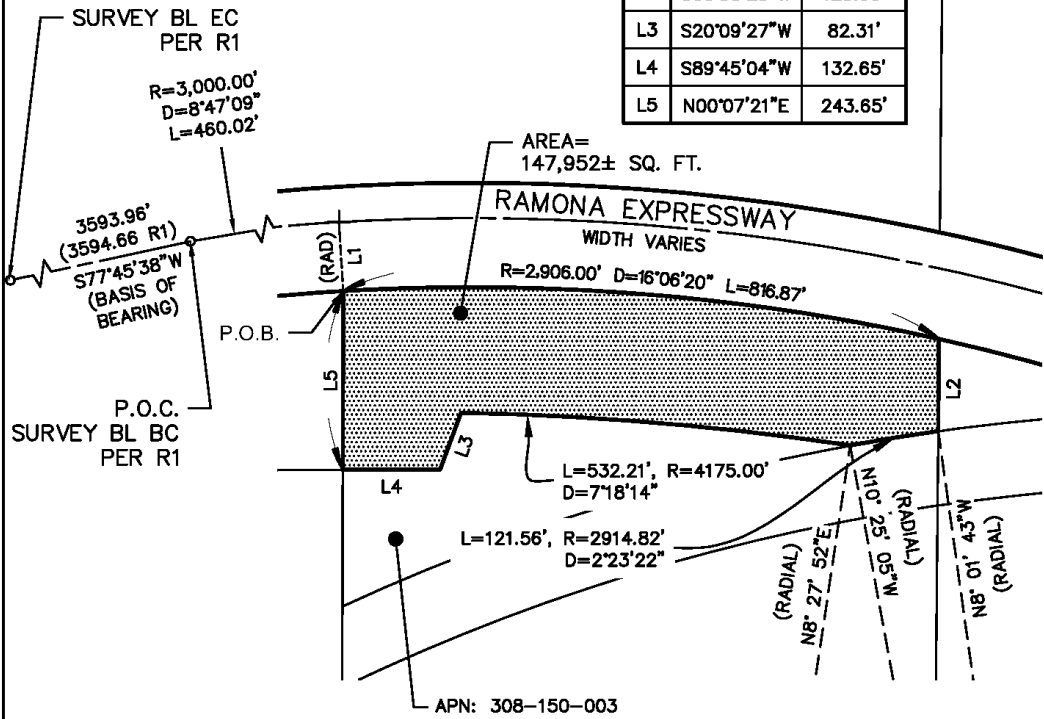
RCPN: 1229-1

APN: 308-150-003

A PORTION OF LOT 5 OF RANCHO SAN JACINTO NUEVO, T4S R3W, SBM

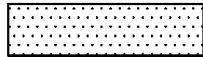


LINE TABLE		
NO.	BEARING	DISTANCE
L1	S03°27'13"E	94.00'
L2	S00°30'25"W	125.66'
L3	S20°09'27"W	82.31'
L4	S89°45'04"W	132.65'
L5	N00°07'21"E	243.65'



R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT  
P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 150' 200'



1" = 200'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1229-2**  
**APN 308-150-004**

A portion of Lot 5 of Rancho San Jacinto Nuevo, Riverside County, State of California, Township 4 South, Range 3 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point of tangency along the baseline of Ramona Expressway, Layout No. 727FF, which bears South 77°45'38" West, with all bearings hereon being referenced to this line;

**THENCE** along said baseline and northeasterly along a curve concave southerly of radius 3,000 feet, a distance of 460.02 feet;

**THENCE** departing the baseline of Ramona Expressway South 3°27'13" East a distance of 94.00 feet along a radial line to the southerly edge of right of way;

**THENCE** southeasterly along a curve concave southwesterly of radius 2,906.00 feet through a central angle of 16°06'20" a distance of 816.87 feet;

**THENCE** departing said southerly edge of right of way South 0°30'25" West a distance of 125.66 feet to the **POINT OF BEGINNING**;

**THENCE** South 0°30'25" West a distance of 39.07 feet to a point of non-tangency at a curve of 4,175.00 feet from which a radial line bears North 10°07'42" East;

**THENCE** northwesterly along a curve concave southwesterly of radius 4,175.00 feet through a central angle of 1°39'50" a distance of 121.23 feet to a point of non-tangency at a curve of 2,914.82 feet from which a radial line bears North 10°25'05" West;

**THENCE** northeasterly along a curve concave southeasterly of radius 2,914.82 feet through a central angle of 2°23'22" a distance of 121.56 feet to the **POINT OF BEGINNING**;

**CONTAINING** 0.054 acres (2,356 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=200'

EXHIBIT "B"

SHEET 1 OF 1

FEE ACQUISITION

RCPN: 1229-2

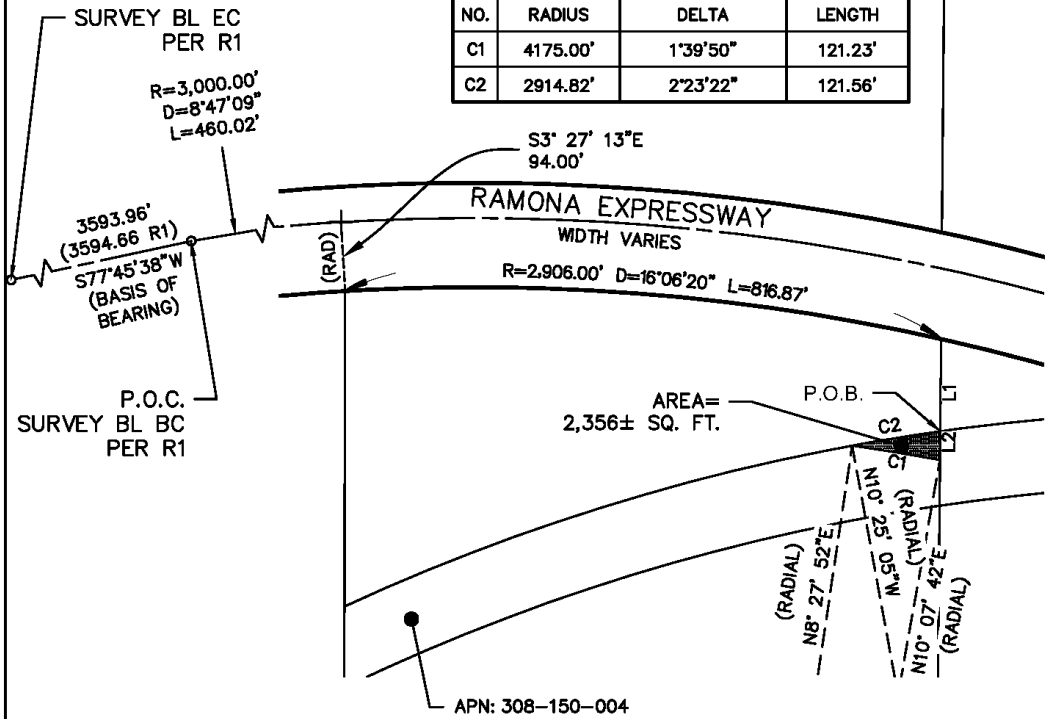
APN: 308-150-004

A PORTION OF LOT 5 OF RANCHO SAN JACINTO NUEVO, T4S R3W, SBM



LINE DATA TABLE		
NO.	BEARING	DISTANCE
L1	S00°30'25"W	125.66'
L2	S00°30'25"W	39.07'

CURVE DATA TABLE			
NO.	RADIUS	DELTA	LENGTH
C1	4175.00'	1°39'50"	121.23'
C2	2914.82'	2°23'22"	121.56'



P.O.C.  
SURVEY BL BC  
PER R1

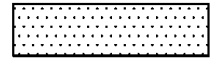
AREA =  
2,356± SQ. FT.

P.O.B.

APN: 308-150-004

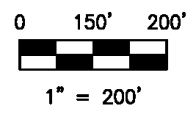
R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT  
P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:



DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1229-3**  
**APN 426-020-006**

Being a portion of Rancho San Jacinto Nuevo, Riverside County, State of California, portion of Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 727FF at a point of tangency at a line which bears South 70°01'24" East, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 19°58'36" West a distance of 94.00 feet to the southerly edge of right of way at the **POINT OF BEGINNING**;

**THENCE** along said southerly edge of right of way South 70°01'24" East a distance of 271.80 feet;

**THENCE** departing said southerly edge of right of way North 89°59'02" West a distance of 204.97 feet to a point of tangency at a curve of radius 2,814.82 feet;

**THENCE** westerly along said curve concave southerly of radius 2,814.82 feet through a central angle of 4°17'41" a distance of 210.99 feet to a point of non-tangency at a curve of radius 4,175.00 feet;

**THENCE** northwesterly along a curve concave southwesterly of radius 4,175.00 feet through a central angle of 2°45'56" a distance of 201.51 feet to a point of non-tangency, from which a radial line bears North 10°07'42" East;

**THENCE** North 0°30'25" East a distance of 39.07 feet to a point of non-tangency at a curve of radius 2,914.82 feet, from which a radial line bears North 8°01'43" West;

**THENCE** easterly along a curve concave southerly of radius 2,914.82 feet through a central angle of 6°42'04" a distance of 340.91 feet to a point of non-tangency at a curve of radius 2,906.00 feet and said southerly edge of right of way;

**THENCE** along said southerly edge of right of way southeasterly along a curve concave southwesterly of radius 2,906.00 feet through a central angle of 0°22'26" a distance of 18.96 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.956 acres (41,653 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis

PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=120'

### EXHIBIT "B"

SHEET 1 OF 1

FEE ACQUISITION

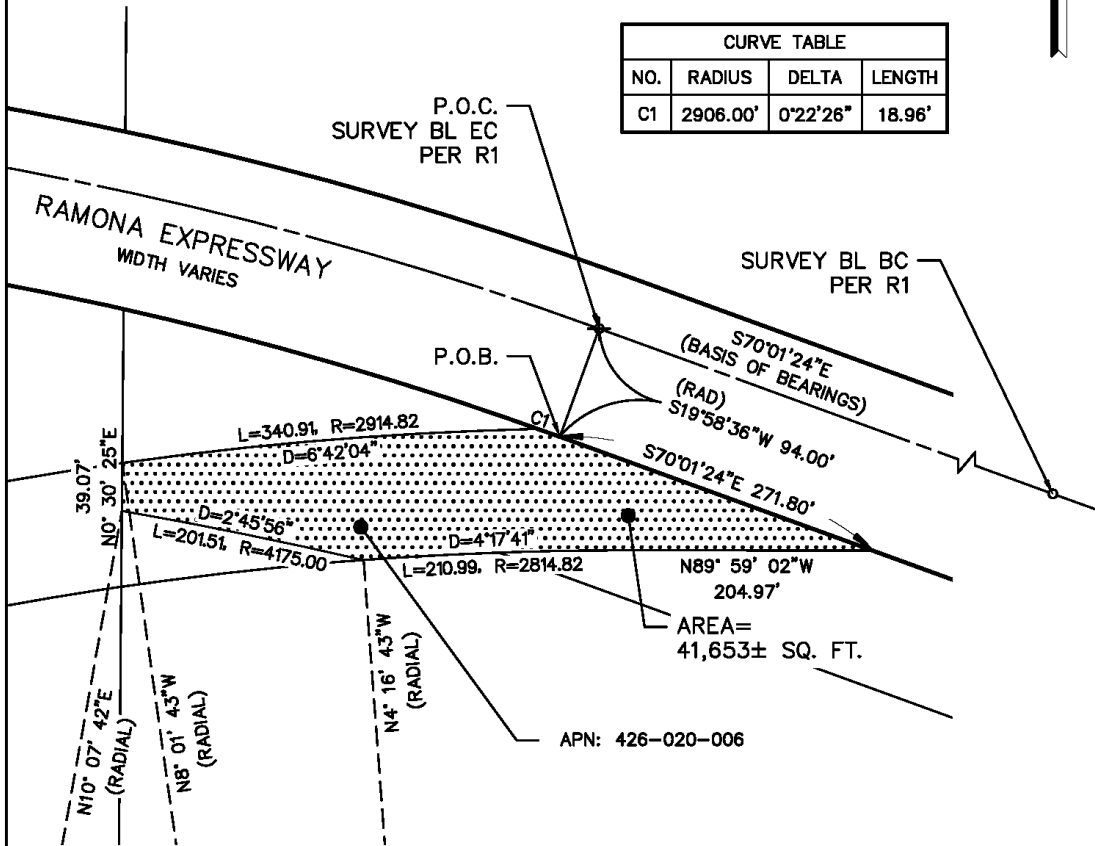
RCPN: 1229-3

APN: 426-020-006

A PORTION OF RANCHO SAN JACINTO NUEVO, T4S R2W, SBM



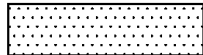
CURVE TABLE			
NO.	RADIUS	DELTA	LENGTH
C1	2906.00'	0°22'26"	18.96'



R1: RIVERSIDE COUNTY  
PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT

P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 60' 120'



1" = 120'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

## Jacobs

## RESOLUTION NO. 24-016

ADOPTION OF A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF ONE PARTIAL FEE INTEREST AND SEVEN TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY, BY EMINENT DOMAIN, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NUMBERS 425-120-002; 425-120-011; 425-140-011; 425-140-006; 425-140-007; 425-160-002; 426-150-017 AND 426-150-020, FOR THE MID COUNTY PARKWAY RAMONA EXPRESSWAY CONSTRUCTION CONTRACT 3 PROJECT (MCP3), IN RIVERSIDE COUNTY, CALIFORNIA.

**WHEREAS**, the Riverside County Transportation Commission (the "Commission") proposes to acquire one partial fee interest and seven temporary construction easement interests in portions of certain real property, located in unincorporated Riverside County, California, more particularly described as Assessor Parcel Numbers 425-120-002; 425-120-011; 425-140-011; 425-140-006; 425-140-007; 425-160-002; 426-150-017 and 426-150-020, for the Mid County Parkway Ramona Expressway Construction Contract 3 Project (MCP3), pursuant to the authority granted to it by section 130220.5 of the California Public Utilities Code; and

**WHEREAS**, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a public hearing for Wednesday, October 9, 2024, at 9:30 a.m., at the County Administration Building, County Board Room, at 4080 Lemon Street, Riverside, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

**WHEREAS**, said hearing has been held by the Commission, and the affected property owner was afforded an opportunity to be heard on said matters; and

**WHEREAS**, the Commission may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure;

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:**

**Section 1. Compliance with California Code of Civil Procedure.** There has been compliance by the Commission with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

**Section 2. Public Use.** The public use for a partial fee interest and seven temporary construction easement interests in portions of the properties to be acquired is for the MCP3 Project in Riverside County, California. Section 130220.5 of the California Public Utilities Code authorizes the Commission to acquire, by eminent domain, property necessary for such

purposes.

**Section 3. Description of Property.** Attached and marked as Exhibit “A” are the legal definitions, description and depiction of the interests to be acquired by the Commission, which describe the general location and extent of the property with sufficient detail for reasonable identification.

**Section 4. Findings.** The Commission hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The property defined and described in Exhibit “A” is necessary for the proposed project; and
- (d) The offer required by section 7267.2 of the California Government Code was made.

**Section 5. Use Not Unreasonably Interfering with Existing Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the Commission and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the Commission is authorized to acquire the herein described interest subject to such existing public use pursuant to section 1240.510 of the California Code of Civil Procedure.

**Section 6. More Necessary Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the Commission finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the Commission is authorized to acquire the herein described real property appropriated to such existing public uses pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the affected real property that it determines are reasonably necessary to mitigate any adverse impact upon the existing public use.



**Section 7. Further Activities.** Counsel for the Commission is hereby authorized to acquire the hereinabove described real property in the name of and on behalf of the Commission by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the Commission to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action, or other proceedings or transactions required to acquire the subject real property.

**Section 8. Effective Date.** This Resolution shall take effect upon adoption.

**APPROVED AND ADOPTED** this 9th day of October, 2024.

---

Lloyd White, Chair  
Riverside County Transportation Commission

ATTEST:

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Lisa Mobley, Clerk of the Board Riverside  
County Transportation Commission

## LEGAL DEFINITIONS

**"Fee"** also known as fee simple or fee simple absolute, grants to RCTC, absolute ownership of the property.

**"Temporary Construction Easement (TCE)"** refers to the right of RCTC, its successors and assigns, to engage in construction and related activities for the project, together with all necessary rights of ingress and egress to the easement area in connection with the exercise of any of the easement rights.

Such right shall be exercised for a period of 36 (thirty-six) months, commencing in April of 2025 and expiring April of 2028.

The duration of the rights under this easement shall not extend beyond April 2028, or upon filing of a Notice of Completion, whichever is sooner.

Property Owner shall not cause, directly or indirectly or negligently, any interference with or harm to the rights conveyed here under.

# LEGAL DESCRIPTION

**EXHIBIT "A"**  
**FEE ACQUISITION**  
**LEGAL DESCRIPTION**  
**RCPN: 1237-1**  
**APN 425-120-002**

A Portion of Block 6, Amended Map No. 1 Of Lakeview, Map Book 2, Page 24, in the Office of the County Recorder, Riverside County, State of California, being a portion of Rancho San Jacinto Nuevo, Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 798 BB, which bears North 89°59'21" West a distance of 571.99 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 0°00'39" West a distance of 71.00 feet to the southerly edge of right of way and the **POINT OF BEGINNING**;

**THENCE** departing said southerly edge of right of way, South 0°00'39" West a distance of 29.00 feet;

**THENCE** North 89°59'21" West a distance of 1,540.00 feet;

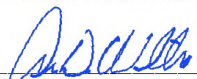
**THENCE** North 0°00'39" East a distance of 29.00 feet to said southerly edge of right of way;

**THENCE** along said southerly edge of right of way South 89°59'21" East a distance of 1,540.00 feet to the **POINT OF BEGINNING**.

**CONTAINING** 1.025 acres (44,660 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

2-23-24  
Date



SCALE: 1"=250'

### EXHIBIT "B"

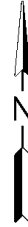
SHEET 1 OF 1

FEE ACQUISITION

RCPN: 1237-1

APN: 425-120-002

A PORTION OF BLOCK 6, AMENDED MAP NO. 1 OF LAKEVIEW, MB 2/24  
RANCHO SAN JACINTO NUEVO, T4S R2W, SBM



APN: 425-110-015

APN: 425-110-014

## RAMONA EXPRESSWAY

BASELINE

WIDTH VARIES  
LAYOUT 798BB

P.O.C.  
P.O.B.

N0°00'39"E  
29.00'

S89°59'21"E  
1,540.00'

N89°59'21"W  
1,540.00'

AREA:  
44,660±  
SQ. FT.

S0°00'39"W  
29.00'

S0°00'39"W  
71.00'

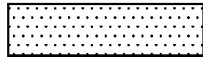
N89°59'21"W  
571.99'

TIE TO P.C.  
BASIS OF BEARING

APN: 425-120-002

CAP FOUND  
N89°19'45"W  
0.39' FROM P.C.

P.O.C. - POINT OF COMMENCEMENT  
P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 125' 250'



1" = 250'

DATE: FEB. 22, 2024  
PROJECT NO. W9Y38100

# Jacobs

**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1237-2**  
**APN 425-120-011**

A Portion of Block 3, Amended Map No. 1 Of Lakeview, Map Book 2, Page 24, in the Office of the County Recorder, Riverside County, State of California, being a portion of Rancho San Jacinto Nuevo, Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point of tangency along the baseline of Ramona Expressway, Layout No. 798 BB, which bears North 52°32'53" West, with all bearings hereon being referenced to this line;

**THENCE** northwesterly along a curve concave southwesterly of radius 5,000 feet, a distance of 1,467.09 feet;

**THENCE** departing the baseline of Ramona Expressway South 20°38'25" West a distance of 71.00 feet along a radial line to the southerly edge of right of way and the **POINT OF BEGINNING**;

**THENCE** southeasterly along said southerly edge of right of way along a curve concave southwesterly of radius 4,929 feet through a central angle of 0°00'58" a distance of 1.38 feet;

**THENCE** departing said southerly edge of right of way South 20°39'23" West a distance of 10.00 feet;

**THENCE** northwesterly along a curve concave southwesterly of radius 4,919 feet through a central angle of 0°00'58" a distance of 1.38 feet;

**THENCE** North 20°38'25" East a distance of 10.00 feet to the **POINT OF BEGINNING**.

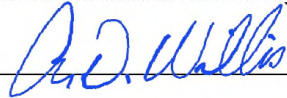
**CONTAINING** (14 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

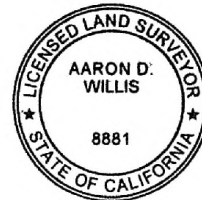
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612



1-12-24  
Date



SCALE: 1"=50'

### EXHIBIT "B"

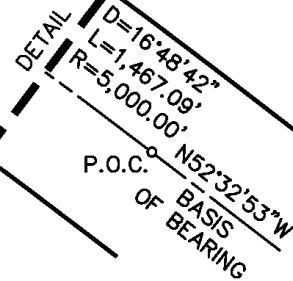
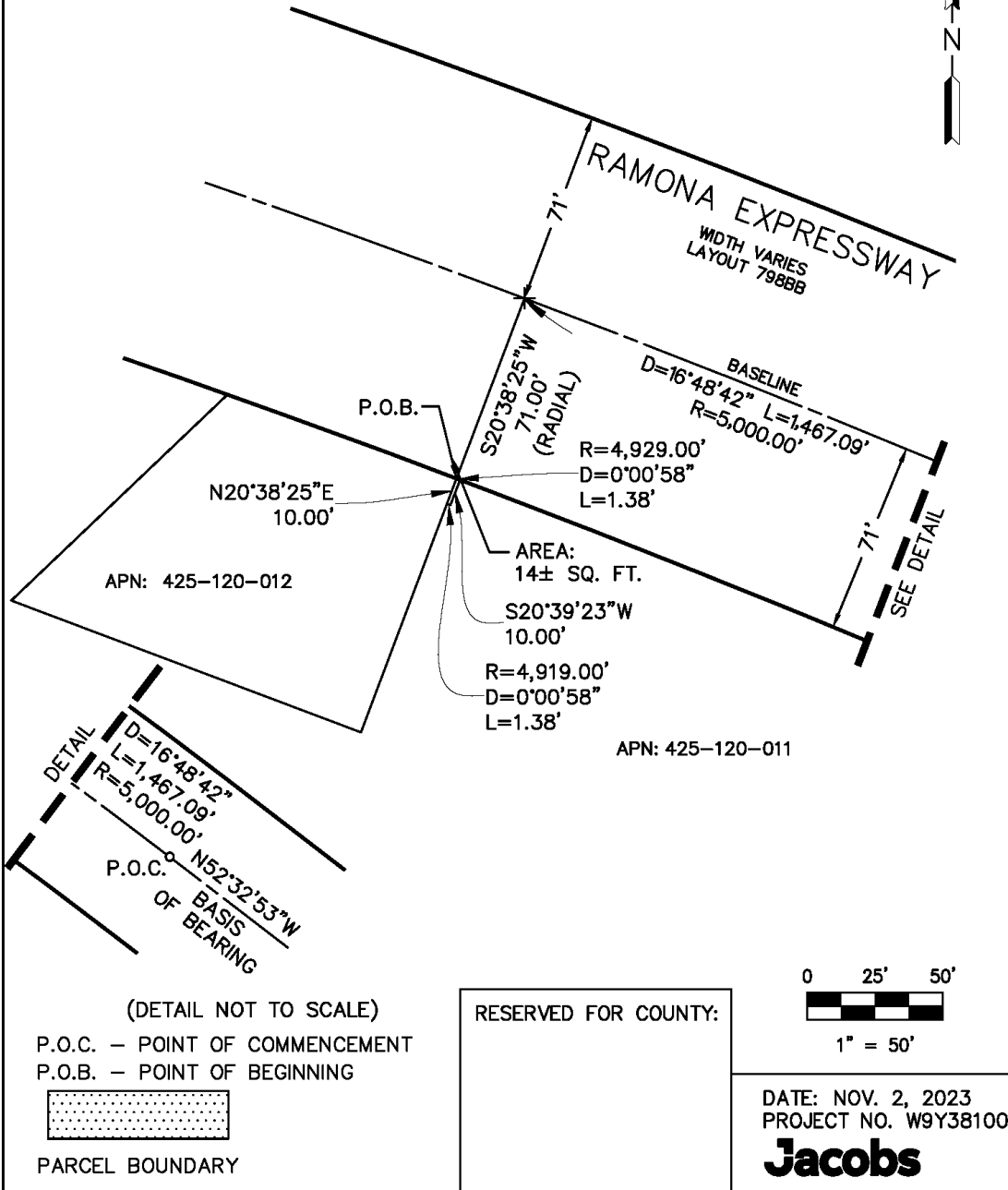
SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT

RCPN: 1237-2

APN: 425-120-011

A PORTION OF BLOCK 3, AMENDED MAP NO. 1 OF LAKEVIEW, MB 2/24  
RANCHO SAN JACINTO NUEVO, T4S R2W, SBM

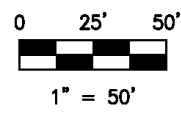


(DETAIL NOT TO SCALE)

P.O.C. – POINT OF COMMENCEMENT  
P.O.B. – POINT OF BEGINNING

PARCEL BOUNDARY

RESERVED FOR COUNTY:



DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1237-3**  
**APN 425-140-011**

A Portion of Block 11, Amended Map No. 1 of Lakeview, Map Book 2, Page 24, in the Office of the County Recorder, Riverside County, State of California, being a portion of Rancho San Jacinto Nuevo, Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the centerline of Ramona Expressway, Layout No. 798 BB, which bears North 89°59'21" West a distance of 2,893.59 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the centerline of Ramona Expressway South 0°00'39" West a distance of 71.00 feet to the southerly edge of right of way and the **POINT OF BEGINNING**;

**THENCE** departing said southerly edge of right of way, South 0°10'06" West a distance of 20.00 feet;

**THENCE** North 89°59'21" West a distance of 53.34 feet;

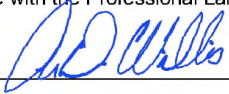
**THENCE** North 0°00'39" East a distance of 20.00 feet to said southerly edge of right of way;

**THENCE** along said southerly edge of right of way South 89°59'21" East a distance of 53.40 feet to the **POINT OF BEGINNING**.

**CONTAINING** 0.024 acres (1,067 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
\_\_\_\_\_  
Date



SCALE: 1"=50'

### EXHIBIT "B"

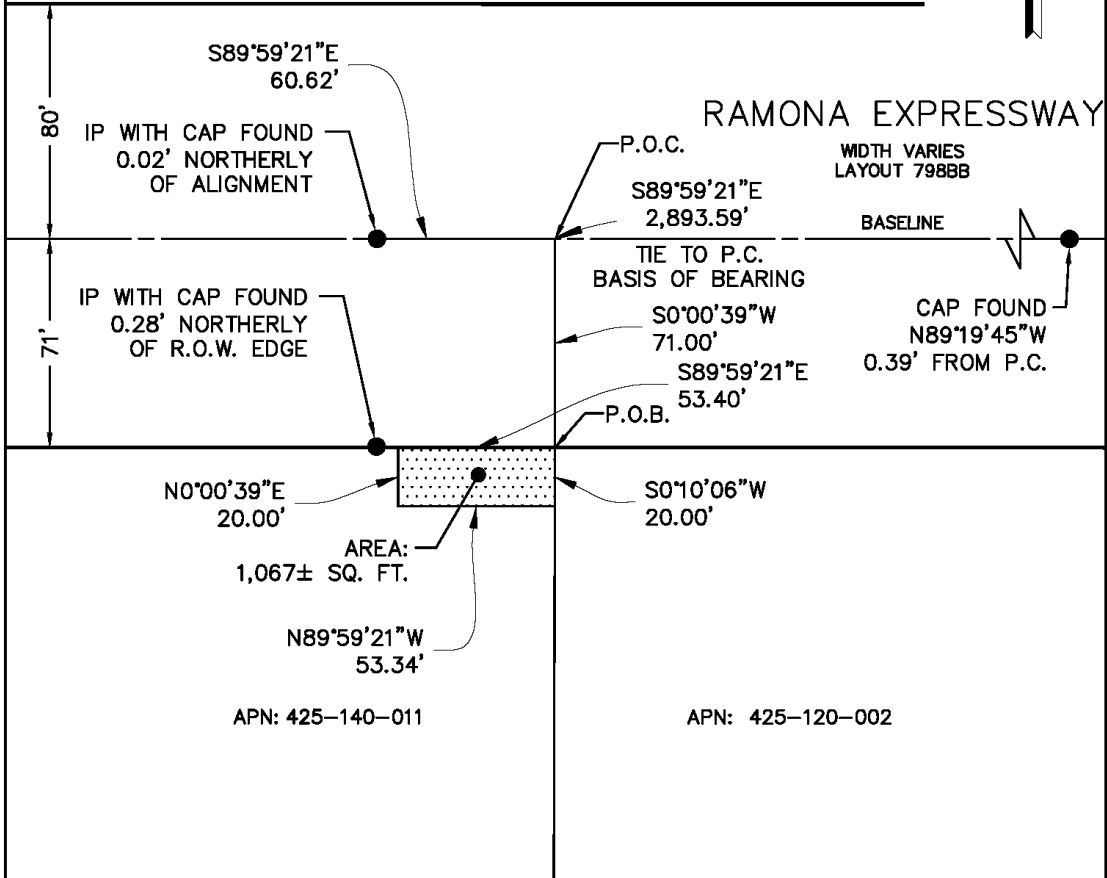
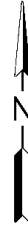
SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT

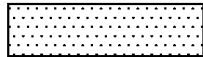
RCPN: 1237-3

APN: 425-140-011

A PORTION OF BLOCK 11, AMENDED MAP NO. 1 OF LAKEVIEW, MB 2/24  
RANCHO SAN JACINTO NUEVO, T4S R2W, SBM



P.O.C. - POINT OF COMMENCEMENT  
P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:



1" = 50'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**



**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1238-1**  
**APN 425-140-006**

A Portion of Block 15, Amended Map No. 1 of Lakeview, Map Book 2, Page 24, in the Office of the County Recorder, Riverside County, State of California, being a portion of Rancho San Jacinto Nuevo, Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 798 BB, which bears North 89°59'21" West a distance of 6,193.35 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 0°00'39" West a distance of 71.00 feet to the southerly edge of right of way and the **POINT OF BEGINNING**;

**THENCE** departing said southerly edge of right of way, South 0°01'11" East a distance of 20.00 feet;

**THENCE** North 89°59'21" West a distance of 8.65 feet;

**THENCE** North 0°00'39" East a distance of 20.00 feet to said southerly edge of right of way;

**THENCE** along said southerly edge of right of way South 89°59'21" East a distance of 8.64 feet to the **POINT OF BEGINNING**;

**CONTAINING** 0.004 acres (173 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=50'

### EXHIBIT "B"

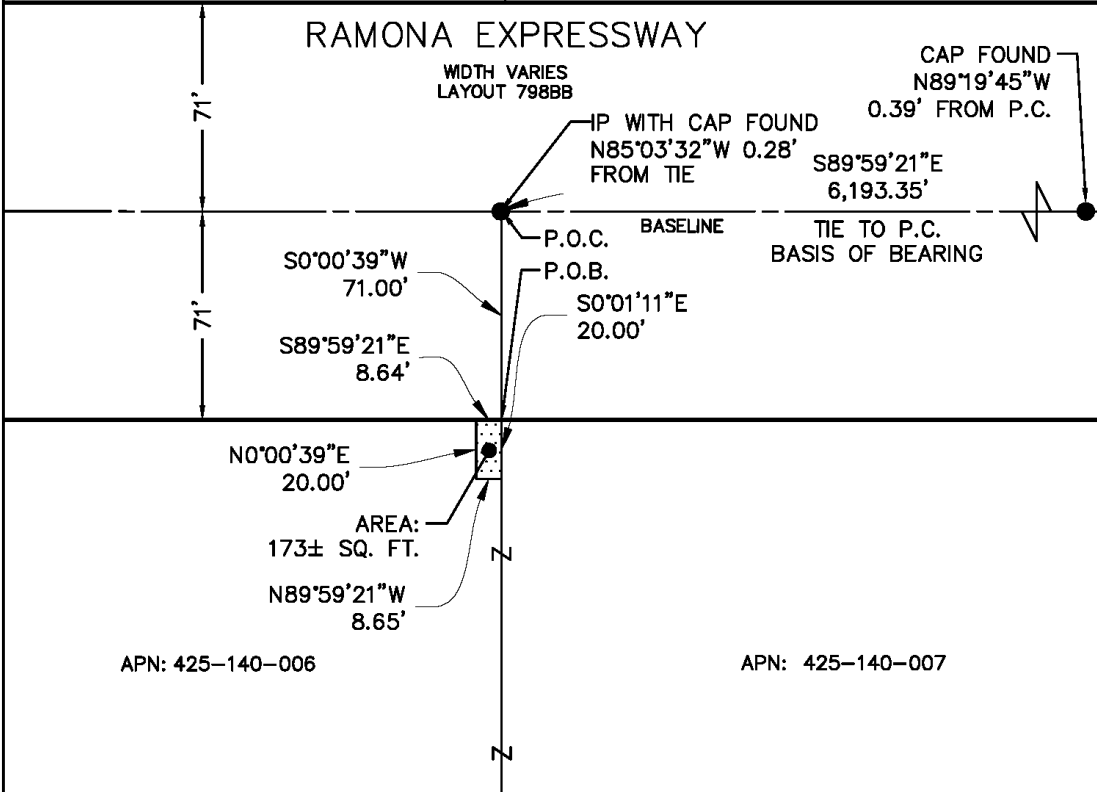
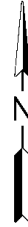
SHEET 1 OF 1

#### TEMPORARY CONSTRUCTION EASEMENT

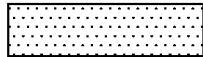
RCPN: 1238-1

APN: 425-140-006

A PORTION OF BLOCK 15, AMENDED MAP NO. 1 OF LAKEVIEW, MB 2/24  
RANCHO SAN JACINTO NUEVO, T4S R2W, SBM

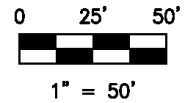


P.O.C. – POINT OF COMMENCEMENT  
P.O.B. – POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:



DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

## Jacobs

**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1238-2**  
**APN 425-140-007**

A Portion of Block 15, Amended Map No. 1 of Lakeview, Map Book 2, Page 24, in the Office of the County Recorder, Riverside County, State of California, being a portion of Rancho San Jacinto Nuevo, Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at a point along the baseline of Ramona Expressway, Layout No. 798 BB, which bears North 89°59'21" West a distance of 6,193.35 feet from a point of curvature, with all bearings hereon being referenced to this line;

**THENCE** departing the baseline of Ramona Expressway South 0°00'39" West a distance of 71.00 feet to the southerly edge of right of way and the **POINT OF BEGINNING**;

**THENCE** along said southerly edge of right of way South 89°59'21" East a distance of 63.36 feet;

**THENCE** departing said southerly edge of right of way, South 0°00'39" West a distance of 20.00 feet;

**THENCE** North 89°59'21" West a distance of 63.35 feet;

**THENCE** North 0°00'39" East a distance of 20.00 feet to said southerly edge of right of way at the **POINT OF BEGINNING**;

**CONTAINING** 0.029 acres (1,267 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=50'

### EXHIBIT "B"

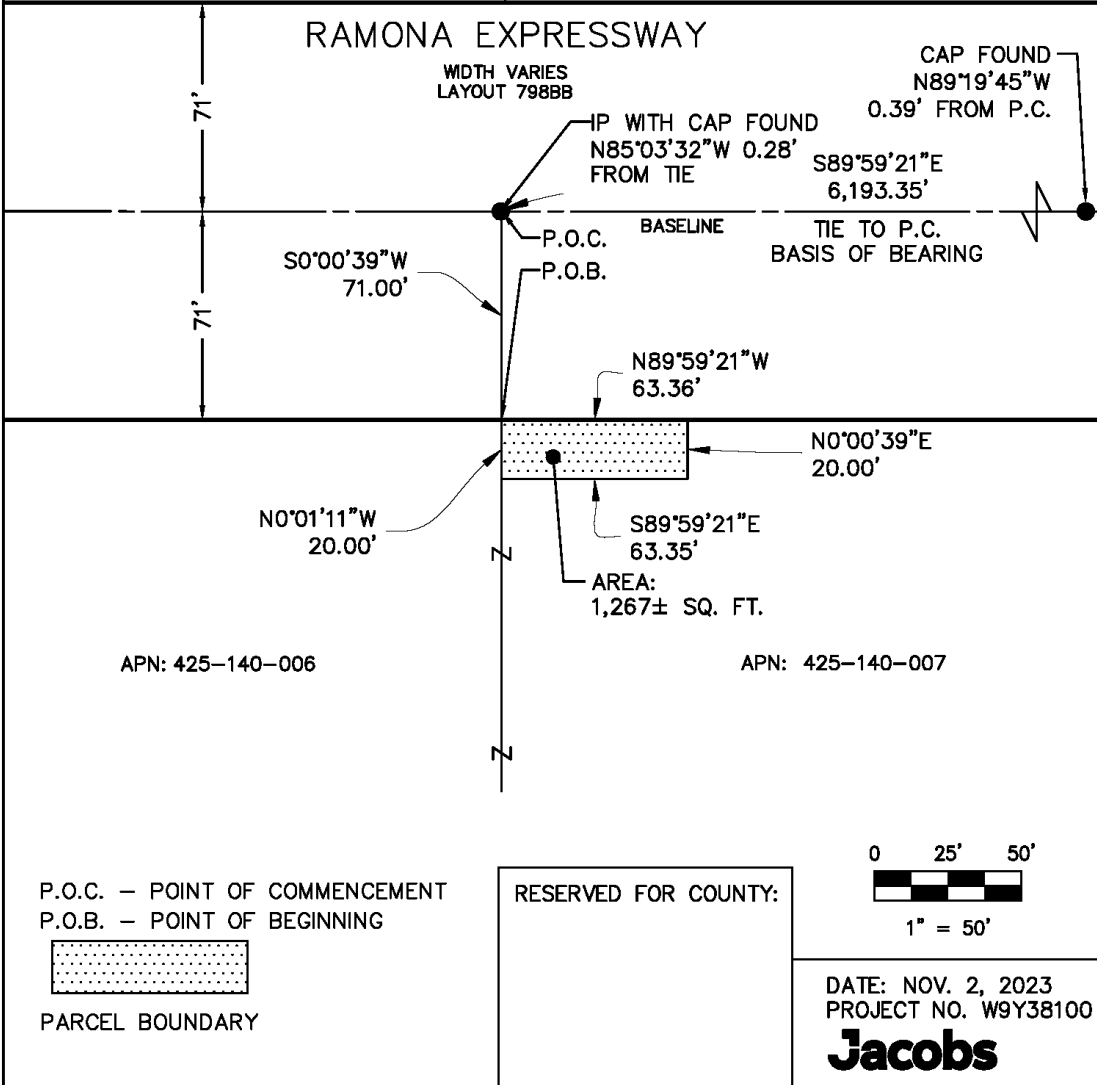
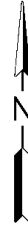
SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT

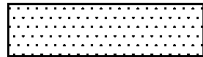
RCPN: 1238-2

APN: 425-140-007

A PORTION OF BLOCK 15, AMENDED MAP NO. 1 OF LAKEVIEW, MB 2/24  
RANCHO SAN JACINTO NUEVO, T4S R2W, SBM

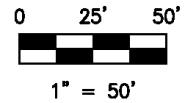


P.O.C. – POINT OF COMMENCEMENT  
P.O.B. – POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:



DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1238-3**  
**APN 425-160-002**

A Portion of Block 20, Amended Map No. 1 of Lakeview, Map Book 2, Page 24, in the Office of the County Recorder, Riverside County, State of California, being a portion of Rancho San Jacinto Nuevo, Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at the intersection of the centerline of Fifth Street and the baseline of Ramona Expressway, Layout No. 798 BB at a point which bears South 89°34'18" West a distance of 776.37 feet from an angle point, with all bearings hereon being referenced to this line;

**THENCE** along said centerline of Fifth Street, South 0°00'39" West a distance of 71.00 feet;

**THENCE** North 89°34'18" East a distance of 25.00 feet to intersection of the easterly edge of right of way of Fifth Street and the southerly edge of right of way of Ramona Expressway, being the **POINT OF BEGINNING**;

**THENCE** along said southerly edge of right of way of Ramona Expressway, North 89°34'18" East a distance of 43.00 feet;

**THENCE** departing said southerly edge of right of way, South 0°00'39" West a distance of 21.50 feet;


**THENCE** South 89°34'18" West a distance of 43.00 feet to the easterly edge of right of way of Fifth Street;

**THENCE** North 0°00'39" East along said easterly edge of right of way of Fifth Street a distance of 21.50 to the **POINT OF BEGINNING**;

**CONTAINING** 0.021 acres (925 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



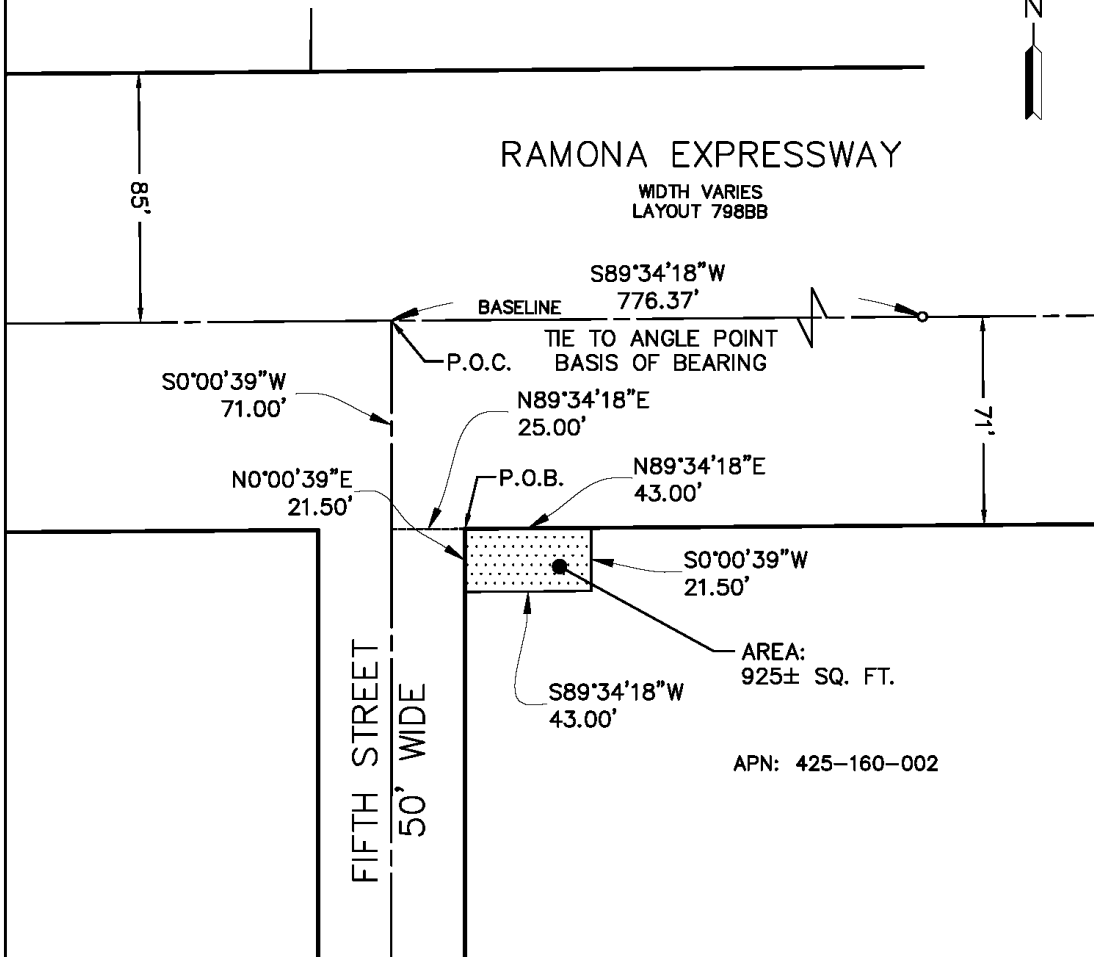
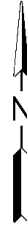
SCALE: 1"=50'

### EXHIBIT "B"

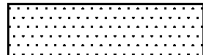
SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT  
RCPN: 1238-3  
APN: 425-160-002

A PORTION OF BLOCK 20, AMENDED MAP NO. 1 OF LAKEVIEW, MB 2/24  
RANCHO SAN JACINTO NUEVO, T4S R2W, SBM



P.O.C. - POINT OF COMMENCEMENT  
P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:



1" = 50'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**

**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN: 1240-1**  
**APN 426-150-017**

A Portion of Lot 11, First Addition to Lakeview Townsite, Map Book 12, Page 75, in the Office of the County Recorder, being a portion of Rancho San Jacinto Nuevo, Riverside County, State of California, portion of Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at the intersection of the baseline of Ramona Expressway Layout No. 727FF, and the centerline of Sixth Street;

**THENCE** along the baseline of Ramona Expressway, Layout No. 727FF North 89°59'21" West a distance of 92.53 feet, with all bearings hereon being referenced to this line;

**THENCE** South 0°00'39" West a distance of 94.00 feet to the intersection of the westerly edge of right of way of Sixth Street and the southerly edge of right of way of Ramona Expressway, Layout No. 727FF and the **POINT OF BEGINNING**;

**THENCE** along said westerly edge of right of way of Sixth Street South 31°24'39" West a distance of 42.18 feet;


**THENCE** departing said westerly edge of right of way of Sixth Street North 43°34'17" West a distance of 49.70 feet to said southerly edge of right of way of Ramona Expressway;

**THENCE** South 89°59'21" East along said southerly edge of right of way of Ramona Expressway a distance of 56.24 feet to the **POINT OF BEGINNING**;

**CONTAINING** 0.023 acres (1,012 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

  
\_\_\_\_\_  
Aaron Willis  
PLS 8881  
For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date

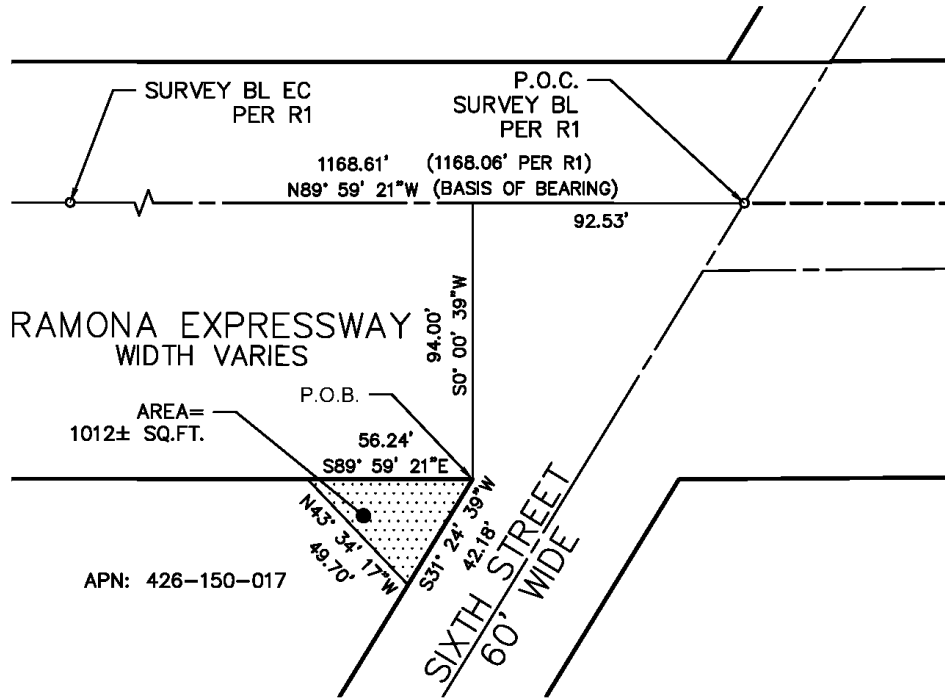


SCALE: 1"=50'

### EXHIBIT "B"

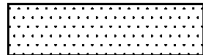
SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT  
 RCPN: 1240-1  
 APN: 426-150-017  
 A PORTION OF LOT 11, FIRST ADDITION TO LAKEVIEW  
 TOWNSITE, MB 12/75  
 RANCHO SAN JACINTO NUEVO, T4S R2W, SBM



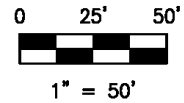
R1: RIVERSIDE COUNTY  
 PLAT 727-FF

P.O.C. - POINT OF COMMENCEMENT  
 P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:



DATE: NOV. 2, 2023  
 PROJECT NO. W9Y38100

**Jacobs**



**EXHIBIT "A"**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**LEGAL DESCRIPTION**  
**RCPN 1240-2**  
**APN 426-150-020**

A Portion of Block 27, Amended Map No. 1 of Lakeview, Map Book 2, Page 24, in the Office of the County Recorder, being a portion of Rancho San Jacinto Nuevo, Riverside County, State of California, portion of Township 4 South, Range 2 West, San Bernardino Meridian, being more particularly described as follows:

**PARCEL "A"**

**COMMENCING** at the intersection of the centerline of Fifth Street and the baseline of Ramona Expressway, Layout No. 798 BB at a point which bears South 89°34'18" West a distance of 776.37 feet from an angle point, with all bearings hereon being referenced to this line;

**THENCE** along said centerline of Fifth Street, South 0°00'39" West a distance of 71.00 feet;

**THENCE** South 89°34'18" West a distance of 25.00 feet to the intersection of the westerly edge of right of way of Fifth Street and the southerly edge of right of way of Ramona Expressway, being the **POINT OF BEGINNING**;

**THENCE** along said westerly edge of right of way of Fifth Street South 0°00'39" West a distance of 16.00 feet;

**THENCE** departing said westerly edge of right of way of Fifth Street South 89°34'18" West a distance of 532.13 feet;

**THENCE** North 0°25'42" West a distance of 16.00 feet to said southerly edge of right of way of Ramona Expressway;

**THENCE** North 89°34'18" East along said southerly edge of right of way of Ramona Expressway a distance of 532.25 feet to the **POINT OF BEGINNING**;

**CONTAINING** 0.195 acres (8,515 square feet), more or less.

See **EXHIBIT "B"** attached hereto and made a part of hereof, by this reference.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

\_\_\_\_\_  
Aaron Willis  
PLS 8881

For and on behalf of Jacobs Engineering Group Inc.  
2600 Michelson Drive, Suite 500 Irvine, CA 92612

1-12-24  
Date



SCALE: 1"=100'

### EXHIBIT "B"

SHEET 1 OF 1

TEMPORARY CONSTRUCTION EASEMENT  
RCPN: 1240-2  
APN: 426-150-020  
A PORTION OF BLOCK 27, AMENDED MAP NO. 1 OF LAKEVIEW, MB 2/24  
RANCHO SAN JACINTO NUEVO, T4S R2W, SBM



APN: 425-150-010

85'  
71'

### RAMONA EXPRESSWAY

WIDTH VARIES  
LAYOUT 798BB

P.O.C. S89°34'18"W  
776.37'

BASELINE

S89°34'18"W  
25.00'

TIE TO ANGLE POINT  
BASIS OF BEARING

N89°34'18"E 532.25'

P.O.B.

S89°34'18"W 532.13'

S0°00'39"W  
16.00'

N0°25'42"W  
16.00'

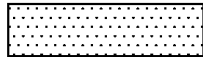
AREA:  
8,515± SQ. FT.

S0°00'39"W  
71.00'

FIFTH STREET  
50' WIDE

APN: 426-150-020

P.O.C. - POINT OF COMMENCEMENT  
P.O.B. - POINT OF BEGINNING



PARCEL BOUNDARY

RESERVED FOR COUNTY:

0 50' 100'



1" = 100'

DATE: NOV. 2, 2023  
PROJECT NO. W9Y38100

**Jacobs**

**AGENDA ITEM 7**

**PUBLIC HEARING**



**RIVERSIDE COUNTY TRANSPORTATION COMMISSION**

DATE:	October 9, 2024
TO:	Riverside County Transportation Commission
FROM:	Hector Casillas, Right of Way Manager Erick Gutierrez, Senior Management Analyst – Right of Way
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	Adopt Two Resolutions of Necessity for the Acquisition of Various Interests in Portions of Certain Real Properties, by Eminent Domain, for the State Route 60/Potrero Boulevard Interchange Phase II Project, in the City of Beaumont, in Riverside County, California

**STAFF RECOMMENDATION:**

This item is for the Commission to:

- 1) Conduct a hearing to consider the adoption of Resolutions of Necessity, including providing all parties interested in the affected properties and their attorneys, or their representatives, an opportunity to be heard on the issues relevant to the Resolutions of Necessity;
- 2) Make the following findings as hereinafter described in this report:
  - a) The public interest and necessity require the proposed project;
  - b) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
  - c) The real properties to be acquired are necessary for the project; and
  - d) The offers of just compensation have been made to the property owners;
- 3) Adopt Resolution of Necessity No. 24-014/RCPN 1248 described as *“Adoption of a Resolution of Necessity for the Acquisition of a Permanent Utility Easement Interest and a Temporary Construction Easement Interest in a portion of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Numbers 414-120-038 and 414-120-039, for the SR-60/Potrero Boulevard Interchange Phase II Project (Potrero) in the city of Beaumont, Riverside County, California”*; and
- 4) Adopt Resolution of Necessity No. 24-015/RCPN 1247 described as *“Adoption of a Resolution of Necessity for the Acquisition of a Permanent Utility Easement Interest and a Temporary Construction Easement Interest in a portion of Certain Real Property, by Eminent Domain, More Particularly Described as Assessor Parcel Number 424-050-011, for the SR-60/Potrero Boulevard Interchange Phase II Project (Potrero) in the city of Beaumont, Riverside County, California”*.

## **Potrero Project Description**

The State Route 60 (SR-60)/Potrero Boulevard Interchange Phase II (Potrero) Project expands upon the constructed Potrero Boulevard Overcrossing in the city of Beaumont. At its March 13, 2024, meeting the Commission approved the cooperative agreement and accepted lead agency responsibilities to complete the Potrero Project.

The project will add off-ramps, loop on-ramps, and traffic signals to the interchange. The enhancements will improve freight access to existing and future fulfillment and distribution centers off Potrero Boulevard, which will in turn support the current and continued growth of warehousing and transportation jobs within the project area. This improved access will also alleviate congestion at the neighboring SR-60/Interstate 10 (I-10) Interchange area. The construction of the project will reduce greenhouse gas emissions. The project improves the efficiency of the SR-60 corridor and shortens truck and vehicle trips. The resulting decrease in congestion reduces greenhouse gas emissions due to less idling time, and more efficient vehicle speeds.

It is anticipated the project will commence construction in 2025.

### **Description of Properties to Be Acquired**

1. Assessor Parcel Nos. 414-120-038 and 414-120-039 (RCPN 1248) are owned by Trinity Partners, LLC. The property consists of 14 vacant parcels totaling 318.38 acres located in the northwest quadrant of the Beaumont area, adjacent to and north of Moreno Valley Freeway (SR-60), and adjacent to Interstate 10, in the city of Beaumont, Riverside County, California. The design of the Potrero Project requires that the Commission acquire a portion of the property. The legal definitions, description and depiction of the property to be acquired are attachments to Resolution No. 24-014.
2. Assessor Parcel No. 424-050-011 (RCPN 1247) is owned by Portero Commercial LLC. The property consists of one parcel totaling 104.80 acres located in the northwest quadrant of the Beaumont area, adjacent to and south of Moreno Valley Freeway (SR-60), and approximately one mile west of Interstate 10, in the city of Beaumont, Riverside County, California. The design of the Potrero Project requires that the Commission acquire a portion of the property. The legal definitions, description and depiction of the property to be acquired are attachments to Resolution No. 24-015.

Preliminary title reports were obtained from Commonwealth Title Insurance Company to confirm and identify the record owners of the parcels affected by the project. The Commission then served the affected property owners with notices of the Commission's decision to appraise the properties.

The Commission had the properties appraised and made offers to the record owners for the acquisition of the various interests in the properties. Negotiations have been unsuccessful for

the purchase of the interests needed for the project. Therefore, it may be necessary to acquire the interests described in the attachments by eminent domain. The initiation of the eminent domain process is accomplished by the Commission's adoption of Resolutions of Necessity for the affected properties. Negotiations will continue after adoption of Resolutions of Necessity for the property interests.

### **Hearings and Required Findings**

The action requested of the Commission at the conclusion of this hearing is the adoption of Resolutions of Necessity, authorizing the acquisition of real property interests by eminent domain. The property owners are:

1. Trinity Partners, LLC: one permanent utility easement interest totaling 0.102 acres or 4,467 square feet, more or less, and one temporary construction easement interest totaling 0.376 acres or 16,406 square feet, more or less; and
2. Portero Commercial LLC: one permanent utility easement interest totaling 0.064 acres or 2,817 square feet, more or less, and one temporary construction easement interest totaling 0.145 acres or 6,327 square feet, more or less.

The properties are further identified in the legal definitions, descriptions and depictions attached hereto in each respective Resolution of Necessity.

California eminent domain law provides that a public entity may not commence with eminent domain proceedings until its governing body has adopted a Resolution of Necessity, which resolution may only be adopted after the governing body has given each party with an interest in the affected property, or their representatives, a reasonable opportunity to appear and be heard on the following matters:

1. The public interest and necessity require the proposed project;
2. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
3. The real properties to be acquired are necessary for the project; and
4. The offers of just compensation have been made to the property owners.

Notices of the hearing were sent by first class mail to the property owners and stated the Commission's intent to consider the adoption of resolutions, the right of the property owners to appear and be heard on these issues, and that failure to file a written request to appear may result in a waiver of the right to appear and be heard. The Commission has scheduled this hearing at which all persons who filed a written request within 15 days of the date of notice was mailed may appear and be heard. The Commission's legal counsel mailed the required notices to the property owners, on September 10, 2024, in accordance with California Code of Civil Procedure, section 1245.235.

The four required findings are addressed as follows:

1. Public Interest and Necessity Require the Proposed Project

The project will improve traffic flow and enhance safety.

2. The Project Is Planned Or Located In A Manner That Will Be Most Compatible With The Greatest Public Good And The Least Private Injury

A thorough analysis was conducted to find the best location for this project. Environmental analyses and findings indicate that this site uniquely satisfies the engineering, public health, and environmental issues, and this location is the most compatible with the greatest public good. This location will result in the least private injury.

3. The Properties Sought To Be Acquired Are Necessary For The Proposed Project

As described above, a careful analysis was performed regarding this location and what properties and property rights were needed, and these parcels meet all the desired characteristics for the construction of the improvements for the project. Based on that analysis, the acquisitions of the properties are necessary for construction of the project.

4. The Offers Of Just Compensation Have Been Made

Appraisals were prepared by the Commission's appraisers Jan Kelly and Michele Kauffman, MAI, CRE, of Cushman & Wakefield Western, Inc., to establish the fair market value of the real properties the Commission is seeking to acquire from the interests owned by the property owners identified herein. Offers of just compensation were made to the property owners to purchase the property interests, based on the approved appraisals, as required by Section 7267.2 of the California Government Code. Although negotiated settlements may still be possible, and will be pursued by staff, it is appropriate to commence the procedures to acquire the interests sought through eminent domain, in order to meet upcoming certification and funding deadlines.

### **Environmental Analysis**

Compliance with the California Environmental Quality Act has been satisfied. The approval date of the environmental document is March 1, 2013. The determination finds the project will not have a significant effect on the environment.



**FISCAL IMPACT:**

No fiscal impacts.

**Notice of Public Hearing**

Notices of Hearing to property owners were mailed on September 10, 2024, to all record owners of the properties.

Attachments:

- 1) Resolution No. 24-014
- 2) Resolution No. 24-015



## RESOLUTION NO. 24-014

ADOPTION OF A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF A PERMANENT UTILITY EASEMENT INTEREST AND A TEMPORARY CONSTRUCTION EASEMENT INTEREST IN A PORTION OF CERTAIN REAL PROPERTY, BY EMINENT DOMAIN, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NUMBERS 414-120-038 AND 414-120-039, FOR THE SR-60/POTRERO BOULEVARD INTERCHANGE PHASE II PROJECT (POTRERO) IN THE CITY OF BEAUMONT, RIVERSIDE COUNTY, CALIFORNIA

WHEREAS, the Riverside County Transportation Commission (the "Commission") proposes to acquire a permanent utility easement interest and a temporary construction easement interest in certain real property, located in the City of Beaumont, Riverside County, California, more particularly described as Assessor Parcel Nos. 414-120-038 and 414-120-039, for the SR-60/Potrero Boulevard Interchange Phase II Project pursuant to the authority granted to it by section 130220.5 of the California Public Utilities Code; and

**WHEREAS**, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a public hearing for Wednesday, October 9, 2024, at 9:30 a.m., at the County Administration Building, County Board Room, at 4080 Lemon Street, Riverside, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

**WHEREAS**, said hearing has been held by the Commission, and the affected property owner was afforded an opportunity to be heard on said matters; and

**WHEREAS**, the Commission may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure;

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:**

**Section 1. Compliance with California Code of Civil Procedure.** There has been compliance by the Commission with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

**Section 2. Public Use.** The public use for the permanent utility easement and temporary construction easement interest in the property to be acquired is for the SR-60/Potrero Blvd Interchange Project in Riverside County, California. Section 130220.5 of the California Public Utilities Code authorizes the Commission to acquire, by eminent domain, property necessary for such purposes.

**Section 3. Description of Property.** Attached and marked as Exhibit "A" are the legal definitions, description and depiction of the interests to be acquired by the Commission,

which describe the general location and extent of the property with sufficient detail for reasonable identification.

**Section 4. Findings.** The Commission hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The property defined and described in Exhibit "A" is necessary for the proposed project; and
- (d) The offer required by section 7267.2 of the California Government Code was made.

**Section 5. Use Not Unreasonably Interfering with Existing Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the Commission and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the Commission is authorized to acquire the herein described interest subject to such existing public use pursuant to section 1240.510 of the California Code of Civil Procedure.

**Section 6. More Necessary Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the Commission finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the Commission is authorized to acquire the herein described real property appropriated to such existing public uses pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the affected real property that it determines are reasonably necessary to mitigate any adverse impact upon the existing public use.

**Section 7. Further Activities.** Counsel for the Commission is hereby authorized to acquire the hereinabove described real property in the name of and on behalf of the Commission by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further

authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the Commission to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action, or other proceedings or transactions required to acquire the subject real property.

**Section 8. Effective Date.** This Resolution shall take effect upon adoption.

**APPROVED AND ADOPTED** this 9th day of October, 2024.

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Lloyd White, Chair  
Riverside County Transportation Commission

ATTEST:

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Lisa Mobley, Clerk of the Board Riverside  
County Transportation Commission

## LEGAL DEFINITIONS

**"Utility Easement"** grants to RCTC, including its successors and assigns, a permanent and perpetual easement, for highway, public utilities, right-of-way and construction purposes including the ability to construct, maintain, improve, alter, relocate, inspect, occupy, and use for the construction and maintenance of streets and underground lines, power poles, public utilities, and other public uses, as determined necessary by RCTC, together with all necessary rights incidental thereto, on, over, under, and across the property in connection with the exercise of any easement rights described herein. The property affected is described and depicted in the attached "Legal Description – Utility Easement", attached hereto and by reference made a part hereof.

Property owners shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over or under any portion of the easement, or plant any tree or trees or plant any other vegetation or flora on any portion of the easement except at the written consent of RCTC, its successors and assigns. RCTC will not unreasonably withhold from Grantor, its successors and assigns, the right to utilize the easement area for parking, driveway access, landscaping (exclusive of vertical penetration), open space and density or floor area calculation.

RCTC shall be entitled to trim, cut, or clear away any trees, brush, or other vegetation or flora from time to time determined in its sole discretion without payment of any additional compensation.

No other easement or easements shall be granted on, under or over the easement without obtaining the prior written consent of RCTC, its successors and assigns.

**"Temporary Construction Easement ("TCE")"** refers to the right of RCTC, its successors and assigns, to engage in construction and related activities for the project, together with all necessary rights of ingress and egress to the easement area in connection with the exercise of any of the easement rights. The property affected is described and depicted in the attached "Legal Description – Temporary Construction Easement", attached hereto and by reference made a part hereof.

No other easement shall be granted on, under or over the easement without the prior written consent of RCTC, its successors and assigns. Such right shall be exercised for a period of eighteen (18) consecutive months, beginning no fewer than 72 hours after the date that RCTC provides written notice of commencement of possession to the property owner. The duration of the rights under this easement shall not extend beyond March 1, 2026 or upon filing of a Notice of Completion, whichever is earlier. Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**UTILITY EASEMENT**

That portion of Parcel 4 of Parcel Map No. 31368, in the City of Beaumont, County of Riverside, State of California, per map filed in Book 229, Pages 46 through 53 of Parcel Maps in the office of the County Recorder of said County, described as follows:

**COMMENCING** at the easterly terminus of that certain course described as having a bearing of South 84°01'41" East and a length of 347.95 feet in the northerly line of the land described in the Grant Deed recorded June 7, 2017 in Document No. 2017-0227757 of Official Records, in the office of the County Recorder of said County;

thence along said certain course, North 84°01'41" West 347.95 feet to its westerly terminus and the beginning of a tangent curve, concave northeasterly having a radius of 504.94 feet in said northerly line;

thence northwesterly 0.21 feet along said curve and said northerly line through a central angle of 00°01'24" to the **TRUE POINT OF BEGINNING**;

thence continuing northwesterly 35.62 feet along said curve and said northerly line through a central angle of 04°02'29";

thence leaving said northerly line North 21°46'29" East 95.23 feet;

thence South 00°02'29" West 93.40 feet to the **TRUE POINT OF BEGINNING**.

Containing 1,654 square feet more or less.

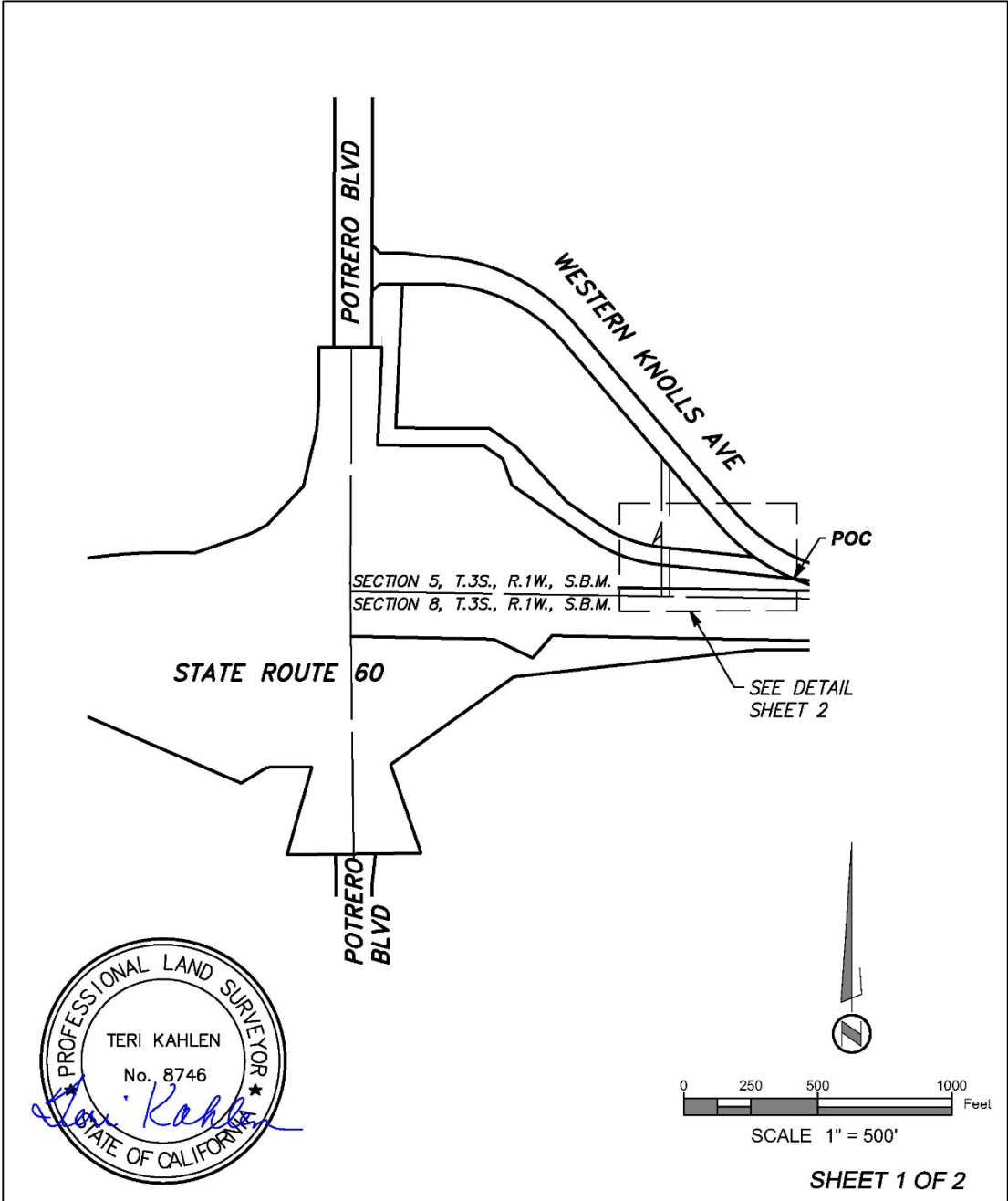
As shown on Exhibit "B" attached hereto and made a part hereof.

Bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 6, Epoch 2004.00. Multiply all distances used in the above description by 1.0001028 to obtain ground level distances.

This real property description has been prepared at Mark Thomas, by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Teri Kahlen                      9/6/2024  
Teri Kahlen, PLS 8746              Date



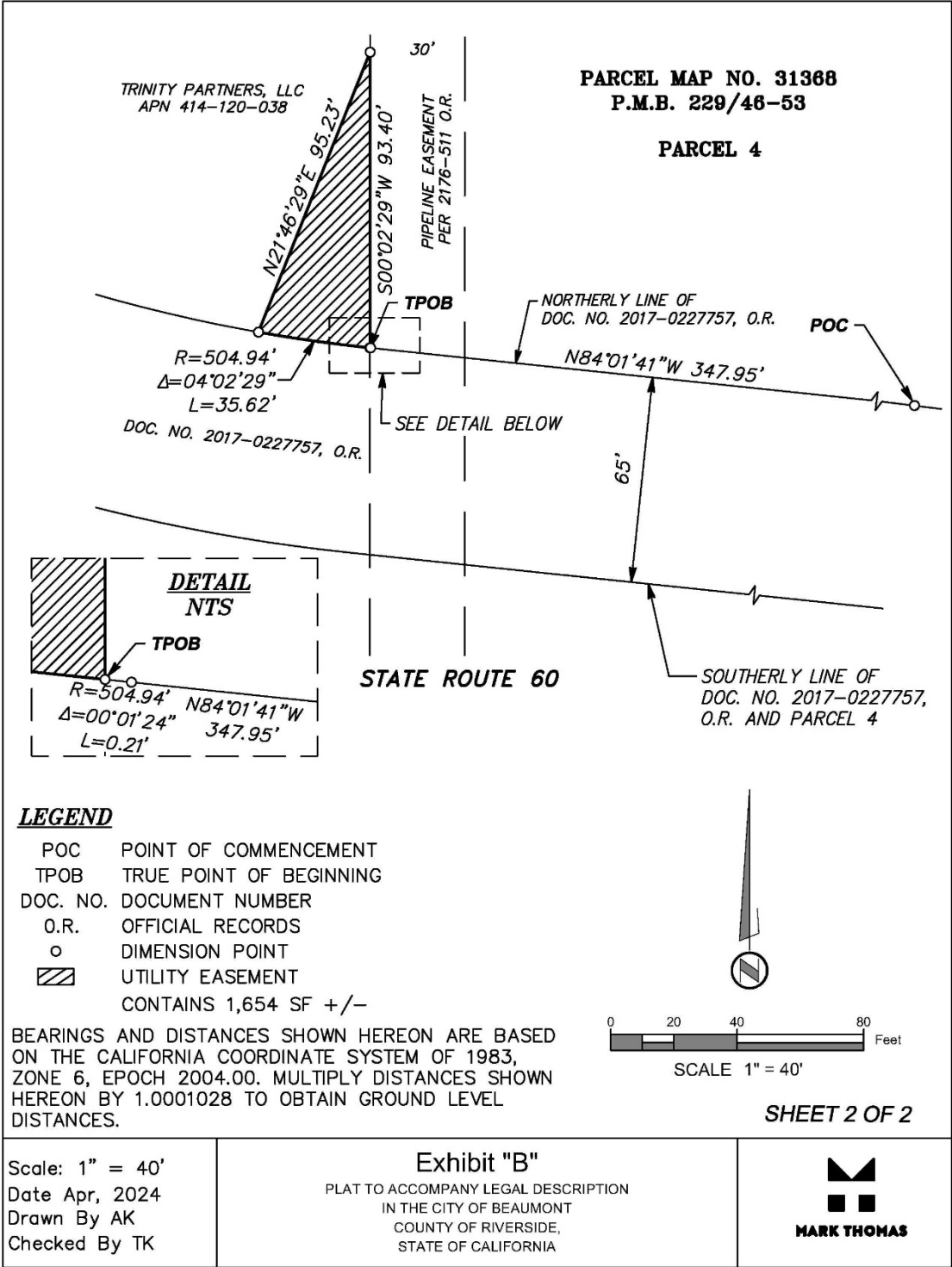


Scale: 1" = 500'  
 Date Apr, 2024  
 Drawn By AK  
 Checked By TK

**Exhibit "B"**  
 PLAT TO ACCOMPANY LEGAL DESCRIPTION  
 IN THE CITY OF BEAUMONT  
 COUNTY OF RIVERSIDE,  
 STATE OF CALIFORNIA







**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**UTILITY EASEMENT**

That portion of Parcel A of Parcel Map No. 31368, in the City of Beaumont, County of Riverside, State of California per map filed in Book 229, Pages 46 through 53 of Parcel Maps in the office of the County Recorder of said County, described as follows:

**COMMENCING** at the easterly terminus of that certain course described as having a bearing of North 84°01'41" West and a length of 501.82 feet in the southerly line of the land described in a Grant Deed recorded June 7, 2017 in Document No. 2017-0227757 of Official Records in the office of the County Recorder of said County;

thence along said certain course, North 84°01'41" West 495.27 feet to the **TRUE POINT OF BEGINNING**;

thence continuing along said certain course, North 84°01'41" West 6.55 feet to the beginning of a tangent curve, concave northeasterly having a radius of 569.94 feet;

thence northwesterly 45.85 feet along said curve and said southerly line through a central angle of 04°36'33";

thence leaving said southerly line South 23°11'41" East 103.12 feet to the southerly line of said Parcel A;

thence along said southerly line, South 89°07'00" East 16.45 feet;

thence North 23°20'03" West 13.26 feet;

thence North 00°02'29" East 75.58 feet to the **TRUE POINT OF BEGINNING**.

Containing 2,813 square feet more or less.

As shown on Exhibit "B" attached hereto and made a part hereof.

Bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 6, Epoch 2004.00. Multiply all distances used in the above description by 1.0001028 to obtain ground level distances.

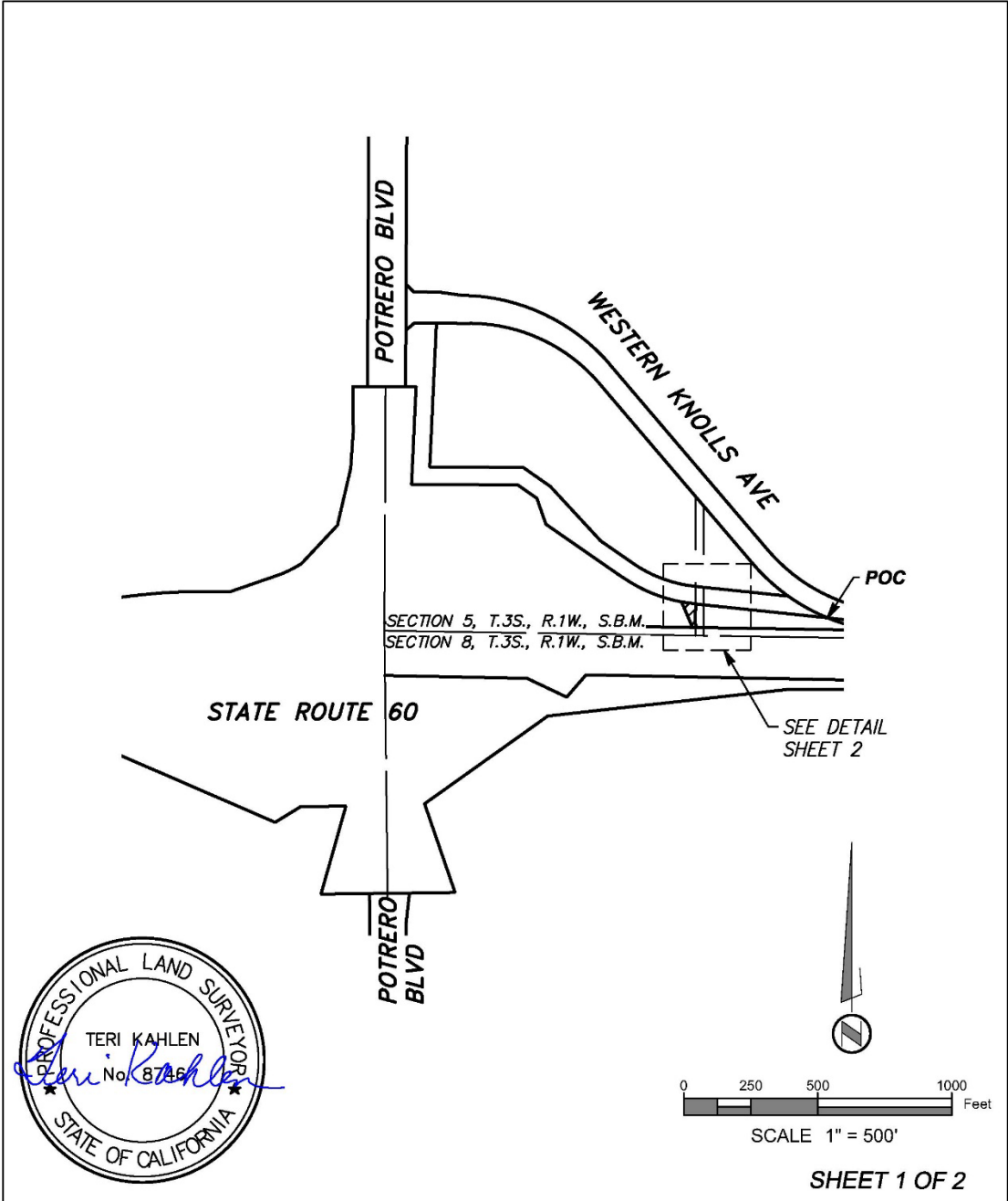
**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**UTILITY EASEMENT**

This real property description has been prepared at Mark Thomas, by me, or under my direction, in conformance with the Professional Land Surveyors Act.

*Teri Kahlen* 9/6/2024

Teri Kahlen, PLS 8746      Date

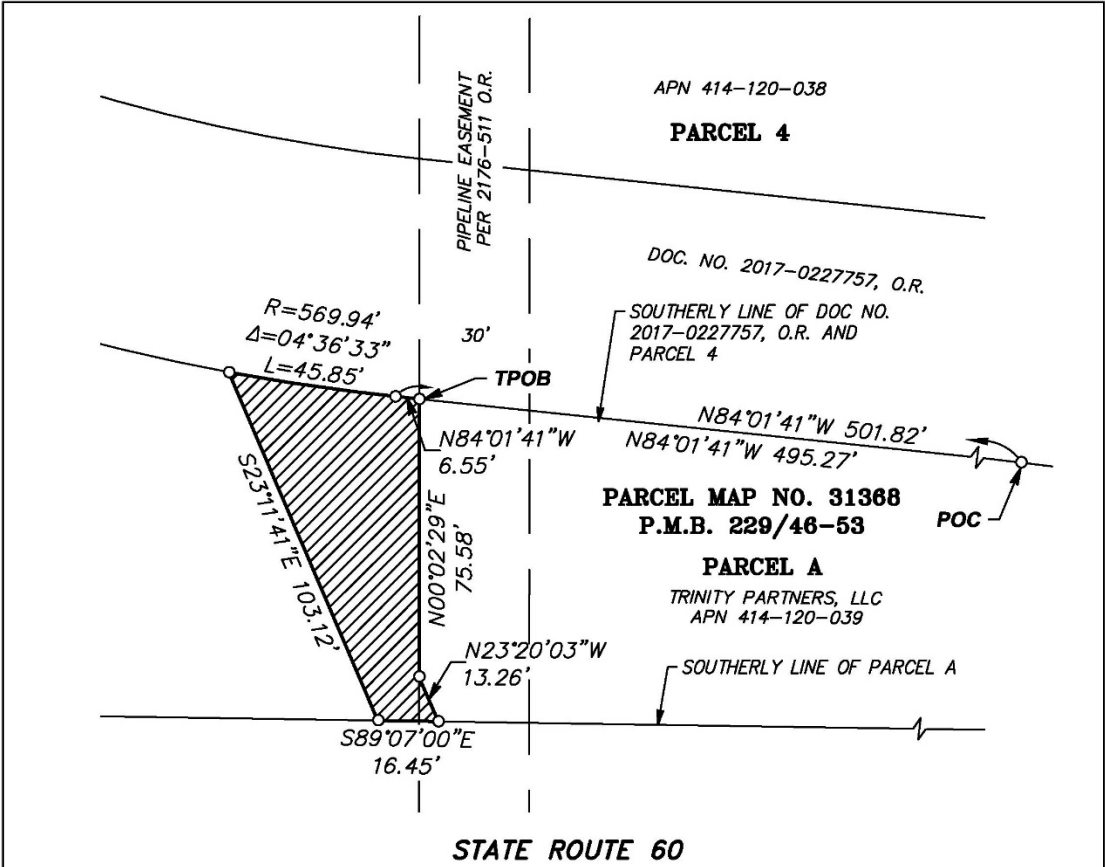




Scale: 1" = 500'  
 Date Apr, 2024  
 Drawn By AK  
 Checked By TK

**Exhibit "B"**  
 PLAT TO ACCOMPANY LEGAL DESCRIPTION  
 IN THE CITY OF BEAUMONT  
 COUNTY OF RIVERSIDE,  
 STATE OF CALIFORNIA

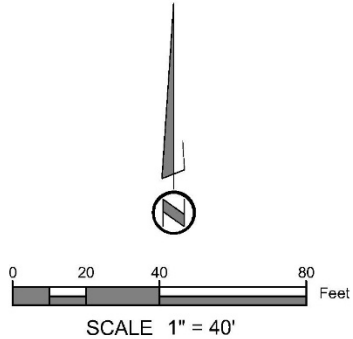




**LEGEND**

- POC POINT OF COMMENCEMENT
- TPOB TRUE POINT OF BEGINNING
- DOC. NO. DOCUMENT NUMBER
- O.R. OFFICIAL RECORDS
- o DIMENSION POINT
- ▨ UTILITY EASEMENT
- CONTAINS 2,813 SF +/-

BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6, EPOCH 2004.00. MULTIPLY DISTANCES SHOWN HEREON BY 1.0001028 TO OBTAIN GROUND LEVEL DISTANCES.



**SHEET 2 OF 2**

Scale: 1" = 40' Date Apr, 2024 Drawn By AK Checked By TK	<b>Exhibit "B"</b> PLAT TO ACCOMPANY LEGAL DESCRIPTION IN THE CITY OF BEAUMONT COUNTY OF RIVERSIDE, STATE OF CALIFORNIA	 <b>MARK THOMAS</b>
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**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**TEMPORARY CONSTRUCTION EASEMENT**

A strip of land, 50.00 feet wide, over that portion of Parcel 4 of Parcel Map No. 31368, in the City of Beaumont, County of Riverside, State of California, per map filed in Book 229, Pages 46 through 53 of Parcel Maps in the office of the County Recorder of said County, the easterly line of said strip of land being described as follows:

**COMMENCING** at the easterly terminus of that certain course described as having a bearing of South 84°01'41" East and a length of 347.95 feet in the northerly line of the land described in the Grant Deed recorded June 7, 2017 in Document No. 2017-0227757 of Official Records, in the office of the County Recorder of said County

thence along said certain course, North 84°01'41" West 267.73 feet to the **TRUE POINT OF BEGINNING;**

thence leaving said northerly line, North 00°02'29" East 249.48 feet to the **Point of Terminus.**

The sidelines of said strip of land shall be prolonged or shortened as necessary to terminate in said certain course.

Containing 12,344 square feet more or less.

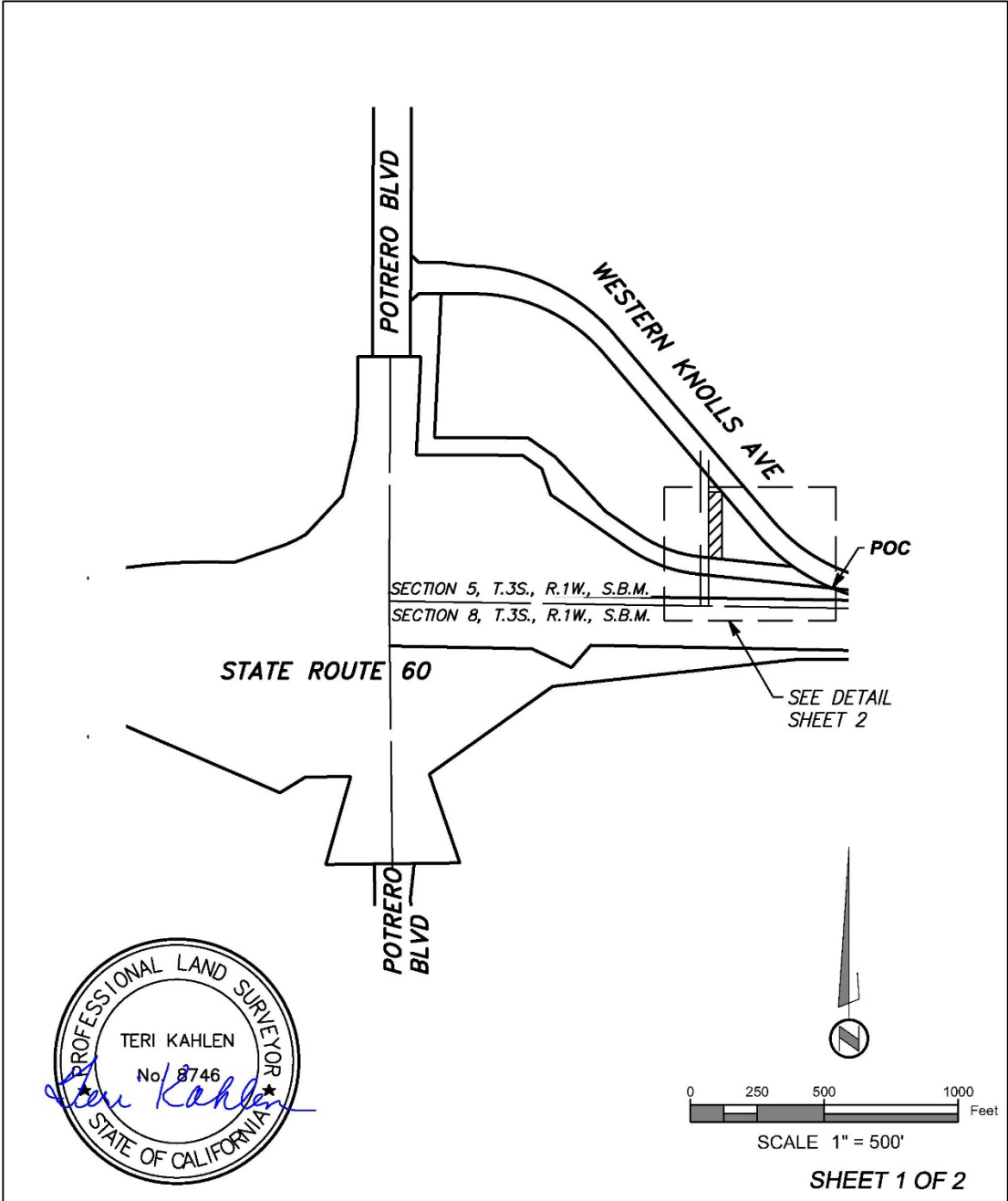
As shown on Exhibit "B" attached hereto and made a part hereof.

Bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 6, Epoch 2004.00. Multiply all distances used in the above description by 1.0001028 to obtain ground level distances.

This real property description has been prepared at Mark Thomas, by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Teri Kahlen      9/6/2024  
Teri Kahlen, PLS 8746      Date

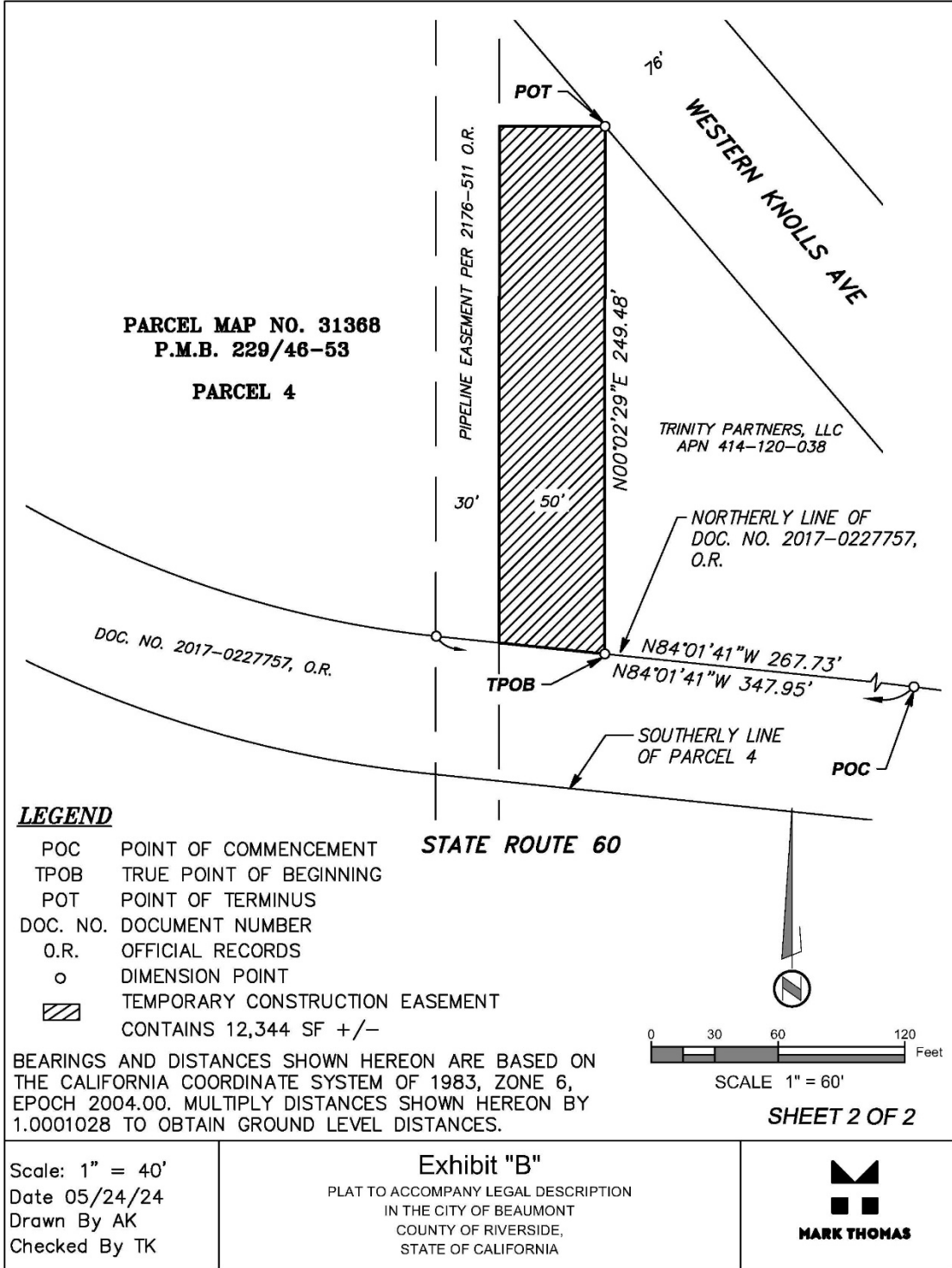




Scale: 1" = 500'  
 Date 05/24/24  
 Drawn By AK  
 Checked By TK

**Exhibit "B"**  
 PLAT TO ACCOMPANY LEGAL DESCRIPTION  
 IN THE CITY OF BEAUMONT  
 COUNTY OF RIVERSIDE,  
 STATE OF CALIFORNIA





Scale: 1" = 40'  
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 Drawn By AK  
 Checked By TK

**Exhibit "B"**  
 PLAT TO ACCOMPANY LEGAL DESCRIPTION  
 IN THE CITY OF BEAUMONT  
 COUNTY OF RIVERSIDE,  
 STATE OF CALIFORNIA





**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**TEMPORARY CONSTRUCTION EASEMENT**

That portion of Parcel A of Parcel Map No. 31368, in the City of Beaumont, County of Riverside, State of California per map filed in Book 229, Pages 46 through 53 of Parcel Maps in the office of the County Recorder of said County, described as follows:

**COMMENCING** at the easterly terminus of that certain course described as having a bearing of North 84°01'41" West and a length of 501.82 feet in the southerly line of the land described in a Grant Deed recorded June 7, 2017 in Document No. 2017-0227757 of Official Records in the office of the County Recorder of said County;

thence along said certain course, North 84°01'41" West 414.84 feet to the **TRUE POINT OF BEGINNING**;

thence continuing along said certain course, North 84°01'41" West 50.27 feet;

thence leaving said certain course, South 00°02'29" West 66.26 feet;

thence South 23°20'03" East 20.54 feet to the southerly line of said Parcel A;

thence along said southerly line, South 89°07'00" East 41.85 feet;

thence leaving said southerly line, North 00°02'29" East 80.54 feet to the **TRUE POINT OF BEGINNING**.

Containing 4,062 square feet more or less.

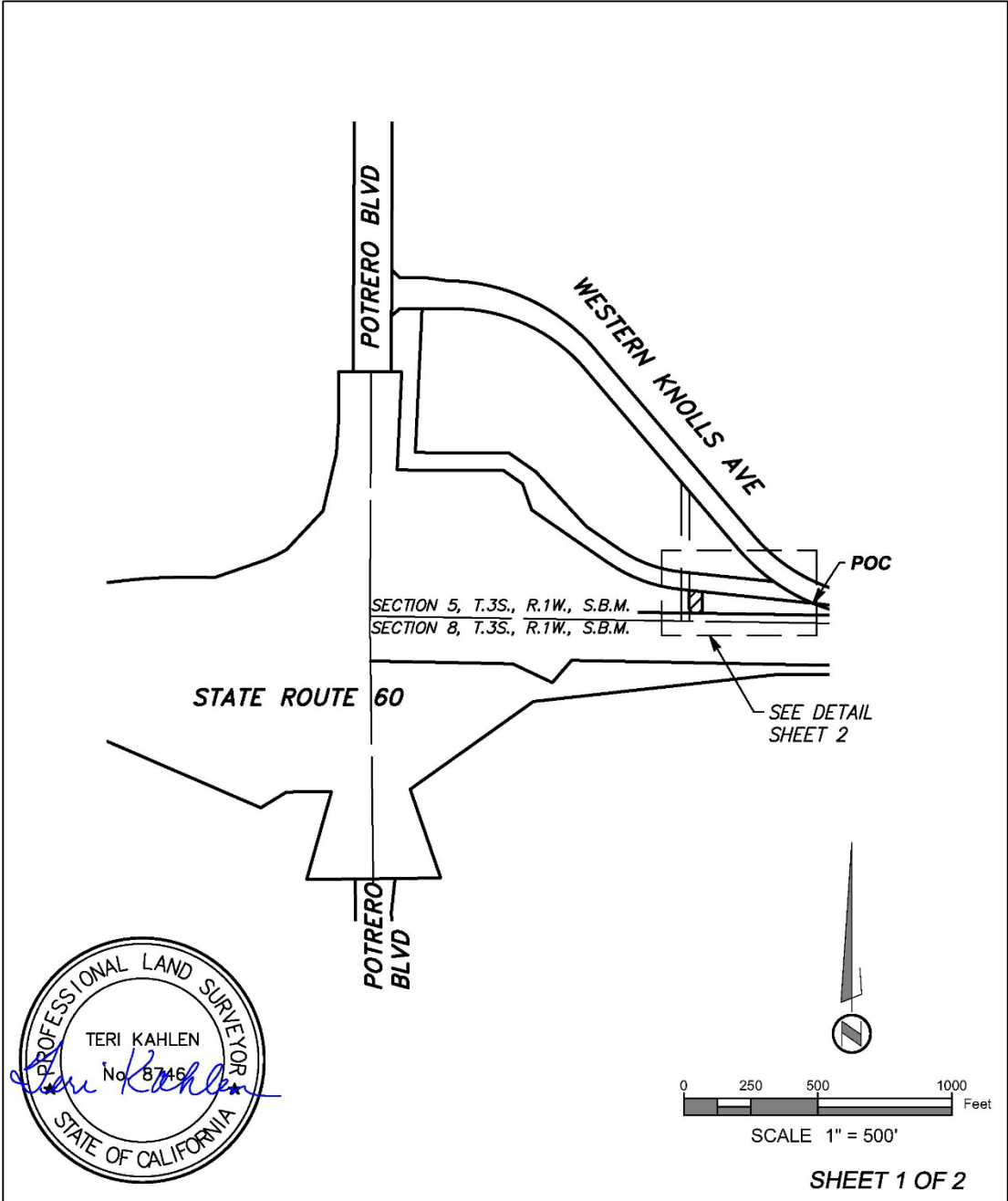
As shown on Exhibit "B" attached hereto and made a part hereof.

Bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 6, Epoch 2004.00. Multiply all distances used in the above description by 1.0001028 to obtain ground level distances.

This real property description has been prepared at Mark Thomas, by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Teri Kahlen                      9/6/2024  
Teri Kahlen, PLS 8746              Date

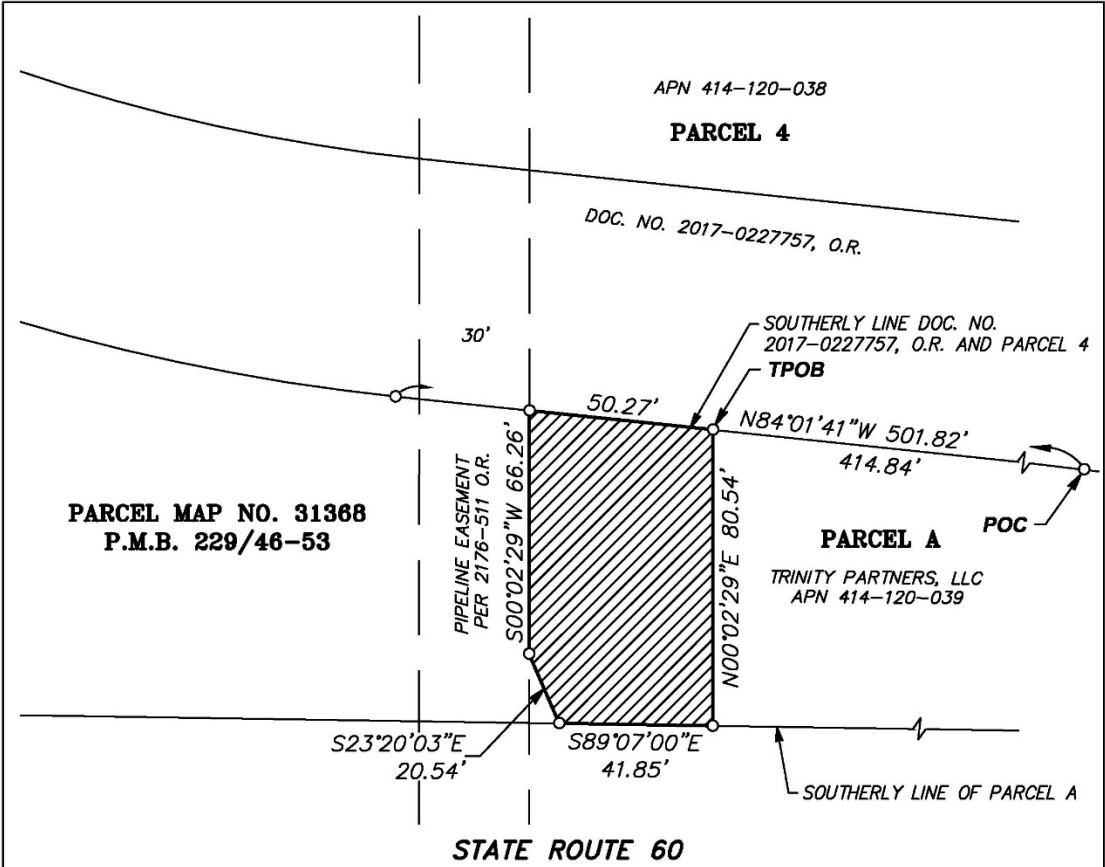




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 COUNTY OF RIVERSIDE,  
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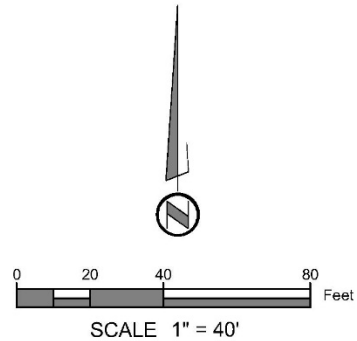




**LEGEND**

- POC POINT OF COMMENCEMENT
- TPOB TRUE POINT OF BEGINNING
- DOC. NO. DOCUMENT NUMBER
- O.R. OFFICIAL RECORDS
- o DIMENSION POINT
- TEMPORARY CONSTRUCTION EASEMENT
- CONTAINS 4,062 SF +/-

BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6, EPOCH 2004.00. MULTIPLY DISTANCES SHOWN HEREON BY 1.0001028 TO OBTAIN GROUND LEVEL DISTANCES.



**SHEET 2 OF 2**

<p>Scale: 1" = 40' Date Apr, 2024 Drawn By AK Checked By TK</p>	<p><b>Exhibit "B"</b> PLAT TO ACCOMPANY LEGAL DESCRIPTION IN THE CITY OF BEAUMONT COUNTY OF RIVERSIDE, STATE OF CALIFORNIA</p>	 <b>MARK THOMAS</b>
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## RESOLUTION NO. 24-015

ADOPTION OF A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF A PERMANENT UTILITY EASEMENT INTEREST AND A TEMPORARY CONSTRUCTION EASEMENT INTEREST IN A PORTION OF CERTAIN REAL PROPERTY, BY EMINENT DOMAIN, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NUMBER 424-050-011, FOR THE SR-60/POTRERO BOULEVARD INTERCHANGE PHASE II PROJECT (POTRERO) IN THE CITY OF BEAUMONT, RIVERSIDE COUNTY, CALIFORNIA

WHEREAS, the Riverside County Transportation Commission (the "Commission") proposes to acquire a permanent utility easement interest and a temporary construction easement interest in certain real property, located in the City of Beaumont, Riverside County, California, more particularly described as Assessor Parcel No. 424-050-011, for the SR-60/Potrero Boulevard Interchange Phase II Project pursuant to the authority granted to it by section 130220.5 of the California Public Utilities Code; and

**WHEREAS**, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a public hearing for Wednesday, October 9, 2024, at 9:30 a.m., at the County Administration Building, County Board Room, at 4080 Lemon Street, Riverside, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

**WHEREAS**, said hearing has been held by the Commission, and the affected property owner was afforded an opportunity to be heard on said matters; and

**WHEREAS**, the Commission may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure;

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:**

**Section 1. Compliance with California Code of Civil Procedure.** There has been compliance by the Commission with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

**Section 2. Public Use.** The public use for the permanent utility easement and temporary construction easement interest in the property to be acquired is for the SR-60/Potrero Blvd Interchange Project in Riverside County, California. Section 130220.5 of the California Public Utilities Code authorizes the Commission to acquire, by eminent domain, property necessary for such purposes.

**Section 3. Description of Property.** Attached and marked as Exhibit "A" are the legal definitions, description and depiction of the interests to be acquired by the Commission,

which describe the general location and extent of the property with sufficient detail for reasonable identification.

**Section 4. Findings.** The Commission hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The property defined and described in Exhibit "A" is necessary for the proposed project; and
- (d) The offer required by section 7267.2 of the California Government Code was made.

**Section 5. Use Not Unreasonably Interfering with Existing Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the Commission and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the Commission is authorized to acquire the herein described interest subject to such existing public use pursuant to section 1240.510 of the California Code of Civil Procedure.

**Section 6. More Necessary Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the Commission finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the Commission is authorized to acquire the herein described real property appropriated to such existing public uses pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the affected real property that it determines are reasonably necessary to mitigate any adverse impact upon the existing public use.

**Section 7. Further Activities.** Counsel for the Commission is hereby authorized to acquire the hereinabove described real property in the name of and on behalf of the Commission by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further

authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the Commission to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action, or other proceedings or transactions required to acquire the subject real property.

**Section 8. Effective Date.** This Resolution shall take effect upon adoption.

**APPROVED AND ADOPTED** this 9th day of October, 2024.

---

Lloyd White, Chair  
Riverside County Transportation Commission

ATTEST:

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Lisa Mobley, Clerk of the Board Riverside  
County Transportation Commission

## LEGAL DEFINITIONS

**"Utility Easement"** grants to RCTC, including its successors and assigns, a permanent and perpetual easement, for highway, public utilities, right-of-way and construction purposes including the ability to construct, maintain, improve, alter, relocate, inspect, occupy, and use for the construction and maintenance of streets and underground lines, power poles, public utilities, and other public uses, as determined necessary by RCTC, together with all necessary rights incidental thereto, on, over, under, and across the property in connection with the exercise of any easement rights described herein. The property affected is described and depicted in the attached "Legal Description – Utility Easement", attached hereto and by reference made a part hereof.

Property owners shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over or under any portion of the easement, or plant any tree or trees or plant any other vegetation or flora on any portion of the easement except at the written consent of RCTC, its successors and assigns. RCTC will not unreasonably withhold from Grantor, its successors and assigns, the right to utilize the easement area for parking, driveway access, landscaping (exclusive of vertical penetration), open space and density or floor area calculation.

RCTC shall be entitled to trim, cut, or clear away any trees, brush, or other vegetation or flora from time to time determined in its sole discretion without payment of any additional compensation.

No other easement or easements shall be granted on, under or over the easement without obtaining the prior written consent of RCTC, its successors and assigns.

**"Temporary Construction Easement ("TCE")"** refers to the right of RCTC, its successors and assigns, to engage in construction and related activities for the project, together with all necessary rights of ingress and egress to the easement area in connection with the exercise of any of the easement rights. The property affected is described and depicted in the attached "Legal Description – Temporary Construction Easement", attached hereto and by reference made a part hereof.

No other easement shall be granted on, under or over the easement without the prior written consent of RCTC, its successors and assigns. Such right shall be exercised for a period of eighteen (18) consecutive months, beginning no fewer than 72 hours after the date that RCTC provides written notice of commencement of possession to the property owner. The duration of the rights under this easement shall not extend beyond March 1, 2026 or upon filing of a Notice of Completion, whichever is earlier. Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**UTILITY EASEMENT**

That portion of the Northwest quarter of Section 8, Township 3 South, Range 1 West, San Bernardino Meridian, in the City of Beaumont, County of Riverside, State of California, described as follows:

**COMMENCING** at the easterly terminus of that certain course described as having a bearing of North 83°41'19" East and a length of 909.54 feet in the southerly line of the land described as Parcel 21979-1 in a document recorded November 21, 2014 in Document No. 2014-0447477 of Official Records, in the office of the County Recorder of said County;

thence along said certain course, South 83°41'19" West 230.12 feet to the **TRUE POINT OF BEGINNING**;

thence continuing along said certain course, South 83°41'19" West 24.26 feet;

thence leaving said certain course, South 23°13'31" East 43.36 feet;

thence South 86°43'13" East 108.01 feet;

thence North 64°13'13" West 111.97 feet to the **TRUE POINT OF BEGINNING**.

Containing 2,817 square feet more or less.

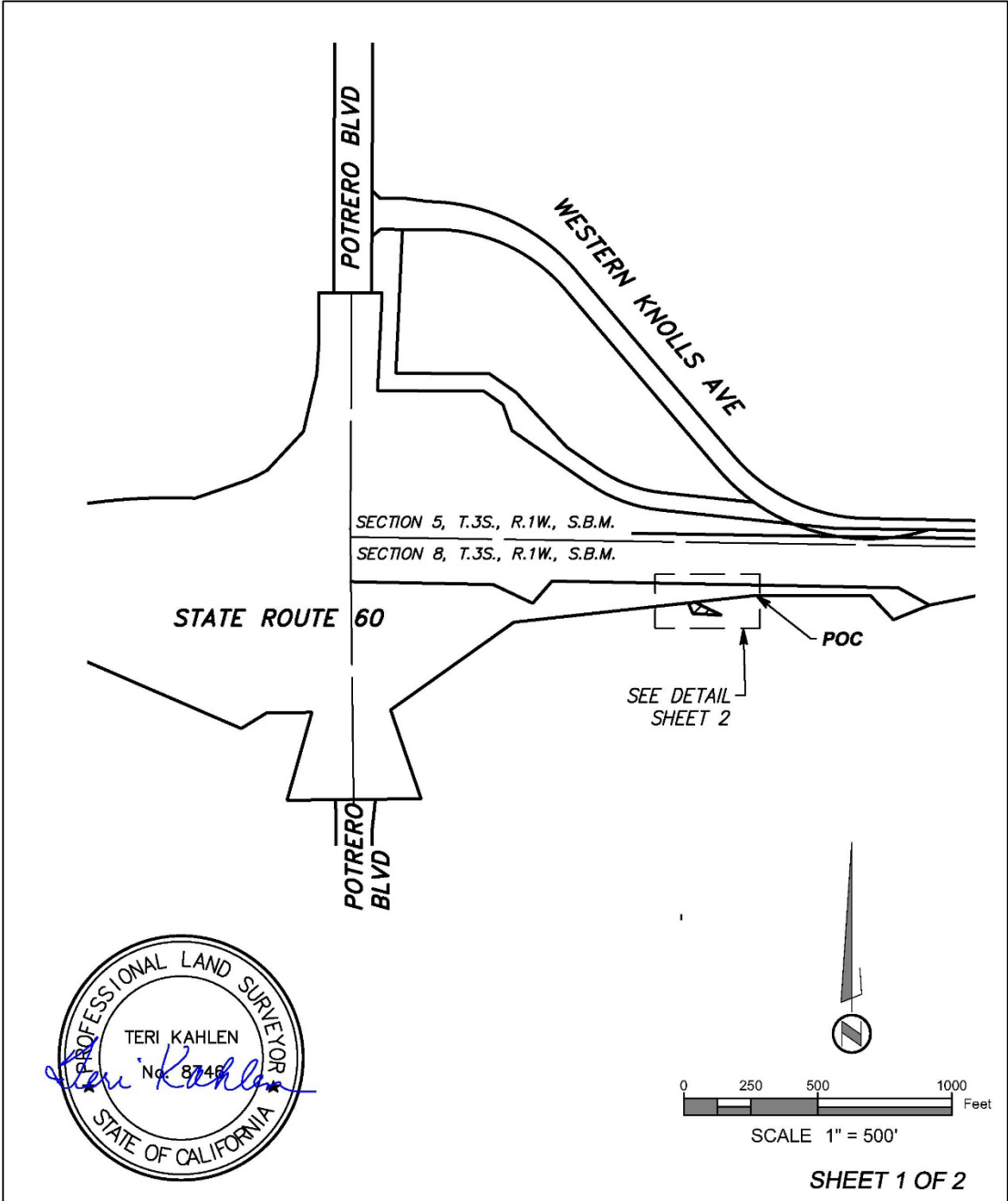
As shown on Exhibit "B" attached hereto and made a part hereof.

Bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 6, Epoch 2004.00. Multiply all distances used in the above description by 1.0001028 to obtain ground level distances.

This real property description has been prepared at Mark Thomas, by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Teri Kahlen 9/6/2024  
Teri Kahlen, PLS 8746 Date





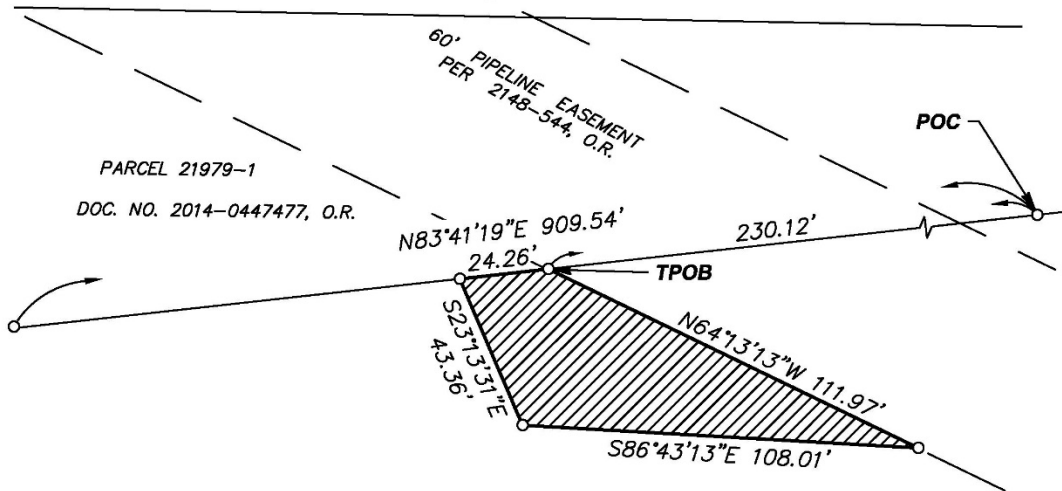
Scale: 1" = 500'  
 Date Apr, 2024  
 Drawn By AK  
 Checked By TK

**Exhibit "B"**  
 PLAT TO ACCOMPANY LEGAL DESCRIPTION  
 IN THE CITY OF BEAUMONT  
 COUNTY OF RIVERSIDE,  
 STATE OF CALIFORNIA




NW ¼ SECTION 8,  
TOWNSHIP 3 SOUTH, RANGE 1 WEST,  
S.B.M.

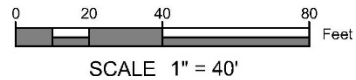
STATE ROUTE 60



PORTERO COMMERCIAL, LLC  
DOC. NO. 2018-0135088, O.R.  
APN 424-050-011

**LEGEND**

- POC POINT OF COMMENCEMENT
- TPOB TRUE POINT OF BEGINNING
- DOC. NO. DOCUMENT NUMBER
- O.R. OFFICIAL RECORDS
- o DIMENSION POINT
-  UTILITY EASEMENT
- CONTAINS 2,817 SF +/-



BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6, EPOCH 2004.00. MULTIPLY DISTANCES SHOWN HEREON BY 1.0001028 TO OBTAIN GROUND LEVEL DISTANCES.

SHEET 2 OF 2

Scale: 1" = 40'  
Date Apr, 2024  
Drawn By AK  
Checked By TK

**Exhibit "B"**  
PLAT TO ACCOMPANY LEGAL DESCRIPTION  
IN THE CITY OF BEAUMONT  
COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**TEMPORARY CONSTRUCTION EASEMENT**

That portion of the Northwest quarter of Section 8, Township 3 South, Range 1 West, San Bernardino Meridian, in the City of Beaumont, County of Riverside, State of California, described as follows:

**COMMENCING** at the easterly terminus of that certain course described as having a bearing of North 83°41'19" East and a length of 909.54 feet in the southerly line of the land described as Parcel 21979-1 in a document recorded November 21, 2014 in Document No. 2014-0447477 of Official Records, in the office of the County Recorder of said County;

thence along said certain course, South 83°41'19" West 23.07 feet to the **TRUE POINT OF BEGINNING**;

thence continuing along said certain course, South 83°41'19" West 94.11 feet;

thence leaving said certain course, South 64°13'13" East 166.40 feet;

thence North 25°46'47" East 50.00 feet to a line that is parallel with and 50.00 feet northeasterly of that certain course hereinabove described as having a bearing South 64°13'13" East and a length of 166.40 feet;

thence along said parallel line North 64°13'13" West 86.66 feet to the **TRUE POINT OF BEGINNING**.

Containing 6,327 square feet more or less.

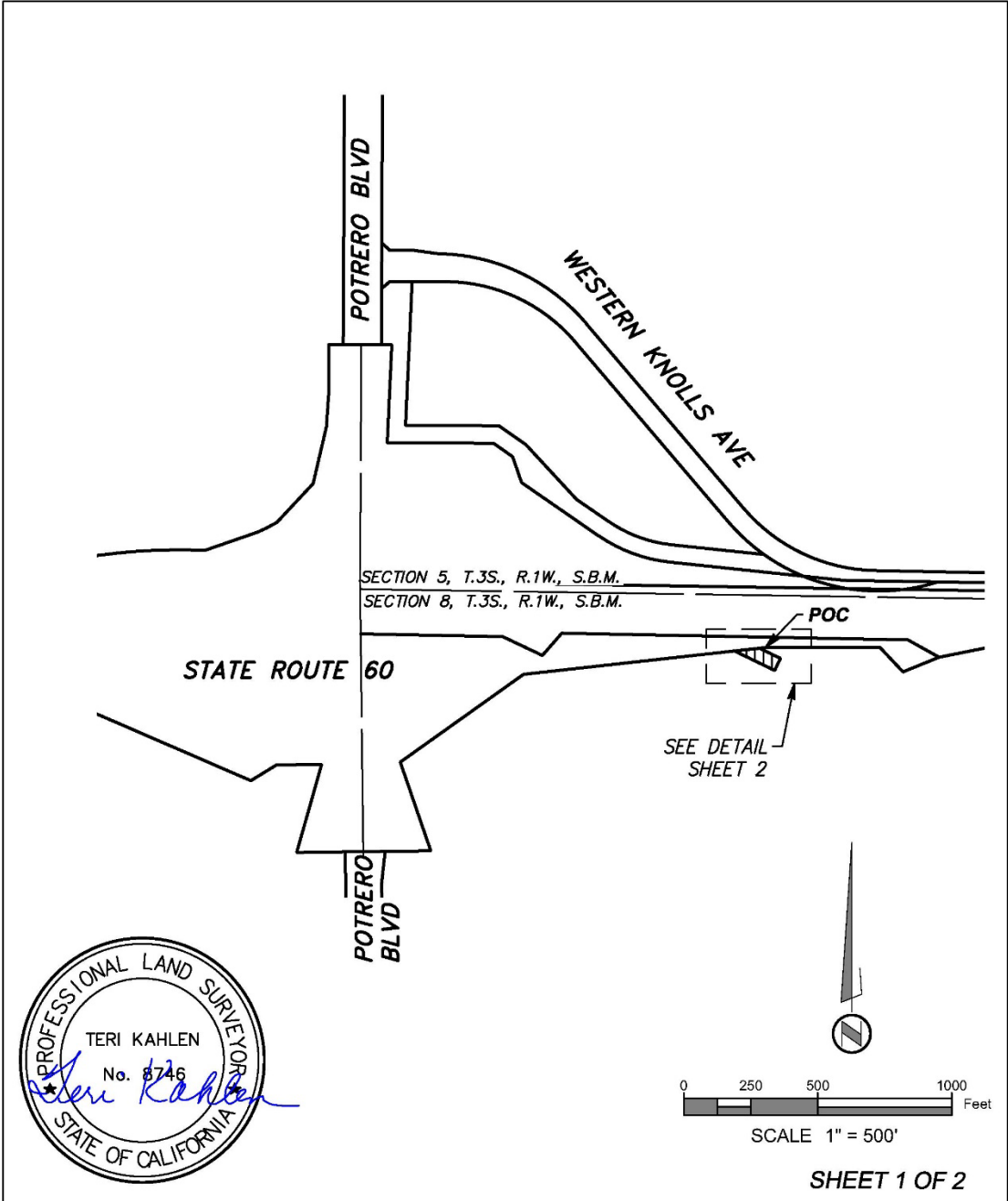
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This real property description has been prepared at Mark Thomas, by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Teri Kahlen 9/6/2024  
Teri Kahlen, PLS 8746      Date





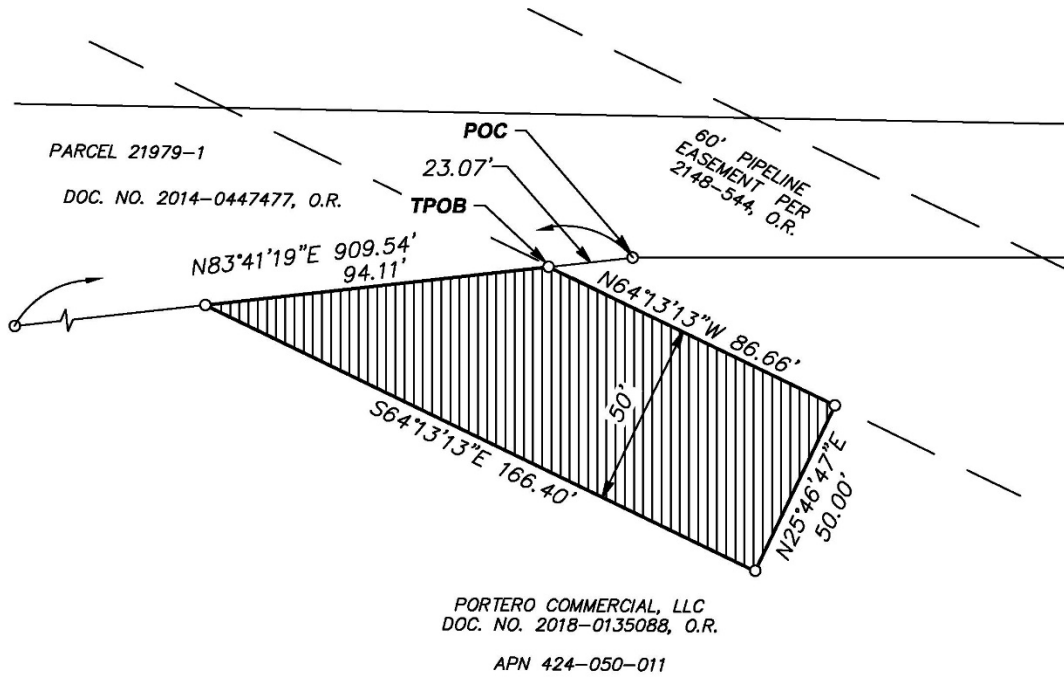
Scale: 1" = 500'  
 Date 5/24/2024  
 Drawn By AK  
 Checked By TK

**Exhibit "B"**  
 PLAT TO ACCOMPANY LEGAL DESCRIPTION  
 IN THE CITY OF BEAUMONT  
 COUNTY OF RIVERSIDE,  
 STATE OF CALIFORNIA



NW ¼ SECTION 8,  
TOWNSHIP 3 SOUTH, RANGE 1 WEST,  
S.B.M.

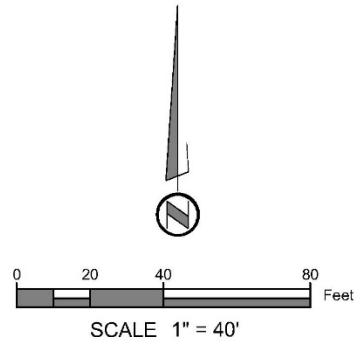
STATE ROUTE 60



**LEGEND**

- POC POINT OF COMMENCEMENT
- TPOB TRUE POINT OF BEGINNING
- DOC. NO. DOCUMENT NUMBER
- O.R. OFFICIAL RECORDS
- o DIMENSION POINT
- TEMPORARY CONSTRUCTION EASEMENT  
CONTAINS 6,327 SF +/-

BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6, EPOCH 2004.00. MULTIPLY DISTANCES SHOWN HEREON BY 1.0001028 TO OBTAIN GROUND LEVEL DISTANCES.



SHEET 2 OF 2

Scale: 1" = 40'  
Date 5/24/2024  
Drawn By AK  
Checked By TK

**Exhibit "B"**  
PLAT TO ACCOMPANY LEGAL DESCRIPTION  
IN THE CITY OF BEAUMONT  
COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA



# **AGENDA ITEM 8A**

## **MINUTES**





# **RIVERSIDE COUNTY TRANSPORTATION COMMISSION**

## **MEETING MINUTES**

Wednesday, September 11, 2024

### **1. CALL TO ORDER**

The Riverside County Transportation Commission was called to order by Chair Lloyd White at 9:31 a.m. in the Board Room at the County of Riverside Administrative Center, 4080 Lemon Street, First Floor, Riverside, California, 92501 and at the teleconference sites: Council Chamber Conference Room, City of Palm Desert, 73510 Fred Waring Drive, Palm Desert, California 92260, and the Large Conference Room, French Valley Airport, 37600 Sky Canyon Dr., Murrieta, California 92563. For public comment visit <https://rivco.org/constituent-speaking-request> to complete a speaker slip.

### **2. ROLL CALL**

#### **Commissioners/Alternates Present**

Brian Berkson  
Chuck Conder  
Joseph DeConinck\*\*  
Waymond Fermon\*\*  
Kathleen Fitzpatrick\*\*  
Raymond Gregory\*\*  
Yxstian Gutierrez  
Berwin Hanna  
David Happe  
Jan Harnik\*\*  
Kevin Jeffries  
Linda Krupa  
Clint Lorimore  
Bob Magee  
Meg Marker\*\*  
Scott Matas\*\*  
Linda Molina

Joseph Morabito\*  
Dana Reed\*  
Jeremy Smith  
Wes Speake  
James Stewart\*  
Michael M. Vargas  
Cindy Warren\*  
Chuck Washington\*  
Lloyd White  
Haissam Yahya  
Bill Zimmerman

#### **Commissioners Absent**

Ulises Cabrera  
Steven Hernandez  
Lisa Middleton  
V. Manuel Perez  
Karen Spiegel  
Valerie Vandever

\*Joined the meeting at French Valley.

\*\*Joined the meeting at Palm Desert.

Commissioner Kevin Jeffries announced that Commissioner Karen Spiegel is touring the El Cariso Village in Lake Elsinore where they lost a dozen homes to the fire last night.

**3. PLEDGE OF ALLEGIANCE**

Commissioner Yxstian Gutierrez led the Commission in a flag salute.

**4. PUBLIC COMMENTS**

There were no requests to speak from the public.

**5. ADDITIONS / REVISIONS**

There were no additions or revisions to the agenda.

**6. CONSENT CALENDAR**

**M/S/C (Molina/Gutierrez) to approve the following Consent Calendar items.  
Abstain: Speake on Agenda Item 6L**

**6A. APPROVAL OF MINUTES – JULY 10, 2024**

**6B. SINGLE SIGNATURE AUTHORITY REPORT**

- 1) Receive and file the Single Signature Authority report for the fourth quarter ended June 30, 2024.

**6C. QUARTERLY SALES TAX ANALYSIS**

- 1) Receive and file the sales tax analysis for the Quarter 1, 2024 (1Q 2024).

**6D. QUARTERLY FINANCIAL STATEMENTS**

- 1) Receive and file the Quarterly Financial Statements for the twelve months ended June 30, 2024.

**6E. MONTHLY INVESTMENT REPORT**

- 1) Receive and file the Monthly Investment Report for the month ended June 30, 2024.

**6F. MONTHLY INVESTMENT REPORT**

- 1) Receive and file the Monthly Investment Report for the month ended July 31, 2024.

**6G. CALIFORNIA DEPARTMENT OF TRANSPORTATION PROJECT AUDIT RESULTS**

- 1) Receive and file a report (No. 23-2660-060) on the California Department of Transportation (Caltrans) Project Audit performed by the California Department of Finance, Office of State Audits and Evaluations (OSAE).

**6H. FISCAL YEAR 2022/23 TRANSPORTATION DEVELOPMENT ACT AND MEASURE A AUDIT RESULTS**

- 1) Receive and file the Transportation Development Act (TDA) and Measure A audit results report for Fiscal Year (FY) 2022/23.

**6I. AUDIT PLAN FOR THE COMMISSION'S FISCAL YEAR 2023/24 AUDIT**

- 1) Receive and file the audit plan related to the upcoming audit of the Commission's Fiscal Year 2023/24 financial statements and ensure communication between auditor and those in charge with governance (Audit Ad Hoc Committee) of the Commission.

**6J. QUARTERLY PUBLIC ENGAGEMENT METRICS REPORT, APRIL - JUNE 2024**

- 1) Receive and file the Quarterly Public Engagement Metrics Report for April - June 2024.

**6K. STATE AND FEDERAL LEGISLATIVE UPDATE**

- 1) Receive and file a state and federal legislative update.

**6L. ON-CALL CONSTRUCTABILITY REVIEW AND MISCELLANEOUS CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR NON-RAIL CAPITAL PROJECTS**

- 1) Award the following agreements to provide on-call constructability review and miscellaneous construction management support services for non-rail capital projects for a three-year term, and one two-year option to extend the agreement, in an amount not to exceed an aggregate value of \$3,234,000;
  - a) Agreement No. 24-31-068-00 HDR Construction Control Corporation;
  - b) Agreement No. 24-31-124-00 FALCON Engineering Services, Inc.;
  - c) Agreement No. 24-31-125-00 Jacobs Project Management Co.;
  - d) Agreement No. 24-31-126-00 WSP USA Inc.;
  - e) Agreement No. 24-31-127-00 ANSER Advisory Management, LLC;

- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements, including option years, on behalf of the Commission; and
- 3) Authorize the Executive Director, or designee, to execute task orders awarded to the consultants under the terms of the agreements.

**6M. QUARTERLY REPORTING OF CONTRACT CHANGE ORDERS FOR CONSTRUCTION CONTRACTS**

- 1) Receive and file the Quarterly Report of Contract Change Orders for Construction Contracts for the three months ended June 30, 2024.

**6N. AGREEMENTS FOR ON-CALL RIGHT OF WAY ENGINEERING AND SURVEYING SERVICES**

- 1) Award the following agreements to provide on-call right of way engineering and surveying services for a three-year term, for a total aggregate amount not to exceed \$3,200,000;
  - a) Agreement No. 24-31-076-00 to David Evans and Associates, Inc.;
  - b) Agreement No. 24-31-121-00 to GUIDA;
  - c) Agreement No. 24-31-122-00 to Mark Thomas and Company, Inc.;
  - d) Agreement No. 24-31-123-00 to Psomas;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of the Commission; and
- 3) Authorize the Executive Director, or designee, to execute task orders awarded to the contractors under the terms of the agreements.

**6O. FISCAL YEAR 2024/25 STATE OF GOOD REPAIR PROGRAM ALLOCATIONS**

- 1) Approve Resolution No. 24-008, *"Resolution of the Riverside County Transportation Commission Approving the FY 2024/25 Project List for the California State of Good Repair Program;"*
- 2) Approve an allocation of \$5,007,660 related to Fiscal Year (FY) 2024/25 State of Good Repair (SGR) program funds to eligible Riverside County transit operators;
- 3) Approve an increase of \$296,643 in the FY 2024/25 budget for SGR revenues to reflect updated SCO estimates;
- 4) Authorize the Executive Director, or designee, to review, approve and submit projects to Caltrans which are consistent with SGR program guidelines and to execute and submit required documents for the SGR program, including the Authorized Agent Form; and
- 5) Authorize the Executive Director, or designee, to approve administrative amendments to the FY 2024/25 Short Range Transit Plans (SRTPs) for incorporation of the SGR funds, as necessary.

**7. PROJECT STUDY REPORT-PROJECT DEVELOPMENT SUPPORT FOR THE NORTH MAIN CORONA TRANSIT CONNECTOR PROJECT**

David Thomas, Toll Project Delivery Director, recognized Lorelle Moe-Luna, Multimodal Services Director, this project has been a joint effort between Toll Project Delivery and the Multimodal department. David Thomas presented the project study report-project development support (PSR-PDS) for the North Main Corona Transit Connector project, highlighting the following areas:

- Background – Project overview
- Project feasibility study and a map of the project study area
  - Project alternatives development
  - Benefits of drop ramp concept with a photo of a drop ramp example
- PSR-PDS
- Cooperative agreement with Caltrans

Commissioner Wes Speake thanked David Thomas for the presentation as they are getting those connections to bus, multimodal and then that connection to the North Main Transit Center and that is what folks have been asking for which is an exit from the toll lanes. This will bring much more opportunity for folks to avoid getting off at Green River Road. He thanked staff and is looking forward to finding the funds to get this project done.

Commissioner Cindy Warren thanked David Thomas for the presentation and asked about the ridership from each location going to the Corona area.

David Thomas replied for Route 200 the ridership in 2023 was 134,000 annual boardings and Route 206 was 11,000 annual boardings.

Commissioner Dana Reed stated he is aware that this is on the west end, and they pay for most of it, they cannot try to do this in the east end, \$178 million is incredibly expensive for something that will get very limited use.

Commissioner Raymond Gregory asked if this lane is going to be used for those two buses only or are other users of the express lanes going to be able to use it.

David Thomas replied with the next study they will be looking at the possibility of high occupancy vehicles (HOV) only usage. Other users of the express lanes would overwhelm the demand at this location with the proximity to the 15/91 interchange connectors. There is a potential that HOV use which ties in well with that location because Caltrans has a project to expand the park and ride facility at Main Street. HOV access makes a lot of sense and is in line with improving other modes of transportation and increasing ridership.

In response to Commissioner Jan Harnik's question if this is something that may end up with a number of buses on it, David Thomas replied yes, and Jennifer Nguyen from the Riverside Transit Agency (RTA) is here today and was part of their stakeholder group and that is the expectation to increase both ridership and frequency of service for Routes 200 and 206 and potentially future other routes.

Aaron Hake stated this type of project is new for RCTC and new for the region. It is unique, and they are looking at ways to leverage their express lanes facility that they built to increase throughput and attract more state and federal dollars to their infrastructure. It has been made clear from their partners at the state and federal level, they are interested in roadway projects that have a transit component to them so the Commission can also fund the projects in their measure, it may be helpful to the Commission in the grand strategy.

Commissioner Clint Lorimore thanked David Thomas for the presentation and stated as was just mentioned this is unique to their area and asked if this is going to be individuals that went through the HOV or the buses making a left hand turn off the freeway from the fast lane. David Thomas concurred and stated left hand drop ramps, noting there is a drop ramp facility in San Bernardino off Interstate 210 as well.

Commissioner Lorimore stated it is not something he is used to doing while commuting and asked in places this is established if there is a difference in the number of accidents that occur at these drop ramps.

David Thomas replied that Caltrans has in their HOV guidelines the design parameters for median drop ramps and staff followed those to develop the alternative for this project. He is unaware there is additional safety consideration in a HOV, or express lane system left hand ramps become the only option and what has been developed on other HOV facilities.

In response to Commissioner Lorimore's clarification how will it be funded, David Thomas replied this is part of Jacobs Engineering Group Inc. (Jacobs) scope of work to look for federal grant opportunities for the project and this type of project will be competitive for those grants.

Commissioner Kevin Jeffries stated the First District pursued trying to increase ridership by offering covered bus stops to residents of disadvantaged communities and received strong resistance from the RTA and RCTC staff as they thought it was unaffordable however the Commission is about to spend \$178 million for two buses. He apologized for being a little doubtful of this and the objectives of everyone wanting to increase ridership when they do not care about increasing ridership in their own communities and their counties.

Commissioner Berkson expressed concern for this project aside from the \$178 million to drop a ramp for possibly only buses, maybe HOV. The exit for this is about a mile after the entrance to the toll lane and just from where it is located it could impact the toll lanes that people pay money for. He asked for statistics on how many people are driving in or out of the transit center, the RTA, or the Metrolink stations. That area has a median in the middle of the freeway and there is no space between the east and west bound traffic and asked where the drop-down ramp will be located. Any theory of this being in time for the Olympics to increase ridership for that purpose he does not agree with.

David Thomas replied preliminary information is this is feasible which is why they want to study further in the next phase as far as operations. The location Commissioner Berkson mentioned he agreed it is a tight location where they have retaining walls supporting the 91 on both sides. They can do this with some minimal adjustments in the right of way without a lot of acquisition as the feasibility study looked at that and will be studied further in the next phase. Any local street configurations needed for this project will be part of this next phase and that speaks to the high costs they have to rebuild the retaining walls, and this location is where they need to do this in order to have the connectivity. Staff is not proposing to do this for the 2028 Olympics in their cost estimate looking at the horizon year 2033 could be a reasonable schedule if it all lines up and funds needed for the project are received. He clarified with Commissioner Berkson about his comment on transit ridership.

Commissioner Berkson replied how many people are going to use a toll that are coming from the Metrolink station or the RTA because if that vehicle is taking a toll lane and spending money on a toll then it does not make sense to get on a bus or Metrolink to ride the rest of the way. He does not see any benefit to this, the costs will be higher based on when they expect it to be completed and there is not enough statistics to back it up. David Thomas replied they will include the transit ridership projections in the next study as well if the Commission decides to move forward.

Commissioner Harnik stated in this discussion it became clear the cost startled the Commissioners and at the same time they need to start somewhere as they are trying to promote public transportation and in ten years when they look back at this they may have a clear picture as to why they started here.

Commissioner Kathleen Fitzpatrick clarified the Executive Director stated this type of study is the kind of study and potential for this type of project that would look at additional sources of funding for other projects.

David Thomas replied one thing pending is the vehicle miles traveled (VMT) mitigation (VMT) they have not got there yet with their projects, but this type of project is the type that this state is looking at for VMT mitigation. Eventually other projects at capacity on the highway will not be able to move forward without VMT mitigation type projects. This is an ideal VMT mitigation project that they can bank for other capacity improving projects

and the dollar value is typically what is utilized to confirm that is enough mitigation for those other large projects. Staff will try to get other sources of funding to fund a lot of this project through grants as it will be competitive, this is the first study in Caltrans' project development process to see if they want to even move further. Staff recommends doing the PSR-PDS and come back to the Commission before they proceed with any future phases beyond that.

Commissioner David Happe asked to go back to the original concept and the cost on that and why this is seen as a superior use of the money they are going to procure for this.

David Thomas replied when they started on the project the concept was to build a median bus station within the express lanes. There are examples of this in San Diego and in other locations in the state with a pedestrian walkway that would expand from the median over to the transit center. He discussed the initial alternative looking at where that bus station needed to be, moving the location of the bus station west of Main Street and the issues for that alternative for pedestrians. He stated with this proposed alternative the buses have a five-minute journey off the freeway and they can drop riders off right at the same bus station they use today, and it already has a pedestrian walkway bridge connection to Metrolink. They had consensus of all the stakeholders that this is the right alternative to pursue with the project and staff can provide the full feasibility study to see what the other alternatives were.

Commissioner Happe clarified adding the ability of HOV vehicles should be emphasized since that is a greater impact to the general traffic flow and would help justify these expenses where they can see a direct reduction of congested traffic at other exits that are affected in the area by having this alternative next to the freeway. David Thomas thanked Commissioner Happe for his comment.

Commissioner Speake thanked David Thomas for his comments and for mentioning VMT mitigation. VMT projects are becoming much harder to find so it will not just be money being contributed by this body but by developers and other people looking for VMT projects and sees it as a potential to find funding in different ways. The toll revenue on the 91 is up to 34 percent from last year; that money is required to spend back in the corridor but that they do not introduce additional congestion as part of the preliminary study and will be part of the next phase. He expressed appreciation to see this go forward but in looking at the amount of construction in that very small area it costs a lot. He is familiar and drives drop downs on the toll lane on I-15 during the week they work just fine, and people adjust to them. He wanted to make sure that this would be eligible for use of excess toll revenue.

In response to Commissioner Linda Molina's question will emergency personnel be able to use this to get them off, David Thomas replied that it would provide additional access for emergency personnel to also access the express lanes directly.



Commissioner Molina stated she supports the project as well.

Aaron Hake thanked the Commissioners for all the discussion as many of these concerns will be studied in this next phase and are seeking \$1.1 million in a budget adjustment to take this to the next phase. The partners for this project are in the board room and have heard the Commissioners. The Commission will have to think about transportation and transportation challenges differently than they have before. This is an RCTC generated project; it was put in the Commission's Adopted Traffic Relief Plan, and discussed how they reached out to all their agency partners to address what they are hearing from their constituents as a need. If there is something they can do to make transit ridership more convenient and viable for this region they have an obligation to look into all those options especially on this corridor. RCTC staff was given opportunities to come up with engineering solutions that can resolve these challenges. This next step will convey whether they have a viable solution, they will have to explore how attractive it is to state and federal funds as this is not a project in Measure A. He thanked staff for the work that has been done and for all the questions that have been raised. He discussed the high estimated costs for this project, for grade separation projects, the 71/91 interchange project, and projects that are not in the measure like the Coachella Valley Rail Project as things cost a lot more money today.

Commissioner Jeffries expressed concern for what District 1 has been through in this county trying to get covered bus shelters in every community to increase ridership. He replied to Aaron Hake that his comment was good that it is the goal to get people to ride buses right until they talk about specifics like giving riders covered bus stops, so the riders do not have to sit in the rain or heat and RCTC and RTA does not support that financially.

**M/S/C (Speake/Molina) to:**

- 1) Approve Agreement No. 25-31-009-00 with California Department of Transportation (Caltrans) for quality management services in support of a Project Study Report-Project Development Support (PSR-PDS) for the North Main Corona Transit Connector Project (Project) in the amount not to exceed \$300,000;
- 2) Award Agreement No. 25-31-010-00 with Jacobs Engineering Group Inc. (Jacobs) for the completion of the PSR-PDS for the Project for a one-year term in the amount of \$726,343 plus a contingency amount of \$73,657, for a total amount not to exceed \$800,000;
- 3) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of the Commission;
- 4) Authorize the Executive Director or designee to approve contingency work up to the total amount not to exceed as required for the Project; and
- 5) Approve a Fiscal Year (FY) 2024/25 budget adjustment of \$1,100,000 of Local Transportation Funds (LTF) for both revenue and expenses related to the Project.

**Abstain: Reed**

**No: Berkson, Jeffries, Lorimore, Magee, Morabito, Vargas**

**8. COOPERATIVE AGREEMENT WITH THE PALO VERDE VALLEY TRANSIT AGENCY FOR THE BUS MAINTENANCE FACILITY EXPANSION AND HYDROGEN FUELING STATION PROJECT**

John Tarascio, Senior Capital Projects Manager, presented the agreement with the Palo Verde Valley Transit Agency (PVVTA) for the Bus Maintenance Facility Expansion and Hydrogen Fueling Station project, highlighting the following:

- Project background and location
- PVVTA cooperative agreement

Commissioner Joey DeConinck thanked Aaron Hake and RCTC staff for putting this together and working with their transit agency to get this done and he made the motion to approve.

Commissioner Harnik seconded the motion.

**M/S/C (DeConinck/Harnik) to:**

- 1) Approve the draft Cooperative Agreement No. 24-62-099-00, with the Palo Verde Valley Transit Agency (PVVTA) for the Bus Maintenance Facility Expansion and Hydrogen Fueling Station Project (Project) in an amount not to exceed \$16,429,000;**
- 2) Authorize Commission staff to serve as the lead agency on behalf of the PVVTA, as stated in the terms of Cooperative Agreement No. 24-62-099-00;**
- 3) Authorize the Executive Director, pursuant to legal counsel review, to finalize negotiations with the PVVTA and execute the agreement;**
- 4) Authorize the Executive Director, pursuant to legal counsel review, to execute future non-funding agreements and/or amendments on behalf of the Commission; and**
- 5) Authorize the Executive Director, pursuant to legal counsel review, to acquire required parcels for the Project in accordance with the Commission's Right of Way Policies and Procedures Manual.**

**Abstain: Jeffries**

Chair White announced that staff asked to present Agenda Item 9, *"Interstate 15 SMART Freeway Pilot Project Construction Agreement with Granite Construction Company Inc."* and Agenda Item 10, *"Agreements for WSP USA, Inc. for Intelligent Transportation System Operations Support and Transmax Software As A Service for the Interstate 15 SMART Freeway Pilot Project"* together.

At this time, Commissioners Cindy Warren and Jeremy Smith left the meeting.

Commissioner Speake announced he needs to recuse himself from Agenda Item 9, *“Interstate 15 SMART Freeway Pilot Project Construction Agreement with Granite Construction Company Inc.”*, as he works for one of the companies and he stepped out of the Board Room.

**9. INTERSTATE 15 SMART FREEWAY PILOT PROJECT CONSTRUCTION AGREEMENT WITH GRANITE CONSTRUCTION COMPANY INC.**

Erik Galloway, Project Delivery Director, presented an update for the Interstate 15 SMART Freeway Pilot Project, highlighting the following areas:

- Project history
- Project overview and a project map
- Project elements remaining
- Project organization chart
- Project schedule
- Intelligent Transportation System (ITS) and civil construction award
- Bid results
- Summary of bid reviews
- ITS operations support agreement
- Transmax agreements and Transmax for Software as a Service (SaaS) scope
- Caltrans system access
- Virtual private network (VPN) access chronology
- Transmax SaaS amendment
- Expenditures to date
- Fiscal impact – Civil and ITS construction
- Fiscal impact – ITS operator and SaaS

Chair White stated he wants to keep Agenda Items 9 and 10 together for discussion and when it comes to make a motion to indicate what city they are from and if they are motioning for Agenda Item 9 or Agenda Item 10 or a combination.

Commissioner Berkson stated when this item came to the Western Riverside County Programs and Projects Committee, he spoke against it but there were some issues that Transmax is in Australia and cannot access Caltrans VPN, for the cost to have Transmax sub it out here, and Transmax did not offer up any money. If somebody enters into a contract, they have their own responsibilities aside from RCTC staff that should have worked with Caltrans to have found this information out before presenting this to the Commission. The other issue was another consultant was added; are there too many consultants involved in this and this is why that led him to vote no on it, but he wants it to move forward but needed more clarification. He stated Erik Galloway had mentioned

this and asked if Transmax is a government agency or a private business. Erik Galloway replied that Transmax is a private entity created by a government agency that is owned by a government agency.

In response to Commissioner Berkson's question if that is the reason why they will not open their own office here, Erik Galloway replied when he went back to Transmax about those issues their response was the cost they are asking for is the cost they will pay to that consultant. They are not trying to make money just trying to spread the technology as they see how great it works in Australia, and it could work greater across the world.

Commissioner Berkson thanked Erik Galloway for adding that to the staff report today that would have helped justify part of this; it is wrong Transmax did not try to negotiate on the fact that they also misjudged. Erik Galloway stated this is so new and different that even at Caltrans level, they do not know how to deal with this. The concept of operations was clear and coordinated with Caltrans, Caltrans IT, and Caltrans Headquarters what RCTC was doing except for the state cyber security officials who are the ones who said they cannot do this. He understands Commissioner Berkson's concerns; RCTC is breaking down these walls for this system to expand across maybe the county or state of California. They are trying to get this here because it is a great technology that could help reduce congestion for the public.

In response to Commissioner Berkson's question about the extra money that Transmax is asking for that is going to be 100 percent funded by federal funds, Erik Galloway replied yes everything on the project is federal funds. Commissioner Berkson clarified that it does not cost their taxpayers anything for the Commission to move forward even with the issues here and he does support it.

Commissioner Harnik stated as the RCTC Southern California Association of Governments (SCAG) representative when SCAG went to Australia to look at the transportation system the highlight of it was this system and they were impressed with it. She thanked staff for breaking down the walls and the barriers that might prevent other people from doing it.

Chair White made the motion to approve staff recommendation for Agenda Items 9 and 10. Commissioner Hanna seconded the motion for Agenda Items 9 and 10.

**M/S/C (White/Hanna) to:**

- 1) Find the bids submitted by All American Asphalt, Inc. and Beador Construction Company, Inc. nonresponsive and award Agreement No. 24-31-054-00 to Granite Construction Company (Granite) to construct the Interstate 15 SMART Freeway Pilot Project (Project), in the amount of \$13,861,000 plus a contingency amount of \$1,940,540, for a total not to exceed amount of \$15,801,540;**

- 2) **Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the Agreement on behalf of the Commission; and**
- 3) **Authorize the Executive Director, or designee, to approve contingency work as may be required for the Project.**  
**Abstain: Speake**

**10. AGREEMENTS FOR WSP USA, INC. FOR INTELLIGENT TRANSPORTATION SYSTEM OPERATIONS SUPPORT AND TRANSMAX SOFTWARE AS A SERVICE FOR THE INTERSTATE 15 SMART FREEWAY PILOT PROJECT**

**M/S/C (White/Hanna) to:**

- 1) **Award Agreement No. 23-031-034-00 to Transmax for Software as a Service (SaaS) for the Interstate 15 SMART Freeway Pilot Project (Project) for a two-year term, in the amount of \$3,100,961 plus a contingency of \$376,536 for a total amount not to exceed of \$3,477,497;**
- 2) **Award Agreement No. 23-31-044-00 to WSP USA, Inc. (WSP) for Intelligent Transportation System (ITS) Operations support for the Project for a three-year term, in the amount of \$1,506,914 plus a contingency amount of \$150,691 for a total amount not to exceed \$1,657,605;**
- 3) **Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of the Commission;**
- 4) **Authorize the Executive Director, or designee, to approve contingency work as may be required for the Project; and**
- 5) **Authorize the Executive Director, or designee, pursuant to legal counsel review, to execute non-funding amendments to the agreements on behalf of the Commission.**  
**Abstain: Speake**

At this time, Commissioner Gutierrez left the meeting.

**11. MEASURE A SPECIALIZED TRANSIT AWARD RECOMMENDATIONS FOR FISCAL YEARS 2024/25 – 2026/27 AMENDMENT 1**

Monica Morales, Senior Management Analyst, presented the Measure A Specialized Transit Program Fiscal Year 2024/25 – 2026/27 awards, highlighting the following:

- Program overview
- Call for projects applications
- Measure A recommended awards – Operating Projects – Including Amendment 1
- Measure A recommended awards – Capital Projects

**M/S/C (Washington/Stewart) to:**

- 1) Approve Amendment 1 of additional awards totaling \$978,346 to the Western Riverside County Measure A Specialized Transit Program Fiscal Years (FY) 2024/25 – 2026/27 Call for Projects, for a total program amount of \$10,923,595;**
- 2) Direct staff to prepare contract agreements outlining the project scope, schedules, and local funding commitments with Care Connexus for an amount not to exceed \$644,384 and United States Veterans Initiative (U.S. Vets) for an amount not to exceed \$333,962; and**
- 3) Authorize the Chair or Executive Director to execute the agreements with the award recipients, pursuant to legal counsel review.**

**12. ITEM(S) PULLED FROM CONSENT CALENDAR FOR DISCUSSION**

There were no items pulled from the Consent Calendar.

**13. EXECUTIVE DIRECTOR'S REPORT**

Aaron Hake announced:

- The 71/91 Interchange project will require weeknight full closures of southbound 71 at Euclid in Chino and Chino Hills starting September 16. Southbound 71 to eastbound and westbound 91 connectors will be closed so there will be no access to the 91 from the 71 during these weeknight full closures. Drivers should take the 15 and 57 detours these closures will occur through October more information will be sent out to the Commissioners;
- September is Rail Safety month staff will be providing the Commissioners with some materials they can share about rail safety;
- Remembering Ms. Jannlee Watson who was a member of the Temescal Valley Community, contributed greatly to their civic infrastructure and wrote frequently about RCTC and all their agencies. The Commission is here to serve the public and Ms. Watson was one of the ones he enjoyed serving;
- Remembering California Transportation Commission (CTC) Commissioner Joe Tavaglione who passed away, he was 101 years old, served on the CTC longer than anyone ever, served under four Governors of both political parties, and is responsible for improvements on every freeway in Southern California and felt like this Commission was part of his family. State Senator Richard Roth successfully ushered through Senate Resolution No. 13 to dedicate the 60/91/215 in the name of Joe Tavaglione. Information will be provided on the dedication ceremony to dedicate the big interchange downtown.

Chair White asked about the times for the weeknight full closures.

Aaron Hake replied 9:00 p.m. to 6:00 a.m. Monday through Thursday and Friday it is midnight to 6:00 a.m. an email will be provided with those details to the Commissioners, and it will be on RCTC's social media channels.

#### 14. COMMISSIONER COMMENTS

- 14A.** Commissioner Meg Marker requested to put on the agenda concerning Interstate 10 as they enter the Banning area all the way to Palm Desert is continual debris along the breakdown lanes. She contacted Caltrans Deputy Director Catalino Pining and is filling out Caltrans forms to get this cleaned there needs to be regular maintenance as their economy thrives on tourism.
- 14B.** Commissioner Jeffries announced he wanted to make sure it is on everyone's radar back at their city halls, as well as here at the county that is going to impact for the next couple of years their ability to approve new projects that require discretionary permits and that is the Crotch's Bumblebee which is a candidate for endangered species listing by the state Fish and Wildlife. It is not currently covered by any habitat plans, it covers most all of Southern California so every single project that has to get approval from the city or the county they will have to go through the state to get an incremental take permit on top of the project which takes extra time and the approval process will take two to three years to get it covered by the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). Be prepared for the next couple of years because of the Fish and Wildlife are doing this outside of their MSHCP and voiding the habitat plan they have in place.
- 14C.** Commissioner Waymond Fermon asked they adjourn the meeting in honor of the September 11 Memorial as it's the 23<sup>rd</sup> Anniversary.

#### 15. ADJOURNMENT

There being no further business for consideration by the Riverside County Transportation Commission, Chair White adjourned in honor of the September 11 Memorial the meeting at 11:14 a.m. The next Commission meeting is scheduled to be held on Wednesday, October 9, 2024.

Respectfully submitted,



Lisa Mobley  
Administrative Services Director /  
Clerk of the Board





# **AGENDA ITEM 8B**



<b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b>	
<b>DATE:</b>	October 9, 2024
<b>TO:</b>	Riverside County Transportation Commission
<b>FROM:</b>	Megan Kavand, Toll Finance Manager Sergio Vidal, Chief Financial Officer
<b>THROUGH:</b>	Aaron Hake, Executive Director
<b>SUBJECT:</b>	Monthly Investment Report

**STAFF RECOMMENDATION:**

This item is for the Commission to:

- 1) Receive and file the Monthly Investment Report for the month ended August 31, 2024.

**BACKGROUND INFORMATION:**

The Commission’s investment reports have generally reflected investments primarily concentrated in the Riverside County Pooled Investment Fund as well as investments in mutual funds for sales tax revenue bonds debt service payments.

As a result of significant project financings such as the State Route 91 Corridor Improvement Project (91 Project or 91 CIP) and the Interstate 15 Express Lanes Project (I-15 ELP), the Commission engaged MetLife Investment Management, LLC, formerly Logan Circle Partners, L.P. (MetLife), as the investment manager for the bond proceeds and other required funds. Additionally, the Commission engaged Payden & Rygel Investment Management (Payden & Rygel) to make specific investments for Commission operating funds. The Commission approved initial agreements with the investment managers in May 2013 following a competitive procurement and has extended the agreements through the annual recurring contracts process.

MetLife invested the debt proceeds and subsequent other required contributions for the 91 Project and I-15 ELP in separate accounts of the Short-Term Actively Managed Program (STAMP). The Commission completed the 91 Project financing in 2013, the I-15 ELP and 91 Project completion financing (2017 Financing) in July 2017 and the 2021 91 Project refinancing (2021 Financing) in October 2021. Consistent with financing expectations, the Commission expended all 91 Project debt proceeds and equity contributions, except for the toll revenue bonds debt service reserve, and subsequent to commencement of operations, established other required accounts. Additionally, the Commission has fully expended the 2017 Financing bond proceeds for the I-15 ELP except for the Ramp Up Fund which is required to be maintained until the second anniversary of the TIFIA debt service payment commencement date.

The monthly investment report for August 2024, as required by state law and Commission policy, reflects the investment activities resulting from the 91 Project, 2017 Financing, 2021 Financing and available operating cash. As of August 31, 2024, the Commission’s cash and investments were comprised of the following:

CASH AND INVESTMENTS PORTFOLIO	AMOUNTS <sup>1</sup>
Operating	\$ 951,507,156
Trust	333,686,364
Commission-managed	281,996,402
STAMP for 91 CIP	62,126,251
STAMP for 2017 Financing	16,491,837
<b>Total</b>	<b>\$ 1,645,808,010</b>
Note: <sup>1</sup> Unreconciled and unaudited	

As of August 31, 2024, the Commission’s cash and investments are in compliance with both the Commission’s investment policy adopted on October 11, 2023, and permitted investments described in the indenture for the Commission’s sales tax revenue bonds and the master indentures for the Commission’s toll revenue bonds. Additionally, the Commission has adequate cash flows for the next six months.

**FISCAL IMPACT:**

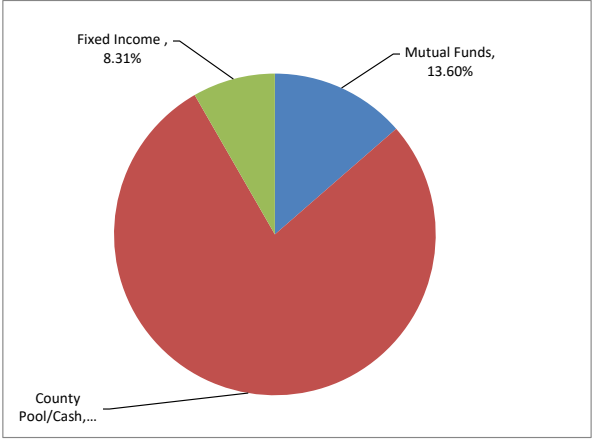
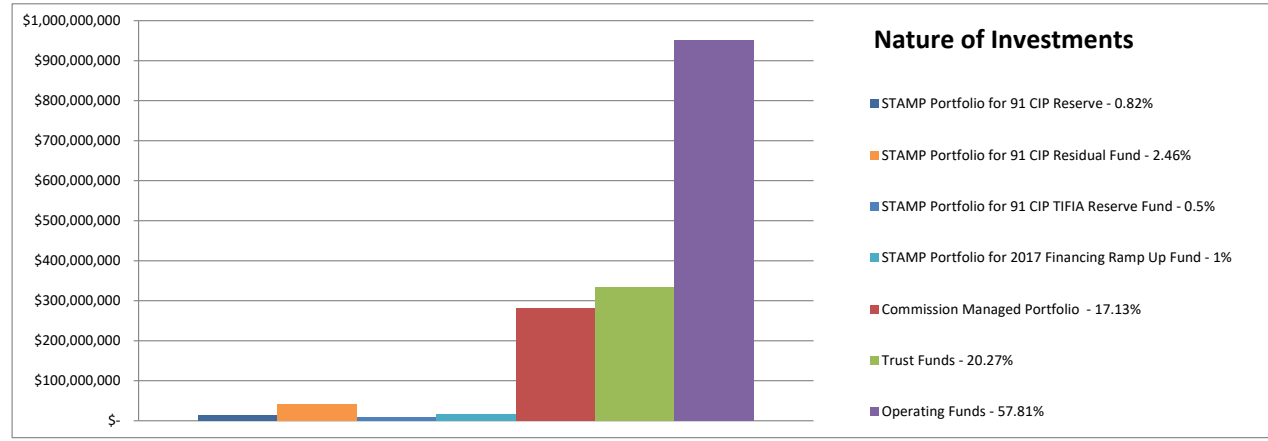
This is an information item. There is no fiscal impact.

Attachment: Investment Portfolio Report

Riverside County Transportation Commission  
Investment Portfolio Report  
Period Ended: August 31, 2024

	STATEMENT BALANCE <sup>1</sup>	FINANCIAL INSTUTION	STATEMENTS	RATING MOODY'S / S&P	COUPON RATE	PAR VALUE	PURCHASE DATE	MATURITY DATE	YIELD TO MATURITY	PURCHASE COST	MARKET VALUE	UNREALIZED GAIN (LOSS)
<b>OPERATING FUNDS</b>												
City National Bank Deposits	18,880,885	City National Bank	Available upon request	A3/BBB+	N/A				N/A			
County Treasurer's Pooled Investment Fund	932,626,271	County Treasurer	Available upon request	Aaa-bf								
<b>Subtotal Operating Funds</b>	<b>951,507,156</b>											
<b>FUNDS HELD IN TRUST</b>												
County Treasurer's Pooled Investment Fund: Local Transportation Fund	333,686,364	County Treasurer	Available upon request					Available upon request				
<b>Subtotal Funds Held in Trust</b>	<b>333,686,364</b>											
<b>COMMISSION MANAGED PORTFOLIO</b>												
US Bank Payden & Rygel Operating	58,142,677	US Bank	Available upon request					Available upon request				
First American Government Obligation Fund	223,853,725	US Bank	Available upon request	N/A	N/A				N/A			
<b>Subtotal Commission Managed Portfolio</b>	<b>281,996,402</b>											
<b>STAMP PORTFOLIO for 91 CIP</b>												
2013 Series A & Series B Reserve Fund	13,529,002	US Bank	Available upon request					Available upon request				
2021 Series B Reserve Fund	40,436,764	US Bank	Available upon request					Available upon request				
2021 Series C Reserve Fund	8,160,485	US Bank	Available upon request					Available upon request				
<b>Subtotal STAMP Portfolio - 91 CIP</b>	<b>62,126,251</b>											
<b>STAMP PORTFOLIO for 2017 Financing</b>												
Ramp Up Fund	16,491,837	US Bank	Available upon request					Available upon request				
<b>Subtotal STAMP Portfolio - 2017 Financing</b>	<b>16,491,837</b>											
<b>TOTAL All Cash and Investments</b>	<b>\$ 1,645,808,010</b>											

Notes:  
<sup>1</sup> Unreconciled and unaudited





# **AGENDA ITEM 8C**





<b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b>	
<b>DATE:</b>	October 9, 2024
<b>TO:</b>	Riverside County Transportation Commission
<b>FROM:</b>	Tyler Madary, Legislative Affairs Manager
<b>THROUGH:</b>	Aaron Hake, Executive Director
<b>SUBJECT:</b>	State and Federal Legislative Update

**STAFF RECOMMENDATION:**

This item is for the Commission to:

- 1) Receive and file a state and federal legislative update.

**BACKGROUND INFORMATION:**

**State Update**

***California State Legislature 2023-24 Session***

The California Legislature completed all business and adjourned on August 31, completing its two-year legislative session. The Legislature approved more than 950 bills, which were sent to Governor Gavin Newsom for consideration, who faces a deadline of September 30 to sign or veto bills. Following the adjournment of the Legislature, Governor Newsom called a special legislative session to address rising oil prices. Assembly Speaker Robert Rivas (Salinas) agreed to convene the Assembly on October 1, while Senate President Pro Tempore Mike McGuire (Eureka) has not committed to convening as of the writing of this report.

***Senate Concurrent Resolution 13 (Roth)***

As previously reported, RCTC submitted a letter of support for Senate Concurrent Resolution (SCR) 13 by Senator Richard Roth (Riverside), which would designate the State Route 60, SR-91, and Interstate 215 interchange as the Joseph Tavaglione Memorial Interchange. The resolution was approved by the Legislature on August 31 and does not require the Governor’s signature. A dedication ceremony will take place in the future.

***Senate Bill 768 (Caballero)***

On June 4, RCTC supported Senate Bill (SB) 768 by Senator Anna Caballero (Stockton), which required the California State Transportation Agency, in consultation with stakeholders such as RCTC, to conduct a study by 2028 highlighting how vehicle miles traveled (VMT) is used as a

metric for measuring transportation impacts across rural, suburban, and urban regions. On August 19, the bill was amended to instead require the Department of Housing and Community Development to prepare a study regarding VMT impacts of housing projects. The bill passed out of the Legislature on August 27 and awaits the Governor’s consideration as of the writing of this report.

### ***Senate Bill 1098 (Blakespear)***

On July 19, RCTC staff submitted a letter of concern regarding SB 1098 by Senator Catherine Blakespear (Encinitas). The bill requires the California State Transportation Agency (CalSTA) Secretary to submit a report to the Legislature no more than two years after an appropriation is made to fund the report, relating to rail service in the Los Angeles – San Diego – San Luis Obispo (LOSSAN) Rail Corridor. The bill requires the CalSTA Secretary to convene a working group to develop recommendations by February 1, 2026, for inclusion in the report, exploring a variety of issues ranging from the management structures of intercity and regional rail service in the corridor, the capital improvement planning process, operations, coastal resilience, and opportunities for interagency coordination. SB 1098 further requires the CalSTA Secretary to submit a report every two years on performance of the rail corridor. RCTC staff have been monitoring this legislation since RCTC is a member agency of LOSSAN and the Southern California Regional Rail Authority—the operator of Metrolink service.

RCTC’s letter reflected the amendments in print as of May 14. SB 1098 was amended on August 19 to make select provisions subject to appropriation by the legislature, meaning that the provisions would not be in effect until they are funded. That said, SB 1098 still would require for a working group to be convened. Other notable amendments include: 1) Requiring recommendations made by the working group to be of “consensus”; 2) The removal of provisions to explore the incorporation of corridor operations, maintenance, and improvements into the Sustainable Communities Strategy (SCS) of metropolitan planning organizations; and 3) Requiring that the working group recognize the ownership and rights held in the LOSSAN Rail Corridor, and past and ongoing service, operations, and capital investments made by the member agencies of the LOSSAN Rail Corridor Agency, the Southern California Regional Rail Authority, and the North County Transit District. While these amendments were responsive to some concerns identified by RCTC in its letter sent on July 19, others remained. SB 1098 passed out of the Legislature on August 28 and was presented to the Governor, where it awaits his consideration as of the writing of this report.

### **Federal Update**

#### ***RCTC/RTA Joint Trip to Washington, D.C.***

RCTC Chair Lloyd White and Vice Chair Karen Spiegel joined Riverside Transit Agency (RTA) Chair Jeremy Smith and Board Director Linda Molina, with staff from both agencies, for a joint advocacy trip to Washington, D.C. on September 16-18. During the trip, the group held productive conversations with Senator Alex Padilla, Representative Ken Calvert, and Representative Mark

Takano, as well as professional staff from the offices of Senator Laphonza Butler, Representative Darrell Issa, Representative Raul Ruiz, the Senate Banking, Housing, and Urban Affairs Committee, and the House Transportation and Infrastructure Committee. The meetings focused on needed public transportation investments, priorities for the next surface transportation reauthorization bill, and rider and driver safety on public transportation.

Additionally, RCTC met with professional staff from the Federal Railroad Administration (FRA) to discuss the Coachella Valley (CV) Rail Project, underscoring the project's significance, funding secured to complete Tier II environmental analysis, and request for continued collaboration with FRA as the project advances through the Corridor Identification and Development Program. This meeting is a part of RCTC's ongoing effort to coordinate with FRA and Caltrans to ensure the project is ready for the next phase of environmental review as soon as possible.

RCTC will continue to engage leaders and partners in Washington, D.C. to advocate for additional public transportation funding and resources to improve mobility options for Riverside County's residents.

### ***Fiscal Year 2025 Appropriations***

The federal fiscal year ended on September 30 and Congress has yet to approve the 12 annual appropriations bills. To avoid a government shutdown, Congress must approve – and President Biden must sign – all 12 bills. As of the writing of this report, the House of Representatives is anticipated to advance a three-month Continuing Resolution to fund the government through December 20 at or near existing levels approved in Fiscal Year 2024. Should the proposed Continuing Resolution pass the House, it is expected to pass the Senate and be signed into law by the President. RCTC staff will continue to monitor the appropriations process and assess any impacts should a government shutdown take place.

### **FISCAL IMPACT:**

This is a policy and information item. There is no fiscal impact.

Attachment: Legislative Matrix – October 2024



**RIVERSIDE COUNTY TRANSPORTATION COMMISSION - POSITIONS ON STATE AND FEDERAL LEGISLATION – OCTOBER 2024**

<b>Legislation/ Author</b>	<b>Description</b>	<b>Bill Status</b>	<b>Position</b>	<b>Date of Board Adoption</b>
<b>AB 6 (Friedman)</b>	This bill provides significant new oversight to the California Air Resources Board in the approval process of a metropolitan planning organization’s Sustainable Communities Strategy, methodology used to estimate greenhouse gas emissions (GHG), and amendments to a Regional Transportation Plan. AB 6 also sets new GHG reduction targets of 2045, which does not reflect future cost constraints and diminishing revenue from the state’s gasoline taxes. These new burdensome requirements will likely result in significant delays to transportation projects.	Amended on May 30, 2024. Pulled from Senate Transportation Committee.  June 11, 2024	<i>Oppose Based on Platform</i>	5/24/2023
<b>AB 7 (Friedman)</b>	This bill requires the California State Transportation Agency, California Department of Transportation, and California Transportation Commission to consider specific goals as part of their processes for project development, selection, and implementation. AB 7 may impact the allocation of billions of dollars in state transportation funding, infringing on RCTC’s ability to deliver critically needed transportation infrastructure in Riverside County.	Ordered to the inactive file. Two-year bill.  September 11, 2023	<i>Oppose Based on Platform</i>	5/25/2023
<b>AB 558 (Arambula)</b>	This bill restructures the Fresno County Transportation Authority (FCTA) by increasing its board membership from nine to thirteen members. This restructuring is done without the consensus and support from regional stakeholders and sets a concerning precedent for RCTC and other regional transportation agencies that rely upon a collaborative process to be effective.  Additionally, the bill was amended on April 18 to subject a county transportation expenditure plan prepared by the Fresno County Transportation Authority (FCTA) to the requirements of the California Environmental Quality Act.	Failed deadline.  January 31, 2024	<i>Oppose Based on Platform</i>	4/10/2023
<b>AB 1385 (Garcia)</b>	This bill would raise RCTC’s maximum tax rate authority from 1% to 1.5%.	Chaptered by the Secretary of State.  October 8, 2023	<i>Support</i>	3/8/2023
<b>AB 1525 (Bonta)</b>	This bill significantly narrows the location and types of projects eligible to receive state transportation funding by requiring 60% of funds to be allocated to priority populations.	Failed deadline.  January 31, 2024	<i>Oppose Based on Platform</i>	4/11/2023

<b>Legislation/ Author</b>	<b>Description</b>	<b>Bill Status</b>	<b>Position</b>	<b>Date of Board Adoption</b>
<b>AB 1957 (Wilson)</b>	This bill extends the sunset date to 2030 on a pilot program allowing for specified counties to utilize the best value procurement process for construction projects in excess of \$1 million. The bill additionally expands the program to all counties.	Chaptered by the Secretary of State.  July 2, 2024	<i>Support Based on Platform</i>	2/15/2024
<b>AB 2535 (Bonta)</b>	This bill prohibits the programming of funding under the Trade Corridor Enhancement Program (TCEP) established under Senate Bill 1 (2017) from projects that expand the physical footprint of a highway in communities with high impacts from international trade and goods movement. The bill also sets a target of expending 15% of TCEP funds towards zero-emission freight infrastructure, with increases in each funding cycle until reaching 50%.	Failed deadline.  May 16, 2024	<i>Oppose Based on Commission Action</i>	3/13/2024
<b>SB 617 (Newman)</b>	This bill, until January 1, 2029, would authorize a transit district, municipal operator, consolidated agency, joint powers authority, regional transportation agency, or local or regional agency, as described, to use the progressive design-build process for up to 10 public works projects in excess of \$5 million for each project. The bill would specify that the authority to use the progressive design-build process.	Chaptered by the Secretary of State.  October 4, 2023	<i>Support Based on Platform</i>	4/5/2023
<b>SB 768 (Caballero)</b>	This bill requires the Department of Housing and Community Development, in consultation with stakeholders such as RCTC, to conduct a study by 2028 highlighting how vehicle miles traveled (VMT) is used as a metric for measuring housing impacts pursuant to CEQA. The bill would require the study to include, among other things, an analysis of the differences in the availability and feasibility of mitigation measures to housing projects for vehicle miles traveled in rural, suburban, urban, and low vehicle miles traveled areas.	Enrolled and presented to the Governor.  September 3, 2024	<i>Support Based on Platform</i>	6/4/2024
<b>SCR 13 (Roth)</b>	The resolution would designate the State Route 60, 215/91, 215 Separation (Bridge Number 56-0402) as the Joseph Tavaglione Memorial Interchange.	Chaptered by the Secretary of State.  September 10, 2024	<i>Support</i>	1/24/23

# **AGENDA ITEM 8D**





<b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b>	
<b>DATE:</b>	October 9, 2024
<b>TO:</b>	Riverside County Transportation Commission
<b>FROM:</b>	Western Riverside County Programs and Projects Committee David Lewis, Capital Projects Manager
<b>THROUGH:</b>	Aaron Hake, Executive Director
<b>SUBJECT:</b>	Contracts and Cooperative Agreements for the Wildomar Trail and Bundy Canyon Road Interchange Improvement Projects

**WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE AND STAFF RECOMMENDATION:**

This item is for the Commission to:

- 1) Award Agreement No. 25-72-015-00 between the Commission and HDR Engineering for completion of a project study report for the Wildomar Trail Interchange improvement project in the amount of \$851,324, plus a contingency amount of \$85,132, for a total amount not to exceed \$936,456;
- 2) Award Agreement No. 25-72-017-00 between the Commission and HDR Engineering for completion of a project study report for the Bundy Canyon Road Interchange improvement project in the amount of \$750,163, plus a contingency amount of \$75,016, for a total amount not to exceed \$825,179;
- 3) Approve Cooperative Agreement No. 25-72-016-00 between the Commission and Caltrans for project review and oversight services for the Wildomar Trail Interchange improvement project, in the amount of \$300,000;
- 4) Approve Cooperative Agreement No. 25-72-018-00 between the Commission and Caltrans for project review and oversight services for the Bundy Canyon Road Interchange improvement project, in the amount of \$300,000; and
- 5) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreement on behalf of the Commission.

**BACKGROUND INFORMATION:**

The city of Wildomar has identified the need for two independent project study reports (PSRs) for the Interchange 15/Bundy Canyon Road and I-15/Wildomar Trail interchanges. The studies will analyze potential alternatives for modifying the existing local roads, interchanges, and ramps to improve traffic circulation. In preparation for the PSRs, the city of Wildomar, as the project proponent, and the Western Riverside Council of Governments (WRCOG), as the funding agency, have executed Transportation Uniform Mitigation Fee (TUMF) Program reimbursement agreements, allocating \$1,000,000 for each project, for a total of \$2,000,000. Also, the adopted

Fiscal Year 24/25 WRCOG TUMF Southwest Zone 5-Year Transportation Improvement Program (TIP) Budget included an additional allocation of \$500,000 per project, for a total budget of \$1.5 million for each project in FY 24/25, to cover anticipated costs.

In January 2024, the Commission approved Agreement No. 24-31-055-00, a tri-party cooperative agreement between the Commission, WRCOG, and the city of Wildomar. This agreement designates RCTC as the lead agency for the project initiation document (PID) phase of the proposed interchange improvements at both the Wildomar Trail and Bundy Canyon Road interchanges on I-15. As the lead agency, RCTC initiated a procurement process to find a qualified consultant to complete the PSRs and began coordination with Caltrans for its oversight role on the project.

### **Consultant Procurement**

Pursuant to Government Code 4525 et seq., the selection of architectural, engineering, and related services shall be based on demonstrated competence and professional qualifications necessary for the satisfactory performance of the required services. Therefore, staff used the qualification-based method of selection for procurement. The evaluation criteria included elements such as firm experience and stability, quality and experience of the project manager, quality and experience of key personnel, project understanding and approach, and the ability to meet the requirements set forth in the request for qualifications (RFQ).

As the lead agency for the projects, RCTC initiated the procurement process to find a qualified consultant to complete the PSRs. The process began with the drafting and release of the RFQ. Consultants seeking to bid on the projects were required to submit one proposal covering both projects. The selected consultant will perform two separate PSRs, one for each interchange, under two contracts. RFQ No. 24-72-069-00 was released on the Commission's PlanetBids website on May 2, 2024. The RFQ was posted on the Commission's PlanetBids website, which is accessible through the Commission's website. Through PlanetBids, 73 firms downloaded the RFQ; 17 of these firms are located in Riverside County. A pre-submittal meeting was held on May 23, 2024, and attended by 13 firms. Staff responded to all questions submitted by potential proposers prior to the June 6, 2024, clarification deadline date. Six firms - HW Lochner (Ontario, CA); HDR Engineering (Riverside, CA); Kimley-Horn (Riverside, CA); Parsons Transportation Group (Ontario); TranSystems (Riverside, CA); and Wood Rodgers (Orange, CA); - submitted responsive and responsible statements of qualifications prior to the 2:00 p.m. submittal deadline on June 20, 2024. Based on the evaluation criteria set forth in the RFQ, the firms were evaluated and scored by an evaluation committee comprised of Commission, Bechtel, city of Wildomar, and Caltrans staff.

Based on the evaluation committee's assessment of the written proposals and pursuant to the terms of the RFQ, the evaluation committee shortlisted and invited two firms (HDR Engineering and Kimley Horn) to the interview phase of the evaluation and selection process. Interviews were conducted on July 31, 2024.

The evaluation committee conducted a subsequent evaluation of each firm, based on both written and interview components presented to the evaluation committee by each proposer. Accordingly, the evaluation committee recommends contract awards to HDR Engineering to provide project study reports for both the Wildomar Trail and Bundy Canyon Road Interchange Projects.

Subsequently, staff negotiated the scope of services, including the appropriate level of effort, labor categories, schedule, and cost with HDR Engineering for completion of the two separate PSRs at a fair and reasonable price. As part of the procurement process for architectural and engineering services, the contract is subject to a pre-award audit. The proposed costs are broken down by project, with the proposed cost of the Wildomar Trail project at \$851,324, plus a 10 percent contingency, for a total amount not to exceed \$936,456. The proposed cost of the Bundy Canyon project is \$750,163, plus a 10 percent contingency, for a total amount not to exceed \$825,180. The varying costs of each project are due to the anticipated increased scope of work at the Wildomar Trail interchange project. A 10 percent contingency is assumed for the project. Staff also recommends authorization for the Chair or Executive Director to finalize and execute the agreement for the Project, and authorization of the Executive Director, or designee, to approve contingency work up to the total not-to-exceed amount as required for these services.

### **Caltrans Cooperative Agreement**

As the lead agency, RCTC is leading project coordination efforts with Caltrans. The Commission is currently working with Caltrans on two separate cooperative agreements, one for each project. Caltrans will provide review and oversight services for both projects. The agreements define the roles and responsibilities for each party. Caltrans estimates a cost of \$300,000 per project for the oversight services to be provided for a total of \$600,000. Currently, the draft cooperative agreements are under review by each agency, with legal concurrence pending. It is not anticipated that notable changes will be required as a result of the pending reviews. These agreements will not be executed until legal counsel approval has been received.

### **FISCAL IMPACT:**


The Commission will be reimbursed for all project costs associated with the project, including those for RCTC staff and consultants. Funding for both PSRs has been identified by the city as TUMF program funds, administered by WRCOG.

There are sufficient funds in the FY 2024/25 budget to complete both PSRs. No budget amendments are required at this time. Additional funding will need to be provided by the city for future project phases.

		I-15 Bundy Canyon Road			
Consultant	HDR	10% Contingency	Caltrans Fee	Internal Costs	Total
Contract Amount	\$750,163	\$75,016	\$300,000.00	\$178,935	\$1,304,114
		I-15 Wildomar Trail Interchange			
Consultant	HDR	10% Contingency	Caltrans Fee	Internal Costs	Total
Contract Amount	\$851,324	\$85,132	\$300,000.00	\$202,435	\$1,438,891
Combined Project Totals					\$2,743,005

**Funding Source Breakdown**

	Project Phase	Project	Dollar Amount	Fund Source
1	PID	Wildomar Trail Interchange Improvements (funding provided by WRCOG)	Up to \$1,500,000	TUMF
2	PID	Bundy Canyon Road Interchange Improvements (funding provided by WRCOG)	Up to \$1,500,000	TUMF
<b>Total</b>			<b>\$3,000,000</b>	

Financial Information					
In Fiscal Year Budget:	Yes	Year:	FY 2024/25 FY2025/+	Amount:	1,677,400 1,065,605
Source of Funds:	TUMF Regional Arterial		Budget Adjustment:	No	
GL/Project Accounting No.:	Reimbursement (revenue) 005224 210 41203 0000 210 72 41203 005225 210 41203 0000 210 72 41203  Project Expenses (expenses) 005224 81101 00019 0000 210 72 81101 005225 81101 00019 0000 210 72 81101				
Fiscal Procedures Approved:				Date:	09/11/2024

Attachments:

- 1) Draft HDR Engineering Agreement No. 25-72-015-00 for Completion of a PSR for the Wildomar Trail Interchange Improvement Project
- 2) Draft HDR Engineering Agreement No. 25-72-017-00 for Completion of a PSR for the Bundy Canyon Road Interchange Improvement Project
- 3) Draft Caltrans Cooperative Agreement No. 25-72-016-00 for Project Review and Oversight Services for the Wildomar Trail Interchange Improvement Project
- 4) Draft Caltrans Cooperative Agreement No. 25-72-018-00 for Project Review and Oversight Services for the Bundy Canyon Road Interchange Improvement Project

*Approved by the Western Riverside County Programs and Projects Committee on  
September 23, 2024*

In Favor: 9 Abstain: 0 No: 0



**Agreement No. 25-72-015-00**

**PROFESSIONAL SERVICES AGREEMENT  
RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
AGREEMENT WITH  
HDR ENGINEERING, INC.  
FOR  
PROJECT STUDY REPORTS (PSR) – PROJECT DEVELOPMENT SUPPORT (PDS)  
FOR THE WILDOMAR TRAIL INTERCHANGE IMPROVEMENT PROJECT**

**Parties and Date.**

This Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_, 2024, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and HDR ENGINEERING, INC. ("Consultant"), a CORPORATION. The Commission and Consultant are sometimes referred to herein individually as "Party", and collectively as the "Parties".

**Recitals.**

- A. On November 8, 1988 the Voters of Riverside County approved Measure A authorizing the collection of a one-half percent (1/2 %) retail transactions and use tax (the "tax") to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the "Plan").
- B. Pursuant to Public Utility Code Sections 240000 et seq., the Commission is authorized to allocate the proceeds of the Tax in furtherance of the Plan.
- C. On November 5, 2002, the voters of Riverside County approved an extension of the Measure A tax for an additional thirty (30) years for the continued funding of transportation and improvements within the County of Riverside.
- D. Consultant desires to perform and assume responsibility for the provision of certain professional services required by the Commission on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing PROJECT STUDY REPORT services to public clients, is licensed in the State of California (if necessary), and is familiar with the plans of the Commission.
- E. The Commission desires to engage Consultant to render such services for the Project Study Report – Project Development Support for the Wildomar Trail Interchange Improvement Project ("Project"), as set forth in this Agreement.

F. The Commission is undertaking the Project in cooperation with the City of Wildomar ("City").

## **Terms.**

1. General Scope of Services. Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, and incidental and customary work necessary to fully and adequately supply the professional PROJECT STUDY REPORT services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

2. Commencement of Services.

The Consultant shall commence work upon receipt of a written "Notice to Proceed" or "Limited Notice to Proceed" from Commission.

3. Term.

3.1 This Agreement shall go into effect on the date first set forth above, contingent upon approval by Commission, and Consultant shall commence work after notification to proceed by Commission's Contract Administrator. This Agreement shall end on June 30, 2026, unless extended by contract amendment.

3.2 Consultant is advised that any recommendation for Agreement award is not binding on Commission until this Agreement is fully executed and approved by the Commission.

3.3 This Agreement shall remain in effect until the date set forth above, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

4. Commission's Contract Administrator. The Commission hereby designates the Commission's Executive Director, or his or her designee, to act as its Contract Administrator for the performance of this Agreement ("Commission's Contract Administrator"). Commission's Contract Administrator shall have the authority to act on behalf of the Commission for all purposes under this Agreement. Commission's Contract Administrator shall also review and give approval, as needed, to the details of Consultant's work as it progresses. Consultant shall not accept direction or orders from any person other than the Commission's Contract Administrator or his or her designee.



5. Consultant's Representative. Consultant hereby designates Mark Hager to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to act on behalf of Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her professional skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with Commission's Contract Administrator and any other agencies which may have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the Commission staff at all reasonable times. Any substitution in Consultant's Representative shall be approved in writing by Commission's Contract Administrator.

6. Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions herein. The key personnel for performance of this Agreement are as follows: Mark Hager; Brian Smith; Julian Hernandez; Laura Comstock; Jason Pack; Josh Cospel.

7. Standard of Care; Licenses; Evaluation.

7.1 Consultant represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Agreement to fully and adequately complete the Project. Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents and warrants to the Commission that its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Consultant's errors and omissions. Any employee of Consultant or its sub-consultants who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission,

shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

7.2 Consultant's performance will be evaluated by Commission. A copy of the evaluation will be sent to Consultant for comments. The evaluation together with the comments shall be retained as part of the Agreement record.

8. Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Consultant on an independent contractor basis and not as an employee, agent or representative of the Commission. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their performance of Services and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security taxes, income tax withholdings, unemployment insurance, disability insurance, and workers' compensation insurance. Consultant hereby indemnifies and holds the Commission harmless, pursuant to the indemnification provisions contained in this Agreement, from any and all claims that may be made against the Commission based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, the Commission shall respond to Consultant's submittals in a timely manner. Upon request of Commission's Contract Administrator, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

9.1 Modification of the Schedule. Consultant shall regularly report to the Commission, through correspondence or progress reports, its progress in providing required Services within the scheduled time periods. Commission shall be promptly informed of all anticipated delays. In the event that Consultant determines that a schedule modification is necessary, Consultant shall promptly submit a revised Schedule of Services for approval by Commission's Contract Administrator.

9.2 Trend Meetings. Consultant shall conduct trend meetings with the Commission's Contract Administrator and other interested parties, as requested by the Commission, on a bi weekly basis or as may be mutually scheduled by the Parties at a standard day and time. These trend meetings will encompass focused and informal

discussions concerning scope, schedule, and current progress of Services, relevant cost issues, and future Project objectives. Consultant shall be responsible for the preparation and distribution of meeting agendas to be received by the Commission and other attendees no later than three (3) working days prior to the meeting.

9.3 Progress Reports. As part of its monthly invoice, Consultant shall submit a progress report, in a form determined by the Commission, which will indicate the progress achieved during the previous month in relation to the Schedule of Services. Submission of such progress report by Consultant shall be a condition precedent to receipt of payment from the Commission for each monthly invoice submitted.

## 10. Delay in Performance.

10.1 Excusable Delays. Should Consultant be delayed or prevented from the timely performance of any act or Services required by the terms of the Agreement by reason of acts of God or of the public enemy, acts or omissions of the Commission or other governmental agencies in either their sovereign or contractual capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, performance of such act shall be excused for the period of such delay.

10.2 Written Notice. If Consultant believes it is entitled to an extension of time due to conditions set forth in subsection 10.1, Consultant shall provide written notice to the Commission within seven (7) working days from the time Consultant knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of Consultant to provide such timely notice shall constitute a waiver by Consultant of any right to an excusable delay in time of performance.

10.3 Mutual Agreement. Performance of any Services under this Agreement may be delayed upon mutual agreement of the Parties. Upon such agreement, Consultant's Schedule of Services shall be extended as necessary by the Commission. Consultant shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

11. Preliminary Review of Work. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Agreement shall be submitted to the Commission's Contract Administrator in draft form, and the Commission may require revisions of such drafts prior to formal submission and approval. In the event plans and designs are to be developed as part of the Project, final detailed plans and designs shall be contingent upon obtaining environmental clearance as may be required in connection with Federal funding. In the event that Commission's Contract Administrator, in his or her sole discretion, determines the formally submitted work product to be not in accordance with the standard of care established under this Agreement, Commission's Contract Administrator may require Consultant to revise and resubmit the work at no cost to the Commission.

12. Appearance at Hearings. If and when required by the Commission, Consultant shall render assistance at public hearings or other meetings related to the Project or necessary to the performance of the Services. However, Consultant shall not be required to, and will not, render any decision, interpretation or recommendation regarding questions of a legal nature or which may be construed as constituting a legal opinion.

13. Opportunity to Cure; Inspection of Work. Commission may provide Consultant an opportunity to cure, at Consultant's expense, all errors and omissions which may be disclosed during Project implementation. Should Consultant fail to make such correction in a timely manner, such correction may be made by the Commission, and the cost thereof charged to Consultant. Consultant shall allow the Commission's Contract Administrator to inspect or review Consultant's work in progress at any reasonable time.

14. Claims Filed by Contractor.

14.1 If claims are filed by the Commission's contractor for the Project ("Contractor") relating to work performed by Consultant's personnel, and additional information or assistance from the Consultant's personnel is required by the Commission in order to evaluate or defend against such claims; Consultant agrees to make reasonable efforts to make its personnel available for consultation with the Commission's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

14.2 Consultant's personnel that the Commission considers essential to assist in defending against Contractor claims will be made available on reasonable notice from the Commission. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this Agreement.

14.3 Services of the Consultant's personnel and other support staff in connection with Contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to finally resolve the claims.

14.4 Nothing contained in this Section shall be construed to in any way limit Consultant's indemnification obligations contained in Section 26. In the case of any conflict between this Section and Section 26, Section 26 shall govern. This Section is not intended to obligate the Commission to reimburse Consultant for time spent by its personnel related to Contractor claims for which Consultant is required to indemnify and defend the Commission pursuant to Section 26 of this Agreement.

15. Final Acceptance. Upon determination by the Commission that Consultant has satisfactorily completed the Services required under this Agreement and within the term herein, the Commission shall give Consultant a written Notice of Final Acceptance.

Upon receipt of such notice, Consultant shall incur no further costs hereunder, unless otherwise specified in the Notice of Final Acceptance. Consultant may request issuance of a Notice of Final Acceptance when, in its opinion, it has satisfactorily completed all Services required under the terms of this Agreement.

16. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. For example, and not by way of limitation, Consultant shall keep itself fully informed of and in compliance with all implementing regulations, design standards, specifications, previous commitments that must be incorporated in the design of the Project, and administrative controls including those of the United States Department of Transportation. Compliance with Federal procedures may include completion of the applicable environmental documents and approved by the United States Department of Transportation. For example, and not by way of limitation, a signed Categorical Exclusion, Finding of No Significant Impact, or published Record of Decision may be required to be approved and/or completed by the United States Department of Transportation. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Commission, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

17. Fees and Payment.

17.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The Total Compensation shall not exceed Eight Hundred Fifty-One Thousand Three Hundred Twenty-Four Dollars (\$851,324) without written approval of Commission's Representative. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

17.2 Payment of Compensation. Consultant shall submit a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the Statement. Charges specific to each Milestone listed in the Schedule of Services shall be listed separately on an attachment to each statement. Each statement shall be accompanied by a monthly progress report and spreadsheets showing hours expended for each task for each month and the total Project to date. Each statement shall include a cover sheet bearing a certification as to

the accuracy of the statement signed by the Consultant's Project Manager or other authorized officer.

17.3 Extra Work. At any time during the term of this Agreement, Commission may request Consultant to perform Extra Work. As used herein, "Extra Work" means any work which is determined by the Commission to be necessary for proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from Commission's Representative. In the event an Extra Work Order is not issued and signed by Commission's Representative, Consultant shall not provide such Extra Work.

17.4 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by the Commission's Representative.

18. Disputes.

18.1 Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by mutual agreement of the Parties shall be decided by a committee consisting of RCTC's Contract Administrator and the Director of Capital Projects, who may consider written or verbal information submitted by Consultant.

18.2 Not later than 30 days after completion of all Services under this Agreement, Consultant may request review by the Commission's Executive Director of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

18.3 Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.

19. Termination; Suspension.

19.1 Commission reserves the right to terminate this Agreement for any or no reason upon written notice to Consultant setting forth the effective date of termination, with the reasons for termination stated in the notice.

19.2 Commission may terminate this Agreement with Consultant should Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, Commission may proceed with the work in any manner deemed proper by Commission. If Commission terminates this Agreement with Consultant, Commission shall pay Consultant the sum due to Consultant under this Agreement for Services completed and accepted prior to termination, unless the cost of completion to Commission exceeds the funds remaining

in this Agreement. In such case, the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.

19.3 In addition to the above, payment upon termination shall include a prorated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed Services. Consultant shall provide documentation deemed adequate by Commission's Contract Administrator to show the Services actually completed by Consultant prior to the effective date of termination. This Agreement shall terminate on the effective date of the Notice of Termination.

19.4 Discontinuance of Services. Upon receipt of the written Notice of Termination, Consultant shall discontinue all affected Services as directed in the Notice or as otherwise provided herein, and deliver to the Commission all Documents and Data, as defined in this Agreement, as may have been prepared or accumulated by Consultant in performance of the Services, whether completed or in progress.

19.5 Effect of Termination for Cause. In addition to the above, Consultant shall be liable to the Commission for any reasonable additional costs incurred by the Commission to revise work for which the Commission has compensated Consultant under this Agreement, but which the Commission has determined in its sole discretion needs to be revised, in part or whole, to complete the Project because it did not meet the standard of care established herein. Termination of this Agreement for cause may be considered by the Commission in determining whether to enter into future agreements with Consultant.

19.6 Cumulative Remedies. The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

19.7 Waivers. Consultant, in executing this Agreement, shall be deemed to have waived any and all claims for damages which may otherwise arise from the Commission's termination of this Agreement, for convenience or cause, as provided in this Section.

19.8 Consultant may not terminate this Agreement except for cause.

19.9 Suspension. In addition to the termination rights above, Commission may temporarily suspend this Agreement, at no additional cost to Commission, provided that Consultant is given written notice of temporary suspension. If Commission gives such notice of temporary suspension, Consultant shall immediately suspend its activities under this Agreement. A temporary suspension may be issued concurrent with a notice of termination.

20. Retention of Records/Audit. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this Agreement pursuant to Government Code 8546.7; Consultant, subconsultants, and Commission shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during this Agreement period and for three years from the date of final payment under this Agreement. The state, State Auditor and the Commission shall have access to any books, records, and documents of Consultant that are pertinent to this Agreement for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

21. Audit Review Procedures.

21.1 Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by Commission's Chief Financial Officer.

21.2 Not later than 30 days after issuance of the final audit report, Consultant may request a review by Commission's Chief Financial Officer of unresolved audit issues. The request for review shall be submitted in writing.

21.3 Neither the pendency of a dispute nor its consideration by Commission shall excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

22. Subcontracting.

22.1 Nothing contained in this Agreement or otherwise, shall create any contractual relation between Commission and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to Commission for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from Commission's obligation to make payments to the Consultant.

22.2 Consultant shall perform the Services with resources available within its own organization and no portion of the Services shall be subcontracted without written authorization by Commission's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.



22.3 Consultant shall pay its subconsultants within fifteen (15) calendar days from receipt of each payment made to Consultant by Commission.

22.4 Any subcontract in excess of \$25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

22.5 Any substitution of subconsultant(s) must be approved in writing by Commission's Contract Administrator prior to the start of work by the subconsultant(s).

22.6 Exhibit "C" may also set forth the rates at which each subconsultant shall bill the Consultant for Services and that are subject to reimbursement by the Commission to Consultant. Additional Direct Costs, as defined in Exhibit "C" shall be the same for both the Consultant and all subconsultants, unless otherwise identified in Exhibit "C". The subconsultant rate schedules and cost proposals contained herein are for accounting purposes only.

### 23. Equipment Purchase

23.1 Prior authorization, in writing, by Commission's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract for supplies, equipment, or Consultant services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

23.2 For purchase of any item, service or consulting work not covered in Consultant's Cost Proposal and exceeding \$5,000 prior authorization by Commission's Contract Administrator is required. Three competitive quotations must be submitted with the request for such purchase, or the absence of bidding must be adequately justified.

23.3 Any equipment purchased as a result of this Agreement is subject to the following:

Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, Commission shall receive a proper refund or credit at the conclusion of this Agreement, or if this Agreement is terminated, Consultant may either keep the equipment and credit Commission in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established Commission procedures; and credit Commission in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to Commission and Consultant. If Consultant determines to sell the equipment, the terms and conditions of such sale must be approved in advance by Commission.

23.4 All subcontracts in excess \$25,000 shall contain the above provisions.

## 24. Labor Code Requirements.

### 24.1 Prevailing Wages.

(a) Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all State, and local laws and ordinances applicable to the Services.

(b) Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.

(c) When prevailing wages apply to the Services described in the Scope of Services, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

(d) Copies of the prevailing rate of per diem wages in effect at commencement of this Agreement are on file at the Commission's offices. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Commission, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

24.2 DIR Registration. If the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. If applicable, Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

24.3 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Consultant or the Services are

not subject to the Eight-Hour Law. Consultant shall forfeit to Commission as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any sub-consultant under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Consultant or the Services are not subject to the Eight-Hour Law.

24.4 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Consultant

25. Ownership of Materials/Confidentiality.

25.1 Documents & Data. This Agreement creates an exclusive and perpetual license for Commission to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”).

Consultant shall require all subcontractors to agree in writing that Commission is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Consultant makes no

such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Commission.

Commission shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Commission's sole risk.

25.2 Intellectual Property. In addition, Commission shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media ("Intellectual Property") prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

The Commission shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for wholly or in part by Commission, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Commission.

Consultant shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the Commission.

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

Commission further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

25.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information,

and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Commission, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Commission's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Commission.

25.4 Infringement Indemnification. Consultant shall defend, indemnify and hold the Commission, the City and their directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by Commission of the Documents & Data, including any method, process, product, or concept specified or depicted.

26. Indemnification. To the fullest extent permitted by law, Consultant shall defend (with counsel of Commission's choosing), indemnify and hold Commission, the City and their directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, the City and their directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission, the City or their directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Commission, the City and their directors, officials, officers, employees, consultants, agents, and/or volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission, the City and their directors, officials officers, employees, consultants, agents, or volunteers.

If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil

Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Consultant's obligations as set forth in this Section shall survive expiration or termination of this Agreement.

## 27. Insurance.

27.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the Commission that it has secured all insurance required under this Section, in a form and with insurance companies acceptable to the Commission. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this Section.

27.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(a) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) Automobile Liability: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) Workers' Compensation and Employer's Liability: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(b) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; (2) Automobile Liability: \$2,000,000 per accident for bodily injury and property damage. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; and (3) Workers' Compensation and

Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of \$1,000,000 per accident.

27.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. For Consultant, such insurance shall be in an amount not less than \$2,000,000 per claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. Subconsultants of Consultant shall obtain such insurance in an amount not less than \$1,000,000 per claim. Notwithstanding the foregoing, the Commission may consider written requests to lower or dispense with the errors and omissions liability insurance requirement contained in this Section for certain subconsultants of Consultant, on a case-by-case basis, depending on the nature and scope of the Services to be provided by the subconsultant. Approval of such request shall be in writing, signed by the Commission's Contract Administrator.

27.4 Aircraft Liability Insurance. Prior to conducting any Services requiring use of aircraft, Consultant shall procure and maintain, or cause to be procured and maintained, aircraft liability insurance or equivalent form, with a single limit as shall be required by the Commission. Such insurance shall include coverage for owned, hired and non-owned aircraft and passengers, and shall name, or be endorsed to name, the Commission, the City and their directors, officials, officers, employees and agents as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant.

27.5 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the Commission to add the following provisions to the insurance policies:

(a) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) bodily Injury and property damage; (2) personal Injury/advertising Injury; (3) premises/operations liability; (4) products/completed operations liability; (5) aggregate limits that apply per Project; (6) explosion, collapse and underground (UCX) exclusion deleted; (7) contractual liability with respect to this Agreement; (8) broad form property damage; and (9) independent consultants coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or

suits by one insured against another; or (3) contain any other exclusion contrary to this Agreement.

(iii) The policy shall give the Commission, the City and their directors, officials, officers, employees, and agents insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be “primary and non-contributory” and will not seek contribution from the Commission’s or City’s insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(b) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Commission, the City and their directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the Commission, the City and their directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant’s scheduled underlying coverage. Any insurance or self-insurance maintained by the Commission, the City and their directors, officials, officers, employees and agents shall be excess of the Consultant’s insurance and shall not be called upon to contribute with it in any way.

(c) Workers’ Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against the Commission, the City and their directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(d) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement



under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to the Commission, the City and their directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Commission and the City (if agreed to in a written contract or agreement) before the Commission's and the City's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide the Commission at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Commission at least ten (10) days prior to the effective date of cancellation or expiration.

(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Commission, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Commission has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Commission will be promptly

reimbursed by Consultant or Commission will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Commission may cancel this Agreement. The Commission may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither the Commission nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

27.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Commission. If the Commission does not approve the deductibles or self-insured retentions as presented, Consultant shall guarantee that, at the option of the Commission, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Commission, its directors, officials, officers, employees and agents; or, (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

27.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Commission.

27.8 Verification of Coverage. Consultant shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Commission before work commences. The Commission reserves the right to require complete, certified copies of all required insurance policies, at any time.

27.9 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all insurance required under this Section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

27.10 Other Insurance. At its option, the Commission may require such additional coverage(s), limits and/or the reduction of deductibles or retentions it considers reasonable and prudent based upon risk factors that may directly or indirectly impact the Project. In retaining this option Commission does not warrant Consultant's

insurance program to be adequate. Consultant shall have the right to purchase insurance in addition to the insurance required in this Section.

28. Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

As between Consultant and the construction contractors only, the construction contractors shall remain solely responsible for construction safety notwithstanding any safety obligations of Consultant at the jobsite. The foregoing sentence shall not impact nor in any way modify or alter Consultant's indemnity and defense obligations to the Commission, as set forth in Section 26 of this Agreement, not any of Consultant's duties or obligations set forth under this Agreement, including the attached exhibits.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the Commission has determined that the Project will contain areas that are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

29. Prohibited Interests.

29.1 Solicitation. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to rescind this Agreement without liability.

29.2 Consultant Conflict of Interest.

(a) Consultant shall disclose any financial, business, or other relationship with Commission that may have an impact upon the outcome of this Agreement, or any ensuing Commission construction project. Consultant shall also list

current clients who may have a financial interest in the outcome of this Agreement, or any ensuing Commission construction project, which will follow.

(b) Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of Services under this Agreement. Consultant agrees to advise Commission of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Agreement. Consultant further agrees to complete any statements of economic interest if required by either Commission or State law.

(c) Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

(d) Consultant hereby certifies that neither Consultant, nor any firm affiliated with Consultant will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

(e) Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this Agreement shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement.

29.3 Commission Conflict of Interest. For the term of this Agreement, no member, officer or employee of the Commission, during the term of his or her service with the Commission, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

29.4 Conflict of Employment. Employment by the Consultant of personnel currently on the payroll of the Commission shall not be permitted in the performance of this Agreement, even though such employment may occur outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, the employment by the Consultant of personnel who have been on the Commission payroll within one year prior to the date of execution of this Agreement, where this employment is caused by and or dependent upon the Consultant securing this or related Agreements with the Commission, is prohibited.

29.5 Rebates, Kickbacks or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any Commission employee. For breach or violation of this warranty, Commission shall have the right in its discretion; to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

29.6 Employment Adverse to the Commission. Consultant shall notify the Commission, and shall obtain the Commission's written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against the Commission during the term of this Agreement.

30. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

31. Right to Employ Other Consultants. Commission reserves the right to employ other consultants in connection with the Project.

32. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California. Venue shall be in Riverside County.

33. Disputes; Attorneys' Fees.

33.1 Prior to either party commencing any legal action under this Agreement, the Parties agree to try in good faith, to resolve any dispute amicably between them. If a dispute has not been resolved after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either Party may seek any other available remedy to resolve the dispute.

33.2. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and, all other costs of such actions.

34. Time of Essence. Time is of the essence for each and every provision of this Agreement.

35. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

36. Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

CONSULTANT:

HDR ENGINEERING, INC.  
2280 Market Street, Suite 100  
Riverside, CA 92501  
ATTN: Mark Hager

COMMISSION:

Riverside County Transportation Commission  
4080 Lemon Street, 3rd Floor  
Riverside, CA 92501  
Attn: Executive Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. mail, first class postage prepaid, and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

37. Conflicting Provisions. In the event that provisions of any attached exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the performance of the Services.

38. Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

39. Entire Agreement. This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.

40. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

41. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

42. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

43. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

44. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

45. Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to the Commission. Consultant shall not respond to any such subpoena or court order until notice to the Commission is provided as required herein, and shall cooperate with the Commission in responding to the subpoena or court order.

46. Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein, without the prior written consent of the Commission. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

47. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, and shall not be assigned by Consultant without the prior written consent of Commission.

48. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

49. No Waiver. Failure of Commission to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

50. Electronically Transmitted Signatures; Electronic Signatures. A manually signed copy of this Agreement which is transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes. This Agreement may be signed using an electronic signature.

**[Signatures on following page]**

**SIGNATURE PAGE  
TO  
PROFESSIONAL SERVICES AGREEMENT**

**IN WITNESS WHEREOF**, this Agreement was executed on the date first written above.

<p><b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b></p> <p>By: _____ Aaron Hake Executive Director</p> <p><i>Approved as to Form:</i></p> <p>By: _____ Best, Best &amp; Krieger LLP General Counsel</p>	<p><b>CONSULTANT HDR ENGINEERING, INC.</b></p> <p>By: _____ Signature</p> <p>_____ Name</p> <p>_____ Title</p> <p><b>ATTEST:</b></p> <p>By: _____</p> <p>Its: _____</p>
--	---

\* A corporation requires the signatures of two corporate officers.

One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to RCTC.



**EXHIBIT "A"**

**SCOPE OF SERVICES**

**[attached behind this page]**

**DRAFT**

# Interstate 15 Wildomar Interchange Improvement Projects Project Study Report-Project Development Support (PSR-PDS)

## Scope of Work

CONSULTANT will prepare PSR-PDS in accordance with CALTRANS Guidelines and Procedures, California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). The purpose of the PSR-PDS is to scope the PA&ED phase relative to CEQA/NEPA and program the project for funding relative to construction and capital supports costs for each of the Bundy Canyon Road and Wildomar Trail interchange projects. This Scope of Work is intended to be applicable for each project unless additional deliverables are specifically listed in this scope. All deliverables will be provided electronically for RCTC, CITY and CALTRANS project records.

### WBS 100.05 Task A: PROJECT MANAGEMENT

#### A.1 PROJECT INITIATION AND PLANNING

CONSULTANT will schedule a Pre-PID meeting with CALTRANS per Appendix S of the PDPM. CONSULTANT and CITY will meet with CALTRANS to communicate a shared view of the PROJECT and to establish an understanding of the procedures, roles, and responsibilities of the PROJECT. The meeting will begin the process to prepare and enter into an agreement with CALTRANS for reimbursable work. CONSULTANT will review the PSR-PDS and PID development processes with CALTRANS and set the framework of the design concept and scope, as well as the purpose and need for the PROJECT. CONSULTANT will develop agenda and meeting minutes for the meeting.

##### Deliverables:

- Pre-PID Meeting Agenda, handouts, and meeting minutes

#### A.2 COORDINATION AND MEETINGS

CONSULTANT will be responsible for overall project management, liaison with CALTRANS and other affected agencies, and progress monitoring and maintenance of PROJECT files. CONSULTANT will supervise, coordinate, monitor and review project for conformance with CALTRANS and CITY/County standards, policies, and procedures. CONSULTANT will develop a project schedule for delivery of major milestones of the PSR-PDS, PA&ED (Begin Environmental, Circulate ED, and PA&ED), Design and Construction. A 15-month schedule is anticipated for scoping purposes. CONSULTANT will attend a kick-off meeting, lead monthly Project Development Team (PDT) meetings, coordinate with sub-consultants as needed, coordinate with the CITY and CALTRANS, utility companies, and all other pertinent stakeholders as needed.

##### Deliverables:

- Monthly (15) PDT Meetings and Agendas / Minutes
- Two (2) Stakeholder Meetings and Presentations
- Project Baseline Schedule
- Deliverables Matrix
- Monthly Progress Reports and Invoices

### **A.3 QUALITY MANAGEMENT PLAN**

CONSULTANT Project Manager will prepare and implement a Quality Management Plan (QMP). CONSULTANT will prepare a responsibilities matrix outlining responsibilities of independent Quality Control on respective tasks within this scope of work herein. Refer to Chapter 5, Article 9 of the PDPM Appendix S for general guidance on the Quality Management Plan. The CONSULTANT will be responsible for incorporating RCTC's Quality Assurance Plan and confirming that all the processes and procedures are met and incorporated into the CONSULTANT'S Quality Management Plan.

#### Deliverables:

- QMP
- Project Management Plan/Communication Plan

### **A.4 RISK ASSESSMENT**

CONSULTANT will prepare the Risk Register in accordance with PDPM Appendix S. Since the reduced amount of data that is required for the PSR-PDS transfers risks to future phases and it is important to identify the risk, define the probability, define the severity, identify who or what the risk will impact, and identify the ownership of the risk. CONSULTANT will coordinate with the CITY and project team members to jointly identify, assess, quantify, prepare a response to, monitor, and control capital project risks within the Risk Register. Potential risks will be evaluated and discussed by the PDT, and ownership of the risks will be identified. CONSULTANT will summarize project risks in the PSR-PDS.

#### Deliverables:

- Risk Assessment Matrix
- Summary of Risks in PSR-PDS

### **WBS 150: DEVELOP PROJECT INITIATION DOCUMENT**

CONSULTANT will prepare a draft, final and signature ready document for each deliverable listed in WBS 150 PID Phase. It is assumed that RCTC and the CITY reviews are concurrent and in advance of the CALTRANS reviews.

#### **WBS 150.05 Task B: PROBLEM DEFINITION**

##### **B.1 REVIEW OF EXISTING REPORTS/ DATA GATHERING**

COUNTY and CITY will provide available existing reports, studies, existing mapping from RCTC's I-15 Corridor Improvement Project dated 2008, and other information for the PROJECT, as requested by CONSULTANT. CONSULTANT will review all provided information and obtain any other available and necessary information for preparation of PSR-PDS. CONSULTANT will obtain as-builts, utility information (conducted via Dig Alert search), Transportation Concept Report/Route Concept Report (TCR/RCR), Corridor System Management Plan (CSMP), Regional Transportation Plan (RTP), Congestion Management Program (CMP), 10-Year SHOPP, the State Implementation Plan, County of Riverside General Plan, City General Plan, local development plans, other reports.

#### Deliverables:

- Photographs, Exhibits, Inventory List of related studies, mapping, and reports
- CALTRANS Encroachment Permit

## **B.2 SUPPLEMENTAL MAPPING (OPTIONAL TASK)**

The PSR-PDS will utilize available aerial mapping provided by the CONSULTANT. CONSULTANT will utilize available GIS right of way mapping. New or additional aerial mapping, survey, topographic mapping, or right of way mapping for the PROJECT may be required (optional task) for this phase of the work. CONSULTANT will obtain CALTRANS Encroachment Permit for general field and non-ground disturbing activities to obtain information for the project, such as field photography, traffic data, etc.

### Deliverables:

- Supplemental Topographic Mapping (Optional Task by Subconsultant if Needed)

## **B.3 TRAFFIC FORECASTS**

Per the PSR-PDS guidelines the Traffic Engineering Performance Assessment (TEPA) will be limited to an assessment of readily available information. The TEPA will be based on information obtained from the

- Regional Model Data and CI Traffic TY Provided Traffic Data for the Ramps and Local Streets including the following CITY provided Impact Assessments (TIA):
  - Wildomar Meadows TIA
  - Baxter Village TIA
  - Baxter Town Center TIA
  - Monte Vista Ranch TIA
  - Inland Valley Medical Center TIA
  - Oak Creek TIA

Data collected and found in various reports are representative of Project conditions and considered the most comprehensive available data for use in the PSR-PDS. Other additional and available data will be referenced if needed.

### **B.3.1 Analysis Scenario**

- Existing Conditions
- Design Year (2055) Conditions – No-Build Alternative
- Design Year (2055) Conditions – Build Alternatives (up to three build alternatives)
- Evaluate operational enhancements with widening of Monte Vista Drive as a north-south / parallel frontage road consistent with City General Plan circulation element.

### **B.3.2 Intersections**

- Interstate 15 Entrance & Exit Ramps (4 existing intersection locations)
- Cervera Road/Wild Stallion Lane to Western Way (3 existing intersection locations)
- Monte Vista Drive (5 existing intersection locations)

- Orange Street to Monte Vista Drive (3 existing intersection locations)

Deliverables:

- Traffic forecast volumes

#### **B.4 PROBLEM DEFINITION**

CONSULTANT will establish the PROJECT need and purpose, including CAPTI elements, identification of logical termini and independent utility, in accordance with CALTRANS guidelines in the PDPM and Environmental Documentation requirements. The analysis will summarize the information on capacity and operational deficiencies, congestion levels, future traffic levels of service (LOS), queuing analysis, potential for auxiliary lanes, and accident data provided by CALTRANS and PROJECT scoping. CONSULTANT will complete the Scoping Tools including the Transportation Planning Scoping Information Sheet (TPSIS attachment) and Design Scoping Index as outlined in Section 5, Article 2 and 4 of the PSR-PDS guidelines (Appendix S) within the Project Development Procedures Manual (PDPM).

Deliverables:

- Purpose and Need Statement
- Transportation Planning Scoping Information Sheet (attachment to PSR-PDS)
- Design Scoping Index
- Project Determination Letter

### **WBS 150.10 TASK C: PRELIMINARY ENGINEERING AND INITIAL ALTERNATIVES DEVELOPMENT**

#### **C.1 CONCEPTUAL ALTERNATIVES DEVELOPMENT**

CONSULTANT, in coordination with RCTC and the City of Wildomar, will identify three (3) alternatives for the PSR-PDS. The three (3) alternatives will be agreed upon through a concept screening process. The concept screening process will consist of comparing up to five (5) concepts through various criteria that will be developed and coordinated with CALTRANS, RCTC, and the CITY. One (1) concept screening workshop will be held to determine the three (3) alternatives that will be considered in the PSR-PDS and future phases. Each alternative studied will go through a constructability review to determine feasibility. CONSULTANT will prepare layout schematics in 11x17 format at 1" = 500' scale for three (3) alternatives as CALTRANS standard cut sheets including title block. The layout schematics will illustrate proposed ramp configurations and include proposed lane configurations, shoulders, and right of way for each alternative. Right of way requirements, retaining wall and potential sound wall locations may be shown (if applicable).

Deliverables:

- Concept Screening Matrix with up to five (5) concepts
- One (1) concept screening workshop
- Layout schematic and typical section sheet (2 total) for the three (3) recommended alternatives.

### **C.3 PUBLIC/LOCAL AGENCY DATA COLLECTION**

CONSULTANT shall use available information as collected from other involved agencies to prepare a compatible interchange design with existing and future conditions. Involved agencies include, but will not necessarily be limited to the following:

- California Department of Transportation (CALTRANS)
- Riverside County Transportation Commission (RCTC)
- City of Wildomar (CITY)
- Western Riverside County Regional Conservation Authority
- United States Fish and Wildlife Service
- California Department of Fish and Wildlife
- Riverside County Transportation Department & Flood Control District

### **C.4 PERFORM PUBLIC AND COMMUNITY OUTREACH**

The CONSULTANT will support the CITY and RCTC by executing an abbreviated but strategic public outreach program at established venues/sessions by the CITY or RCTC to explain the proposed project, understand community/business concerns, offer opportunities for community feedback and two-way dialogue, and discuss the purpose and need for the project at either a local council or board meeting. Outreach activities will support the technical team, with materials designed to be bi-lingual and "user friendly" to confirm that the public understands the Project Initiation Document (PID) phase and how to provide valuable input to the delivery team.

The CONSULTANT will organize and attend one (1) established public outreach event similar to a local Municipal Advisory Council (MAC) Meeting (District 1) to inform the community of roadway improvement being considered within the project area, to inform the public and responsible agencies about the proposed project and the environmental process, and to solicit input from local residents and businesses that can be obtained during the planning and concept evaluation stage of the PSR-PDS. The workshop will be advertised through various CITY and RCTC already occurring outreach channels to generate interest and foster community attendance.

The CONSULTANT will attend one (1) City Council Meeting to support the project team's presentation of the roadway improvement concepts considered within the project area to the City Council. The outreach component of this presentation will assist the CITY and the project team to better understand the public concerns and will provide the team with an opportunity to address community concerns as the project moves forward in the planning phase.

Clear and concise project information will be produced through an equity lens and distributed by hand at meetings, through mailings, and electronically through email, web, and social as necessary. The CONSULTANT will facilitate developing an online Fact Sheet in English and Spanish for the Public Outreach from the RCTC or CITY website and presentation at a City Council Meeting. The English/Spanish Fact Sheet will be prepared in close collaboration with the technical team, followed by one update. The information produced can be provided to CITY staff to be uploaded on the existing CITY hosted website for additional ongoing public access during the project's planning phase. The informational materials will explain and illustrate the potential conceptual design alternatives to be studied further in PA&ED, the purpose and need, anticipated project delivery timeline, potential funding sources, and ways to obtain more information and provide feedback on the proposed project. The CONSULTANT

will produce a brief presentation for stakeholder meetings and as visuals for use at the public outreach workshop. It is expected that any public outreach sessions will occur at a CITY provided facility and local law enforcement would be provided as deemed appropriate by RCTC and the CITY. If law enforcement presence is desired, it would be coordinated and provided by the CITY staff.

Deliverables:

- Attendance and participation at one (1) Public Outreach / Established MAC Meeting
- Attendance and participation at one (1) City Council or Board Meeting
- Stakeholder Contact Database / Project Distribution List (1 electronic copy);
  - Public Input / Comment Acknowledgment
- Project Fact Sheet in both English and Spanish (1 electronic copy and up to 100 color printed 8.5 x 11 copies)
- Preparation of PowerPoint presentation for use at a City Council or Board Meeting

**WBS 150.15 TASK D: ALTERNATIVES ANALYSIS**

**D.1 RIGHT OF WAY CONCEPTUAL COST ESTIMATE**

CONSULTANT will summarize the anticipated right of way, and utilities impacts for the three (3) build alternatives within the PSR-PDS using the Conceptual Cost Estimate Request/Right of Way Component in accordance with Section 5, Article 7 of the PSR-PDS guidelines (Appendix S) within the PDPM.

CONSULTANT will utilize available GIS preliminary mapping showing the property boundaries and right of way requirements to estimate the number, area, and magnitude of parcels required for acquisition and the likely number of easements needed. CONSULTANT will identify existing utilities and potential relocation activities using existing, available information (e.g., permit search, as-built drawings, field review). CONSULTANT will prepare "Conceptual Cost Estimate – Right-of-Way Component" to develop an order of magnitude cost estimate and to identify additional studies that may be needed during PA&ED. CONSULTANT will coordinate with the Riverside County Assessor records to assess per square foot unit costs and associated right of way costs relative to impacts to adjacent properties. The square foot unit costs will be developed in coordination with Riverside County Assessor records and comparable properties within the vicinity of the project.

Deliverables:

- Preliminary Right of Way Requirement Exhibits for three (3) build alternatives
- Utility Assessment (not a formal CALTRANS deliverable)
- Conceptual Cost Estimate – Right-of-Way Component

**D.2 PRELIMINARY STRUCTURES ASSESSMENT**

Using available as-built information for the existing structure facilities along the corridor, CONSULTANT will identify proposed structure improvements for each of the three (3) structures build alternatives for Wildomar Trail OC bridges and one (1) structures build alternatives for Bundy Canyon Road UC tie-back walls in support of the cost estimate for the PSR-PDS. CONSULTANT will use a streamlined estimating process, such as square-footage costs to develop a "Structure PSR-PDS Cost Estimate" for inclusion into the PSR-PDS document when

bridge and/or nonstandard retaining wall work is necessary. CONSULTANT will prepare the Division of Engineering Services (DES) Scoping Checklist in coordination with Project Liaison Engineer. For a PSR-PDS, the level of detail in the DES Scoping Checklist and "Structure PSR-PDS Cost Estimate" is limited to information required to develop accurate work plans for the PA&ED phase.

Deliverables:

- Preliminary Structures Assessment - APS Memorandum (not a formal CALTRANS deliverable)
  - Three (3) structures build alternatives for Wildomar Trail OC bridges
  - One (1) structure build alternative for Bundy Canyon Road UC tie-back walls
- Structures PSR-PDS Cost Estimate
- DES Scoping Checklist

## **C.2 PRELIMINARY GEOTECHNICAL ASSESMENT & LIFE CYCLE COST ANALYSIS**

Using available Geotechnical information, the CONSULTANT will assess the existing data in the area. CONSULTANT will prepare a Life Cycle Cost Analysis (LCCA) for the PID phase of the proposed project. A preliminary materials report (PMR) is not anticipated to be required for the PID phase of work and excluded from the scope of work. The LCCA will be divided into three different pavement scenarios:

- Pavement Scenario 1 – worst case ramp 20/40-year Flexible & Rigid
- Pavement Scenario 2– worst case Local Interchange Roads 20/40-year Flexible & Rigid
- Pavement Scenario 3– worst case outside auxiliary lane 20/40-year Flexible & Rigid

CONSULTANT will review existing geotechnical maps and reports in order to develop preliminary pavement sections based on highly simplified pavement assumptions. It is assumed that CALTRANS Mechanistic-Empirical calculations will not be required for this preliminary planning phase. CONSULTANT will also Perform geotechnical analysis of the collected data and develop LCCA calculations and prepare a preliminary LCCA report presenting findings and preliminary pavement recommendations for the proposed improvements.

Deliverables:

- Preliminary Geotechnical Assessment (not a formal CALTRANS deliverable)
- Draft LCCA Assessment

## **D.3 PRELIMINARY DRAINAGE ASSESSMENT**

Freeway, County, and CITY existing drainage systems and master planned drainage facilities will be reviewed and the impacts of the proposed three (3) build alternatives on these facilities will be assessed. Necessary replacements and/or improvements including incorporation of Water Quality Best Management practices will be reflected in the cost estimates. Detailed hydraulic/hydrologic calculations are outside the scope of this scope of work. CONSULTANT will identify permits for design, construction, and operations of drainage facilities.



Deliverables:

- Preliminary Drainage Assessment (not a formal CALTRANS deliverable)
- Preliminary cost estimates to affected major drainage facilities

#### **D.4 TRAFFIC CAPACITY ANALYSIS**

CONSULTANT will evaluate the project in accordance with CALTRANS Traffic Operations Policy Directive 13-02: Intersection Control Evaluation. CONSULTANT will evaluate intersection variations based on the first step of the screening process. CONSULTANT will document evaluation in an ICE Technical Memorandum to identify the preferred intersection control for the three (3) build alternatives within the PSR-PDS.

Deliverables:

- Intersection Control Evaluation Technical Memorandum (Step 1)

#### **D.5 TRAFFIC ENGINEERING PERFORMANCE ASSESSMENT**

In coordination with the CITY and other project-related engineers, CONSULTANT will utilize available transportation reports for the corridor, performance monitoring systems, local agency transportation studies to complete the Traffic Engineering Performance Assessment (TEPA) as required within Section 5, Article 5 of the PSR-PDS guidelines (Appendix S) within the PDPM. CONSULTANT will estimate the scope and magnitude of the Traffic Engineering studies (i.e., Travel Forecasting; Traffic Analysis; Infrastructure Evaluation; Warrant Analysis; and Safety Review) that need to be performed during the subsequent Project Approval & Environmental Document (PA&ED) phase. To meet the purpose of the PSR-PDS, it is intended that the preliminary traffic engineering studies should be limited to an assessment of readily available information and data, and macro-level analysis and evaluation. This effort will produce preliminary traffic engineering findings and estimates to inform and advise the PDT on:

- The potential scope of work and features (especially the traffic "elements" referenced above)
- Planned CITY and Riverside County developments and land use changes including predicted year of beneficial use
- Potential performance benefits and deficiencies
- The scope and magnitude of traffic engineering work (traffic forecasting, modeling, analysis, and evaluation) to be performed during the Project Approval and Environmental Document phase

CONSULTANT will identify the traffic forecasting and traffic engineering studies needed to analyze, evaluate, and more accurately predict or estimate operational and safety performance of the proposed improvements during the future PA&ED phase. Future studies may require new data collection and forecasting. CONSULTANT will perform a macro-level analysis at the study intersections and locations using Synchro software and HCM methodology. Microsimulation is not assumed under this task. Traffic analysis will be conducted under existing conditions, design year (2055) no-build conditions, and design year (2055) with two build alternatives conditions. The analysis will present delay and level of service at each study intersection and freeway mainline. The analysis will be used to determine three (3) build alternatives for the PSR-PDS. Detailed analysis (FREQ, CORSIM, VISSIM, etc.) will not be performed as part of this scope of

work. CONSULTANT will summarize the assessment and key findings and estimates and incorporated into the PSR-PDS document.

Deliverables:

- Traffic Engineering Performance Assessment
- Preliminary traffic assessment of three (3) build alternatives
- Summary of traffic engineering studies and scope for PSR-PDS

#### **D.7 CONSTRUCTION ESTIMATES**

CONSULTANT will prepare a “Capital Outlay Project Estimate” in accordance with Section 4 of the PSR-PDS guidelines (Appendix S) within the PDPM. The cost estimate will be in the format of Appendix AA of the PDPM to support the PSR-PDS. A cost estimate will be prepared for three (3) build alternatives within the PSR-PDS. For the PSR-PDS capital cost estimates, an order of magnitude cost estimate will be prepared. CALTRANS will prepare the “Capital Outlay Support Estimate” to identify level of staff support for PA&ED.

Deliverables:

- Capital Outlay Project Estimates for three (3) build alternatives

#### **D.8 DOCUMENTATION AND EXCEPTIONS TO DESIGN STANDARDS**

Fact Sheets for exceptions to advisory and mandatory Highway Design Manual standards are not required and excluded from this scope of work. CONSULTANT will evaluate three (3) build alternatives using Design Information Bulletin 82-01 “Design Checklist”. Deviations from design standards will be identified and described in the PSR-PDS. CONSULTANT will perform a non-standard feature risk assessment to indicate a level of risk for conceptual acceptability of the build alternatives. The design standards risk assessment is a list of design standards that will likely not be met for each alternative and the probability of approval for each proposed non-standard feature. CONSULTANT will attend a Design Exception Risk Assessment meeting with CALTRANS design staff to obtain approval of risk assessment. A Multi-Modal Decision document will be prepared and coordinated with the CITY, RCTC, and CALTRANS for approval.

Deliverables:

- List of non-standard features for three (3) build alternatives
- Design Exception Risk Assessment for approval for non-standard features
- Multi-Modal/Complete Streets Decision Document

### **WBS 150.20 TASK F: PRELIMINARY ENVIRONMENTAL ANALYSIS (PEAR)**

#### **F.1 PEAR PREPARATION**

CONSULTANT will prepare a draft and final Preliminary Environmental Analysis Report (PEAR), per CALTRANS Standard Environmental Reference Guidelines and the PEAR Handbook. CALTRANS guidelines for the PEAR will follow the guidance available as of contract date. The PEAR will identify the anticipated Environmental Document, anticipated impacts, the future

technical studies, and anticipated mitigations. The PEAR will also estimate the scope, schedule and preliminary costs associated with completing environmental compliance. The PEAR will also present and discuss the results of preliminary environmental studies in order to identify environmental analyses that may affect design. The information contained in the PEAR will serve as a foundation to begin studies for the PA&ED phase.

In addition, cumulative impacts and context sensitive solutions will be summarized in the Technical Summaries section of the PEAR, but will not have a separate technical memoranda prepared.

The PEAR will also include:

- Purpose and Need Statement
- A discussion of environmental resources and a description of the potential PROJECT issues or impacts, which could delay the PROJECT or affect any PROJECT alternative.
- Description of studies that are needed to complete an environmental evaluation (noting as necessary any seasonal constraints for these studies).
- A recommended environmental determination/documentation and a tentative schedule for its completion.
- Required or anticipated permits or approvals.

Deliverables:

- Noise, Scenic Resource, Biology, Cultural, Air Quality, Water Quality, Floodplain, Paleontology Assessments (not formal CALTRANS deliverables)
- Initial Site Assessment Checklist
- Draft and Final PEAR

## **F.2 VEHICLE MILES OF TRAVEL DECISION DOCUMENT (VMTDD) ASSISTANCE**

CONSULTANT will assist the project team in filling out the VMTDD that is now required as part of the PSR/PDS phase of the project. CONSULTANT will include preliminary forecasting to assist in estimating VMT and coordination with the project team to derive information needed for the document. CONSULTANT to prepare information for, coordinate on, and respond to comments.

Preliminary VMT determinations will be initially identified to determine if there are VMT implications for Wildomar Trail Interchange to strategize for the potential impacts by adding additional through lanes that will need to be addressed in PA&ED. Preliminary options for mitigation if VMT increases are expected should be listed as risk mitigation for each PROJECT. No additional through lanes are believed to be necessary for Bundy Canyon Road Interchange, therefore no VMT impacts are expected.

Deliverables:

- VMT Decision Document
- Preliminary VMT determination and mitigation options for inclusion in the Risk Register for Wildomar Trail Interchange

## **WBS 150.25 TASK G: APPROVED PSR-PDS & SWDR**

### **G.1 DRAFT PSR-PDS**

CONSULTANT will prepare a Draft PSR-PDS Report to document the geometric assumptions, initial studies, methodology, alternatives, findings, FHWA coordination and involvement, anticipated design exceptions with general PROJECT strategy of how to address within PA&ED phase (no fact sheets anticipated), stakeholder meetings and involvement and results in accordance with the requirements outlined as outlined within PDPM Appendix S.

#### Deliverables:

- Draft PSR-PDS (including Preliminary Geometric Drawings for build alternatives)
- TMP Data Sheets

### **G.2 FINAL PSR-PDS**

CONSULTANT will prepare the Final PSR-PDS based on any comments received from CALTRANS and schedule a focus meeting on first review comments. Response to comments will be prepared to address all the CALTRANS comments received on the Draft PSR-PDS. The Final PSR-PDS will establish the scope, schedule, and estimated costs of the alternative concepts to the PROJECT. The document will also include a tabulation of estimated project support costs and capital costs by project phase and fiscal year. CONSULTANT will coordinate and obtain final approvals of the PSR-PDS. CONSULTANT will update the FTIP and coordinate with RCTC on the project description, funding, and schedule.

#### Deliverables:

- Approved Final PSR-PDS
- Cost Estimates for Alternatives
- Updated FTIP Description

### **G.3 STORMWATER DOCUMENTATION**

CONSULTANT will prepare stormwater documentation in accordance with Section 5, Article 3 of the PSR-PDS guidelines (Appendix S) within PDPM. Since the main purpose of the PSR-PDS is only to estimate the resources needed to complete PA&ED, the expected level of stormwater information for a PSR-PDS is much less than a regular Project Study Report or Project Report. The PSR-PDS evaluation will mainly focus on determining if there will be any significant impacts to the three (3) build alternatives, right-of-way needs, or PROJECT costs due to the need to incorporate treatment Best Management Practices (BMPs) for compliance with stormwater requirements.

#### Deliverables:

- Storm Water Data Report

**EXHIBIT "B"**

**SCHEDULE OF SERVICES**

**[attached behind this page]**

**DRAFT**

PROJECT SCHEDULE:

15 Month Schedule from Notice to Proceed

DRAFT

**EXHIBIT "C"**  
**COMPENSATION PROVISIONS**

**[attached behind this page]**

**DRAFT**

**EXHIBIT "C"**  
**COMPENSATION SUMMARY<sup>1</sup>**

FIRM	PROJECT TASKS/ROLE	COST
<i><b>Prime Consultant:</b></i>		
HDR Engineering Inc.	Project Study Reports	\$ 692,534.82
<i><b>Sub Consultants:</b></i>		
Fehr & Peers	Traffic	61,779.75
GPA Consulting	Environmental	75,494.56
Mark Thomas Company	Utilities and Right of Way	21,514.76
<b>TOTAL COSTS</b>		<b>\$ 851,323.89</b>

<sup>1</sup> Commission authorization pertains to total contract award amount. Compensation adjustments between consultants may occur; however, the maximum total compensation authorized may not be exceeded.

DRAFT



**Agreement No. 25-72-017-00**

**PROFESSIONAL SERVICES AGREEMENT  
RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
AGREEMENT WITH  
HDR ENGINEERING, INC.  
FOR  
PROJECT STUDY REPORTS (PSR) – PROJECT DEVELOPMENT SUPPORT (PDS)  
FOR THE BUNDY CANYON ROAD INTERCHANGE IMPROVEMENT PROJECT**

**Parties and Date.**

This Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_, 2024, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and HDR ENGINEERING, INC. ("Consultant"), a CORPORATION. The Commission and Consultant are sometimes referred to herein individually as "Party", and collectively as the "Parties".

**Recitals.**

- A. On November 8, 1988 the Voters of Riverside County approved Measure A authorizing the collection of a one-half percent (1/2 %) retail transactions and use tax (the "tax") to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the "Plan").
- B. Pursuant to Public Utility Code Sections 240000 et seq., the Commission is authorized to allocate the proceeds of the Tax in furtherance of the Plan.
- C. On November 5, 2002, the voters of Riverside County approved an extension of the Measure A tax for an additional thirty (30) years for the continued funding of transportation and improvements within the County of Riverside.
- D. Consultant desires to perform and assume responsibility for the provision of certain professional services required by the Commission on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing PROJECT STUDY REPORT services to public clients, is licensed in the State of California (if necessary), and is familiar with the plans of the Commission.
- E. The Commission desires to engage Consultant to render such services for the Project Study Report – Project Development Support for the Bundy Canyon Road Interchange Improvement Project ("Project"), as set forth in this Agreement.

F. The Commission is undertaking the Project in cooperation with the City of Wildomar ("City").

## **Terms.**

1. General Scope of Services. Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, and incidental and customary work necessary to fully and adequately supply the professional PROJECT STUDY REPORT services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

2. Commencement of Services.

The Consultant shall commence work upon receipt of a written "Notice to Proceed" or "Limited Notice to Proceed" from Commission.

3. Term.

3.1 This Agreement shall go into effect on the date first set forth above, contingent upon approval by Commission, and Consultant shall commence work after notification to proceed by Commission's Contract Administrator. This Agreement shall end on June 30, 2026, unless extended by contract amendment.

3.2 Consultant is advised that any recommendation for Agreement award is not binding on Commission until this Agreement is fully executed and approved by the Commission.

3.3 This Agreement shall remain in effect until the date set forth above, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

4. Commission's Contract Administrator. The Commission hereby designates the Commission's Executive Director, or his or her designee, to act as its Contract Administrator for the performance of this Agreement ("Commission's Contract Administrator"). Commission's Contract Administrator shall have the authority to act on behalf of the Commission for all purposes under this Agreement. Commission's Contract Administrator shall also review and give approval, as needed, to the details of Consultant's work as it progresses. Consultant shall not accept direction or orders from any person other than the Commission's Contract Administrator or his or her designee.

5. Consultant's Representative. Consultant hereby designates Mark Hager to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to act on behalf of Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her professional skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with Commission's Contract Administrator and any other agencies which may have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the Commission staff at all reasonable times. Any substitution in Consultant's Representative shall be approved in writing by Commission's Contract Administrator.

6. Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions herein. The key personnel for performance of this Agreement are as follows: Mark Hager; Brian Smith; Julian Hernandez; Laura Comstock; Jason Pack; Josh Cospel.

7. Standard of Care; Licenses; Evaluation.

7.1 Consultant represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Agreement to fully and adequately complete the Project. Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents and warrants to the Commission that its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Consultant's errors and omissions. Any employee of Consultant or its sub-consultants who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission,

shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

7.2 Consultant's performance will be evaluated by Commission. A copy of the evaluation will be sent to Consultant for comments. The evaluation together with the comments shall be retained as part of the Agreement record.

8. Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Consultant on an independent contractor basis and not as an employee, agent or representative of the Commission. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their performance of Services and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security taxes, income tax withholdings, unemployment insurance, disability insurance, and workers' compensation insurance. Consultant hereby indemnifies and holds the Commission harmless, pursuant to the indemnification provisions contained in this Agreement, from any and all claims that may be made against the Commission based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, the Commission shall respond to Consultant's submittals in a timely manner. Upon request of Commission's Contract Administrator, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

9.1 Modification of the Schedule. Consultant shall regularly report to the Commission, through correspondence or progress reports, its progress in providing required Services within the scheduled time periods. Commission shall be promptly informed of all anticipated delays. In the event that Consultant determines that a schedule modification is necessary, Consultant shall promptly submit a revised Schedule of Services for approval by Commission's Contract Administrator.

9.2 Trend Meetings. Consultant shall conduct trend meetings with the Commission's Contract Administrator and other interested parties, as requested by the Commission, on a bi weekly basis or as may be mutually scheduled by the Parties at a standard day and time. These trend meetings will encompass focused and informal

discussions concerning scope, schedule, and current progress of Services, relevant cost issues, and future Project objectives. Consultant shall be responsible for the preparation and distribution of meeting agendas to be received by the Commission and other attendees no later than three (3) working days prior to the meeting.

9.3 Progress Reports. As part of its monthly invoice, Consultant shall submit a progress report, in a form determined by the Commission, which will indicate the progress achieved during the previous month in relation to the Schedule of Services. Submission of such progress report by Consultant shall be a condition precedent to receipt of payment from the Commission for each monthly invoice submitted.

## 10. Delay in Performance.

10.1 Excusable Delays. Should Consultant be delayed or prevented from the timely performance of any act or Services required by the terms of the Agreement by reason of acts of God or of the public enemy, acts or omissions of the Commission or other governmental agencies in either their sovereign or contractual capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, performance of such act shall be excused for the period of such delay.

10.2 Written Notice. If Consultant believes it is entitled to an extension of time due to conditions set forth in subsection 10.1, Consultant shall provide written notice to the Commission within seven (7) working days from the time Consultant knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of Consultant to provide such timely notice shall constitute a waiver by Consultant of any right to an excusable delay in time of performance.

10.3 Mutual Agreement. Performance of any Services under this Agreement may be delayed upon mutual agreement of the Parties. Upon such agreement, Consultant's Schedule of Services shall be extended as necessary by the Commission. Consultant shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

11. Preliminary Review of Work. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Agreement shall be submitted to the Commission's Contract Administrator in draft form, and the Commission may require revisions of such drafts prior to formal submission and approval. In the event plans and designs are to be developed as part of the Project, final detailed plans and designs shall be contingent upon obtaining environmental clearance as may be required in connection with Federal funding. In the event that Commission's Contract Administrator, in his or her sole discretion, determines the formally submitted work product to be not in accordance with the standard of care established under this Agreement, Commission's Contract Administrator may require Consultant to revise and resubmit the work at no cost to the Commission.

12. Appearance at Hearings. If and when required by the Commission, Consultant shall render assistance at public hearings or other meetings related to the Project or necessary to the performance of the Services. However, Consultant shall not be required to, and will not, render any decision, interpretation or recommendation regarding questions of a legal nature or which may be construed as constituting a legal opinion.

13. Opportunity to Cure; Inspection of Work. Commission may provide Consultant an opportunity to cure, at Consultant's expense, all errors and omissions which may be disclosed during Project implementation. Should Consultant fail to make such correction in a timely manner, such correction may be made by the Commission, and the cost thereof charged to Consultant. Consultant shall allow the Commission's Contract Administrator to inspect or review Consultant's work in progress at any reasonable time.

14. Claims Filed by Contractor.

14.1 If claims are filed by the Commission's contractor for the Project ("Contractor") relating to work performed by Consultant's personnel, and additional information or assistance from the Consultant's personnel is required by the Commission in order to evaluate or defend against such claims; Consultant agrees to make reasonable efforts to make its personnel available for consultation with the Commission's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

14.2 Consultant's personnel that the Commission considers essential to assist in defending against Contractor claims will be made available on reasonable notice from the Commission. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this Agreement.

14.3 Services of the Consultant's personnel and other support staff in connection with Contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to finally resolve the claims.

14.4 Nothing contained in this Section shall be construed to in any way limit Consultant's indemnification obligations contained in Section 26. In the case of any conflict between this Section and Section 26, Section 26 shall govern. This Section is not intended to obligate the Commission to reimburse Consultant for time spent by its personnel related to Contractor claims for which Consultant is required to indemnify and defend the Commission pursuant to Section 26 of this Agreement.

15. Final Acceptance. Upon determination by the Commission that Consultant has satisfactorily completed the Services required under this Agreement and within the term herein, the Commission shall give Consultant a written Notice of Final Acceptance.

Upon receipt of such notice, Consultant shall incur no further costs hereunder, unless otherwise specified in the Notice of Final Acceptance. Consultant may request issuance of a Notice of Final Acceptance when, in its opinion, it has satisfactorily completed all Services required under the terms of this Agreement.

16. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. For example, and not by way of limitation, Consultant shall keep itself fully informed of and in compliance with all implementing regulations, design standards, specifications, previous commitments that must be incorporated in the design of the Project, and administrative controls including those of the United States Department of Transportation. Compliance with Federal procedures may include completion of the applicable environmental documents and approved by the United States Department of Transportation. For example, and not by way of limitation, a signed Categorical Exclusion, Finding of No Significant Impact, or published Record of Decision may be required to be approved and/or completed by the United States Department of Transportation. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Commission, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

17. Fees and Payment.

17.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The Total Compensation shall not exceed Seven Hundred Fifty Thousand One Hundred Sixty-Three Dollars (\$750,163) without written approval of Commission's Representative. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

17.2 Payment of Compensation. Consultant shall submit a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the Statement. Charges specific to each Milestone listed in the Schedule of Services shall be listed separately on an attachment to each statement. Each statement shall be accompanied by a monthly progress report and spreadsheets showing hours expended for each task for each month and the total Project to date. Each statement shall include a cover sheet bearing a certification as to

the accuracy of the statement signed by the Consultant's Project Manager or other authorized officer.

17.3 Extra Work. At any time during the term of this Agreement, Commission may request Consultant to perform Extra Work. As used herein, "Extra Work" means any work which is determined by the Commission to be necessary for proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from Commission's Representative. In the event an Extra Work Order is not issued and signed by Commission's Representative, Consultant shall not provide such Extra Work.

17.4 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by the Commission's Representative.

## 18. Disputes.

18.1 Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by mutual agreement of the Parties shall be decided by a committee consisting of RCTC's Contract Administrator and the Director of Capital Projects, who may consider written or verbal information submitted by Consultant.

18.2 Not later than 30 days after completion of all Services under this Agreement, Consultant may request review by the Commission's Executive Director of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

18.3 Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.

## 19. Termination; Suspension.

19.1 Commission reserves the right to terminate this Agreement for any or no reason upon written notice to Consultant setting forth the effective date of termination, with the reasons for termination stated in the notice.

19.2 Commission may terminate this Agreement with Consultant should Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, Commission may proceed with the work in any manner deemed proper by Commission. If Commission terminates this Agreement with Consultant, Commission shall pay Consultant the sum due to Consultant under this Agreement for Services completed and accepted prior to termination, unless the cost of completion to Commission exceeds the funds remaining



in this Agreement. In such case, the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.

19.3 In addition to the above, payment upon termination shall include a prorated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed Services. Consultant shall provide documentation deemed adequate by Commission's Contract Administrator to show the Services actually completed by Consultant prior to the effective date of termination. This Agreement shall terminate on the effective date of the Notice of Termination.

19.4 Discontinuance of Services. Upon receipt of the written Notice of Termination, Consultant shall discontinue all affected Services as directed in the Notice or as otherwise provided herein, and deliver to the Commission all Documents and Data, as defined in this Agreement, as may have been prepared or accumulated by Consultant in performance of the Services, whether completed or in progress.

19.5 Effect of Termination for Cause. In addition to the above, Consultant shall be liable to the Commission for any reasonable additional costs incurred by the Commission to revise work for which the Commission has compensated Consultant under this Agreement, but which the Commission has determined in its sole discretion needs to be revised, in part or whole, to complete the Project because it did not meet the standard of care established herein. Termination of this Agreement for cause may be considered by the Commission in determining whether to enter into future agreements with Consultant.

19.6 Cumulative Remedies. The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

19.7 Waivers. Consultant, in executing this Agreement, shall be deemed to have waived any and all claims for damages which may otherwise arise from the Commission's termination of this Agreement, for convenience or cause, as provided in this Section.

19.8 Consultant may not terminate this Agreement except for cause.

19.9 Suspension. In addition to the termination rights above, Commission may temporarily suspend this Agreement, at no additional cost to Commission, provided that Consultant is given written notice of temporary suspension. If Commission gives such notice of temporary suspension, Consultant shall immediately suspend its activities under this Agreement. A temporary suspension may be issued concurrent with a notice of termination.

20. Retention of Records/Audit. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this Agreement pursuant to Government Code 8546.7; Consultant, subconsultants, and Commission shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during this Agreement period and for three years from the date of final payment under this Agreement. The state, State Auditor and the Commission shall have access to any books, records, and documents of Consultant that are pertinent to this Agreement for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

21. Audit Review Procedures.

21.1 Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by Commission's Chief Financial Officer.

21.2 Not later than 30 days after issuance of the final audit report, Consultant may request a review by Commission's Chief Financial Officer of unresolved audit issues. The request for review shall be submitted in writing.

21.3 Neither the pendency of a dispute nor its consideration by Commission shall excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

22. Subcontracting.

22.1 Nothing contained in this Agreement or otherwise, shall create any contractual relation between Commission and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to Commission for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from Commission's obligation to make payments to the Consultant.

22.2 Consultant shall perform the Services with resources available within its own organization and no portion of the Services shall be subcontracted without written authorization by Commission's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

22.3 Consultant shall pay its subconsultants within fifteen (15) calendar days from receipt of each payment made to Consultant by Commission.

22.4 Any subcontract in excess of \$25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

22.5 Any substitution of subconsultant(s) must be approved in writing by Commission's Contract Administrator prior to the start of work by the subconsultant(s).

22.6 Exhibit "C" may also set forth the rates at which each subconsultant shall bill the Consultant for Services and that are subject to reimbursement by the Commission to Consultant. Additional Direct Costs, as defined in Exhibit "C" shall be the same for both the Consultant and all subconsultants, unless otherwise identified in Exhibit "C". The subconsultant rate schedules and cost proposals contained herein are for accounting purposes only.

### 23. Equipment Purchase

23.1 Prior authorization, in writing, by Commission's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract for supplies, equipment, or Consultant services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

23.2 For purchase of any item, service or consulting work not covered in Consultant's Cost Proposal and exceeding \$5,000 prior authorization by Commission's Contract Administrator is required. Three competitive quotations must be submitted with the request for such purchase, or the absence of bidding must be adequately justified.

23.3 Any equipment purchased as a result of this Agreement is subject to the following:

Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, Commission shall receive a proper refund or credit at the conclusion of this Agreement, or if this Agreement is terminated, Consultant may either keep the equipment and credit Commission in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established Commission procedures; and credit Commission in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to Commission and Consultant. If Consultant determines to sell the equipment, the terms and conditions of such sale must be approved in advance by Commission.

23.4 All subcontracts in excess \$25,000 shall contain the above provisions.

## 24. Labor Code Requirements.

### 24.1 Prevailing Wages.

(a) Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all State, and local laws and ordinances applicable to the Services.

(b) Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.

(c) When prevailing wages apply to the Services described in the Scope of Services, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

(d) Copies of the prevailing rate of per diem wages in effect at commencement of this Agreement are on file at the Commission's offices. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Commission, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

24.2 DIR Registration. If the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. If applicable, Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

24.3 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Consultant or the Services are

not subject to the Eight-Hour Law. Consultant shall forfeit to Commission as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any sub-consultant under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Consultant or the Services are not subject to the Eight-Hour Law.

24.4 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Consultant

25. Ownership of Materials/Confidentiality.

25.1 Documents & Data. This Agreement creates an exclusive and perpetual license for Commission to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”).

Consultant shall require all subcontractors to agree in writing that Commission is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Consultant makes no

such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Commission.

Commission shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Commission's sole risk.

25.2 Intellectual Property. In addition, Commission shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media ("Intellectual Property") prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

The Commission shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for wholly or in part by Commission, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Commission.

Consultant shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the Commission.

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

Commission further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

25.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information,

and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Commission, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Commission's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Commission.

25.4 **Infringement Indemnification.** Consultant shall defend, indemnify and hold the Commission, the City and their directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by Commission of the Documents & Data, including any method, process, product, or concept specified or depicted.

26. **Indemnification.** To the fullest extent permitted by law, Consultant shall defend (with counsel of Commission's choosing), indemnify and hold Commission, the City and their directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, the City and their directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission, the City or their directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Commission, the City and their directors, officials, officers, employees, consultants, agents, and/or volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission, the City and their directors, officials officers, employees, consultants, agents, or volunteers.

If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil

Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Consultant's obligations as set forth in this Section shall survive expiration or termination of this Agreement.

## 27. Insurance.

27.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the Commission that it has secured all insurance required under this Section, in a form and with insurance companies acceptable to the Commission. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this Section.

27.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(a) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) Automobile Liability: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) Workers' Compensation and Employer's Liability: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(b) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; (2) Automobile Liability: \$2,000,000 per accident for bodily injury and property damage. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; and (3) Workers' Compensation and



Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of \$1,000,000 per accident.

27.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. For Consultant, such insurance shall be in an amount not less than \$2,000,000 per claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. Subconsultants of Consultant shall obtain such insurance in an amount not less than \$1,000,000 per claim. Notwithstanding the foregoing, the Commission may consider written requests to lower or dispense with the errors and omissions liability insurance requirement contained in this Section for certain subconsultants of Consultant, on a case-by-case basis, depending on the nature and scope of the Services to be provided by the subconsultant. Approval of such request shall be in writing, signed by the Commission's Contract Administrator.

27.4 Aircraft Liability Insurance. Prior to conducting any Services requiring use of aircraft, Consultant shall procure and maintain, or cause to be procured and maintained, aircraft liability insurance or equivalent form, with a single limit as shall be required by the Commission. Such insurance shall include coverage for owned, hired and non-owned aircraft and passengers, and shall name, or be endorsed to name, the Commission, the City and their directors, officials, officers, employees and agents as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant.

27.5 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the Commission to add the following provisions to the insurance policies:

(a) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) bodily Injury and property damage; (2) personal Injury/advertising Injury; (3) premises/operations liability; (4) products/completed operations liability; (5) aggregate limits that apply per Project; (6) explosion, collapse and underground (UCX) exclusion deleted; (7) contractual liability with respect to this Agreement; (8) broad form property damage; and (9) independent consultants coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or

suits by one insured against another; or (3) contain any other exclusion contrary to this Agreement.

(iii) The policy shall give the Commission, the City and their directors, officials, officers, employees, and agents insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be “primary and non-contributory” and will not seek contribution from the Commission’s or City’s insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(b) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Commission, the City and their directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the Commission, the City and their directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant’s scheduled underlying coverage. Any insurance or self-insurance maintained by the Commission, the City and their directors, officials, officers, employees and agents shall be excess of the Consultant’s insurance and shall not be called upon to contribute with it in any way.

(c) Workers’ Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against the Commission, the City and their directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(d) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement

under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to the Commission, the City and their directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Commission and the City (if agreed to in a written contract or agreement) before the Commission's and the City's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide the Commission at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Commission at least ten (10) days prior to the effective date of cancellation or expiration.

(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Commission, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Commission has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Commission will be promptly

reimbursed by Consultant or Commission will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Commission may cancel this Agreement. The Commission may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither the Commission nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

27.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Commission. If the Commission does not approve the deductibles or self-insured retentions as presented, Consultant shall guarantee that, at the option of the Commission, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Commission, its directors, officials, officers, employees and agents; or, (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

27.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Commission.

27.8 Verification of Coverage. Consultant shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Commission before work commences. The Commission reserves the right to require complete, certified copies of all required insurance policies, at any time.

27.9 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all insurance required under this Section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

27.10 Other Insurance. At its option, the Commission may require such additional coverage(s), limits and/or the reduction of deductibles or retentions it considers reasonable and prudent based upon risk factors that may directly or indirectly impact the Project. In retaining this option Commission does not warrant Consultant's

insurance program to be adequate. Consultant shall have the right to purchase insurance in addition to the insurance required in this Section.

28. Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

As between Consultant and the construction contractors only, the construction contractors shall remain solely responsible for construction safety notwithstanding any safety obligations of Consultant at the jobsite. The foregoing sentence shall not impact nor in any way modify or alter Consultant's indemnity and defense obligations to the Commission, as set forth in Section 26 of this Agreement, not any of Consultant's duties or obligations set forth under this Agreement, including the attached exhibits.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the Commission has determined that the Project will contain areas that are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

29. Prohibited Interests.

29.1 Solicitation. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to rescind this Agreement without liability.

29.2 Consultant Conflict of Interest.

(a) Consultant shall disclose any financial, business, or other relationship with Commission that may have an impact upon the outcome of this Agreement, or any ensuing Commission construction project. Consultant shall also list

current clients who may have a financial interest in the outcome of this Agreement, or any ensuing Commission construction project, which will follow.

(b) Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of Services under this Agreement. Consultant agrees to advise Commission of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Agreement. Consultant further agrees to complete any statements of economic interest if required by either Commission or State law.

(c) Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

(d) Consultant hereby certifies that neither Consultant, nor any firm affiliated with Consultant will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

(e) Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this Agreement shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement.

29.3 Commission Conflict of Interest. For the term of this Agreement, no member, officer or employee of the Commission, during the term of his or her service with the Commission, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

29.4 Conflict of Employment. Employment by the Consultant of personnel currently on the payroll of the Commission shall not be permitted in the performance of this Agreement, even though such employment may occur outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, the employment by the Consultant of personnel who have been on the Commission payroll within one year prior to the date of execution of this Agreement, where this employment is caused by and or dependent upon the Consultant securing this or related Agreements with the Commission, is prohibited.

29.5 Rebates, Kickbacks or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any Commission employee. For breach or violation of this warranty, Commission shall have the right in its discretion; to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

29.6 Employment Adverse to the Commission. Consultant shall notify the Commission, and shall obtain the Commission's written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against the Commission during the term of this Agreement.

30. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

31. Right to Employ Other Consultants. Commission reserves the right to employ other consultants in connection with the Project.

32. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California. Venue shall be in Riverside County.

33. Disputes; Attorneys' Fees.

33.1 Prior to either party commencing any legal action under this Agreement, the Parties agree to try in good faith, to resolve any dispute amicably between them. If a dispute has not been resolved after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either Party may seek any other available remedy to resolve the dispute.

33.2. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and, all other costs of such actions.

34. Time of Essence. Time is of the essence for each and every provision of this Agreement.

35. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

36. Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

CONSULTANT:

HDR ENGINEERING, INC.  
2280 Market Street, Suite 100  
Riverside, CA 92501  
ATTN: Mark Hager

COMMISSION:

Riverside County Transportation Commission  
4080 Lemon Street, 3rd Floor  
Riverside, CA 92501  
Attn: Executive Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. mail, first class postage prepaid, and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

37. Conflicting Provisions. In the event that provisions of any attached exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the performance of the Services.

38. Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

39. Entire Agreement. This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.

40. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

41. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

42. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

43. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

44. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.



45. Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to the Commission. Consultant shall not respond to any such subpoena or court order until notice to the Commission is provided as required herein, and shall cooperate with the Commission in responding to the subpoena or court order.

46. Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein, without the prior written consent of the Commission. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

47. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, and shall not be assigned by Consultant without the prior written consent of Commission.

48. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

49. No Waiver. Failure of Commission to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

50. Electronically Transmitted Signatures; Electronic Signatures. A manually signed copy of this Agreement which is transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes. This Agreement may be signed using an electronic signature.

**[Signatures on following page]**

**SIGNATURE PAGE  
TO  
PROFESSIONAL SERVICES AGREEMENT**

**IN WITNESS WHEREOF**, this Agreement was executed on the date first written above.

<p><b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b></p> <p>By: _____ Aaron Hake Executive Director</p> <p><i>Approved as to Form:</i></p> <p>By: _____ Best, Best &amp; Krieger LLP General Counsel</p>	<p><b>CONSULTANT HDR ENGINEERING, INC.</b></p> <p>By: _____ Signature</p> <p>_____ Name</p> <p>_____ Title</p> <p><b>ATTEST:</b></p> <p>By: _____</p> <p>Its: _____</p>
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\* A corporation requires the signatures of two corporate officers.

One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to RCTC.

**EXHIBIT "A"**

**SCOPE OF SERVICES**

**[attached behind this page]**

**DRAFT**

# Interstate 15 Wildomar Interchange Improvement Projects Project Study Report-Project Development Support (PSR-PDS)

## Scope of Work

CONSULTANT will prepare PSR-PDS in accordance with CALTRANS Guidelines and Procedures, California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). The purpose of the PSR-PDS is to scope the PA&ED phase relative to CEQA/NEPA and program the project for funding relative to construction and capital supports costs for each of the Bundy Canyon Road and Wildomar Trail interchange projects. This Scope of Work is intended to be applicable for each project unless additional deliverables are specifically listed in this scope. All deliverables will be provided electronically for RCTC, CITY and CALTRANS project records.

### WBS 100.05 Task A: PROJECT MANAGEMENT

#### A.1 PROJECT INITIATION AND PLANNING

CONSULTANT will schedule a Pre-PID meeting with CALTRANS per Appendix S of the PDPM. CONSULTANT and CITY will meet with CALTRANS to communicate a shared view of the PROJECT and to establish an understanding of the procedures, roles, and responsibilities of the PROJECT. The meeting will begin the process to prepare and enter into an agreement with CALTRANS for reimbursable work. CONSULTANT will review the PSR-PDS and PID development processes with CALTRANS and set the framework of the design concept and scope, as well as the purpose and need for the PROJECT. CONSULTANT will develop agenda and meeting minutes for the meeting.

##### Deliverables:

- Pre-PID Meeting Agenda, handouts, and meeting minutes

#### A.2 COORDINATION AND MEETINGS

CONSULTANT will be responsible for overall project management, liaison with CALTRANS and other affected agencies, and progress monitoring and maintenance of PROJECT files. CONSULTANT will supervise, coordinate, monitor and review project for conformance with CALTRANS and CITY/County standards, policies, and procedures. CONSULTANT will develop a project schedule for delivery of major milestones of the PSR-PDS, PA&ED (Begin Environmental, Circulate ED, and PA&ED), Design and Construction. A 15-month schedule is anticipated for scoping purposes. CONSULTANT will attend a kick-off meeting, lead monthly Project Development Team (PDT) meetings, coordinate with sub-consultants as needed, coordinate with the CITY and CALTRANS, utility companies, and all other pertinent stakeholders as needed.

##### Deliverables:

- Monthly (15) PDT Meetings and Agendas / Minutes
- Two (2) Stakeholder Meetings and Presentations
- Project Baseline Schedule
- Deliverables Matrix
- Monthly Progress Reports and Invoices

### **A.3 QUALITY MANAGEMENT PLAN**

CONSULTANT Project Manager will prepare and implement a Quality Management Plan (QMP). CONSULTANT will prepare a responsibilities matrix outlining responsibilities of independent Quality Control on respective tasks within this scope of work herein. Refer to Chapter 5, Article 9 of the PDPM Appendix S for general guidance on the Quality Management Plan. The CONSULTANT will be responsible for incorporating RCTC's Quality Assurance Plan and confirming that all the processes and procedures are met and incorporated into the CONSULTANT'S Quality Management Plan.

#### Deliverables:

- QMP
- Project Management Plan/Communication Plan

### **A.4 RISK ASSESSMENT**

CONSULTANT will prepare the Risk Register in accordance with PDPM Appendix S. Since the reduced amount of data that is required for the PSR-PDS transfers risks to future phases and it is important to identify the risk, define the probability, define the severity, identify who or what the risk will impact, and identify the ownership of the risk. CONSULTANT will coordinate with the CITY and project team members to jointly identify, assess, quantify, prepare a response to, monitor, and control capital project risks within the Risk Register. Potential risks will be evaluated and discussed by the PDT, and ownership of the risks will be identified. CONSULTANT will summarize project risks in the PSR-PDS.

#### Deliverables:

- Risk Assessment Matrix
- Summary of Risks in PSR-PDS

### **WBS 150: DEVELOP PROJECT INITIATION DOCUMENT**

CONSULTANT will prepare a draft, final and signature ready document for each deliverable listed in WBS 150 PID Phase. It is assumed that RCTC and the CITY reviews are concurrent and in advance of the CALTRANS reviews.

#### **WBS 150.05 Task B: PROBLEM DEFINITION**

##### **B.1 REVIEW OF EXISTING REPORTS/ DATA GATHERING**

COUNTY and CITY will provide available existing reports, studies, existing mapping from RCTC's I-15 Corridor Improvement Project dated 2008, and other information for the PROJECT, as requested by CONSULTANT. CONSULTANT will review all provided information and obtain any other available and necessary information for preparation of PSR-PDS. CONSULTANT will obtain as-builts, utility information (conducted via Dig Alert search), Transportation Concept Report/Route Concept Report (TCR/RCR), Corridor System Management Plan (CSMP), Regional Transportation Plan (RTP), Congestion Management Program (CMP), 10-Year SHOPP, the State Implementation Plan, County of Riverside General Plan, City General Plan, local development plans, other reports.

#### Deliverables:

- Photographs, Exhibits, Inventory List of related studies, mapping, and reports
- CALTRANS Encroachment Permit

## **B.2 SUPPLEMENTAL MAPPING (OPTIONAL TASK)**

The PSR-PDS will utilize available aerial mapping provided by the CONSULTANT. CONSULTANT will utilize available GIS right of way mapping. New or additional aerial mapping, survey, topographic mapping, or right of way mapping for the PROJECT may be required (optional task) for this phase of the work. CONSULTANT will obtain CALTRANS Encroachment Permit for general field and non-ground disturbing activities to obtain information for the project, such as field photography, traffic data, etc.

### Deliverables:

- Supplemental Topographic Mapping (Optional Task by Subconsultant if Needed)

## **B.3 TRAFFIC FORECASTS**

Per the PSR-PDS guidelines the Traffic Engineering Performance Assessment (TEPA) will be limited to an assessment of readily available information. The TEPA will be based on information obtained from the

- Regional Model Data and CI Traffic TY Provided Traffic Data for the Ramps and Local Streets including the following CITY provided Impact Assessments (TIA):
  - Wildomar Meadows TIA
  - Baxter Village TIA
  - Baxter Town Center TIA
  - Monte Vista Ranch TIA
  - Inland Valley Medical Center TIA
  - Oak Creek TIA

Data collected and found in various reports are representative of Project conditions and considered the most comprehensive available data for use in the PSR-PDS. Other additional and available data will be referenced if needed.

### **B.3.1 Analysis Scenario**

- Existing Conditions
- Design Year (2055) Conditions – No-Build Alternative
- Design Year (2055) Conditions – Build Alternatives (up to three build alternatives)
- Evaluate operational enhancements with widening of Monte Vista Drive as a north-south / parallel frontage road consistent with City General Plan circulation element.

### **B.3.2 Intersections**

- Interstate 15 Entrance & Exit Ramps (4 existing intersection locations)
- Cervera Road/Wild Stallion Lane to Western Way (3 existing intersection locations)
- Monte Vista Drive (5 existing intersection locations)

- Orange Street to Monte Vista Drive (3 existing intersection locations)

Deliverables:

- Traffic forecast volumes

#### **B.4 PROBLEM DEFINITION**

CONSULTANT will establish the PROJECT need and purpose, including CAPTI elements, identification of logical termini and independent utility, in accordance with CALTRANS guidelines in the PDPM and Environmental Documentation requirements. The analysis will summarize the information on capacity and operational deficiencies, congestion levels, future traffic levels of service (LOS), queuing analysis, potential for auxiliary lanes, and accident data provided by CALTRANS and PROJECT scoping. CONSULTANT will complete the Scoping Tools including the Transportation Planning Scoping Information Sheet (TPSIS attachment) and Design Scoping Index as outlined in Section 5, Article 2 and 4 of the PSR-PDS guidelines (Appendix S) within the Project Development Procedures Manual (PDPM).

Deliverables:

- Purpose and Need Statement
- Transportation Planning Scoping Information Sheet (attachment to PSR-PDS)
- Design Scoping Index
- Project Determination Letter

### **WBS 150.10 TASK C: PRELIMINARY ENGINEERING AND INITIAL ALTERNATIVES DEVELOPMENT**

#### **C.1 CONCEPTUAL ALTERNATIVES DEVELOPMENT**

CONSULTANT, in coordination with RCTC and the City of Wildomar, will identify three (3) alternatives for the PSR-PDS. The three (3) alternatives will be agreed upon through a concept screening process. The concept screening process will consist of comparing up to five (5) concepts through various criteria that will be developed and coordinated with CALTRANS, RCTC, and the CITY. One (1) concept screening workshop will be held to determine the three (3) alternatives that will be considered in the PSR-PDS and future phases. Each alternative studied will go through a constructability review to determine feasibility. CONSULTANT will prepare layout schematics in 11x17 format at 1" = 500' scale for three (3) alternatives as CALTRANS standard cut sheets including title block. The layout schematics will illustrate proposed ramp configurations and include proposed lane configurations, shoulders, and right of way for each alternative. Right of way requirements, retaining wall and potential sound wall locations may be shown (if applicable).

Deliverables:

- Concept Screening Matrix with up to five (5) concepts
- One (1) concept screening workshop
- Layout schematic and typical section sheet (2 total) for the three (3) recommended alternatives.

### **C.3 PUBLIC/LOCAL AGENCY DATA COLLECTION**

CONSULTANT shall use available information as collected from other involved agencies to prepare a compatible interchange design with existing and future conditions. Involved agencies include, but will not necessarily be limited to the following:

- California Department of Transportation (CALTRANS)
- Riverside County Transportation Commission (RCTC)
- City of Wildomar (CITY)
- Western Riverside County Regional Conservation Authority
- United States Fish and Wildlife Service
- California Department of Fish and Wildlife
- Riverside County Transportation Department & Flood Control District

### **C.4 PERFORM PUBLIC AND COMMUNITY OUTREACH**

The CONSULTANT will support the CITY and RCTC by executing an abbreviated but strategic public outreach program at established venues/sessions by the CITY or RCTC to explain the proposed project, understand community/business concerns, offer opportunities for community feedback and two-way dialogue, and discuss the purpose and need for the project at either a local council or board meeting. Outreach activities will support the technical team, with materials designed to be bi-lingual and "user friendly" to confirm that the public understands the Project Initiation Document (PID) phase and how to provide valuable input to the delivery team.

The CONSULTANT will organize and attend one (1) established public outreach event similar to a local Municipal Advisory Council (MAC) Meeting (District 1) to inform the community of roadway improvement being considered within the project area, to inform the public and responsible agencies about the proposed project and the environmental process, and to solicit input from local residents and businesses that can be obtained during the planning and concept evaluation stage of the PSR-PDS. The workshop will be advertised through various CITY and RCTC already occurring outreach channels to generate interest and foster community attendance.

The CONSULTANT will attend one (1) City Council Meeting to support the project team's presentation of the roadway improvement concepts considered within the project area to the City Council. The outreach component of this presentation will assist the CITY and the project team to better understand the public concerns and will provide the team with an opportunity to address community concerns as the project moves forward in the planning phase.

Clear and concise project information will be produced through an equity lens and distributed by hand at meetings, through mailings, and electronically through email, web, and social as necessary. The CONSULTANT will facilitate developing an online Fact Sheet in English and Spanish for the Public Outreach from the RCTC or CITY website and presentation at a City Council Meeting. The English/Spanish Fact Sheet will be prepared in close collaboration with the technical team, followed by one update. The information produced can be provided to CITY staff to be uploaded on the existing CITY hosted website for additional ongoing public access during the project's planning phase. The informational materials will explain and illustrate the potential conceptual design alternatives to be studied further in PA&ED, the purpose and need, anticipated project delivery timeline, potential funding sources, and ways to obtain more information and provide feedback on the proposed project. The CONSULTANT



will produce a brief presentation for stakeholder meetings and as visuals for use at the public outreach workshop. It is expected that any public outreach sessions will occur at a CITY provided facility and local law enforcement would be provided as deemed appropriate by RCTC and the CITY. If law enforcement presence is desired, it would be coordinated and provided by the CITY staff.

Deliverables:

- Attendance and participation at one (1) Public Outreach / Established MAC Meeting
- Attendance and participation at one (1) City Council or Board Meeting
- Stakeholder Contact Database / Project Distribution List (1 electronic copy);
  - Public Input / Comment Acknowledgment
- Project Fact Sheet in both English and Spanish (1 electronic copy and up to 100 color printed 8.5 x 11 copies)
- Preparation of PowerPoint presentation for use at a City Council or Board Meeting

**WBS 150.15 TASK D: ALTERNATIVES ANALYSIS**

**D.1 RIGHT OF WAY CONCEPTUAL COST ESTIMATE**

CONSULTANT will summarize the anticipated right of way, and utilities impacts for the three (3) build alternatives within the PSR-PDS using the Conceptual Cost Estimate Request/Right of Way Component in accordance with Section 5, Article 7 of the PSR-PDS guidelines (Appendix S) within the PDPM.

CONSULTANT will utilize available GIS preliminary mapping showing the property boundaries and right of way requirements to estimate the number, area, and magnitude of parcels required for acquisition and the likely number of easements needed. CONSULTANT will identify existing utilities and potential relocation activities using existing, available information (e.g., permit search, as-built drawings, field review). CONSULTANT will prepare "Conceptual Cost Estimate – Right-of-Way Component" to develop an order of magnitude cost estimate and to identify additional studies that may be needed during PA&ED. CONSULTANT will coordinate with the Riverside County Assessor records to assess per square foot unit costs and associated right of way costs relative to impacts to adjacent properties. The square foot unit costs will be developed in coordination with Riverside County Assessor records and comparable properties within the vicinity of the project.

Deliverables:

- Preliminary Right of Way Requirement Exhibits for three (3) build alternatives
- Utility Assessment (not a formal CALTRANS deliverable)
- Conceptual Cost Estimate – Right-of-Way Component

**D.2 PRELIMINARY STRUCTURES ASSESSMENT**

Using available as-built information for the existing structure facilities along the corridor, CONSULTANT will identify proposed structure improvements for each of the three (3) structures build alternatives for Wildomar Trail OC bridges and one (1) structures build alternatives for Bundy Canyon Road UC tie-back walls in support of the cost estimate for the PSR-PDS. CONSULTANT will use a streamlined estimating process, such as square-footage costs to develop a "Structure PSR-PDS Cost Estimate" for inclusion into the PSR-PDS document when

bridge and/or nonstandard retaining wall work is necessary. CONSULTANT will prepare the Division of Engineering Services (DES) Scoping Checklist in coordination with Project Liaison Engineer. For a PSR-PDS, the level of detail in the DES Scoping Checklist and "Structure PSR-PDS Cost Estimate" is limited to information required to develop accurate work plans for the PA&ED phase.

Deliverables:

- Preliminary Structures Assessment - APS Memorandum (not a formal CALTRANS deliverable)
  - Three (3) structures build alternatives for Wildomar Trail OC bridges
  - One (1) structure build alternative for Bundy Canyon Road UC tie-back walls
- Structures PSR-PDS Cost Estimate
- DES Scoping Checklist

## **C.2 PRELIMINARY GEOTECHNICAL ASSESMENT & LIFE CYCLE COST ANALYSIS**

Using available Geotechnical information, the CONSULTANT will assess the existing data in the area. CONSULTANT will prepare a Life Cycle Cost Analysis (LCCA) for the PID phase of the proposed project. A preliminary materials report (PMR) is not anticipated to be required for the PID phase of work and excluded from the scope of work. The LCCA will be divided into three different pavement scenarios:

- Pavement Scenario 1 – worst case ramp 20/40-year Flexible & Rigid
- Pavement Scenario 2– worst case Local Interchange Roads 20/40-year Flexible & Rigid
- Pavement Scenario 3– worst case outside auxiliary lane 20/40-year Flexible & Rigid

CONSULTANT will review existing geotechnical maps and reports in order to develop preliminary pavement sections based on highly simplified pavement assumptions. It is assumed that CALTRANS Mechanistic-Empirical calculations will not be required for this preliminary planning phase. CONSULTANT will also Perform geotechnical analysis of the collected data and develop LCCA calculations and prepare a preliminary LCCA report presenting findings and preliminary pavement recommendations for the proposed improvements.

Deliverables:

- Preliminary Geotechnical Assessment (not a formal CALTRANS deliverable)
- Draft LCCA Assessment

## **D.3 PRELIMINARY DRAINAGE ASSESSMENT**

Freeway, County, and CITY existing drainage systems and master planned drainage facilities will be reviewed and the impacts of the proposed three (3) build alternatives on these facilities will be assessed. Necessary replacements and/or improvements including incorporation of Water Quality Best Management practices will be reflected in the cost estimates. Detailed hydraulic/hydrologic calculations are outside the scope of this scope of work. CONSULTANT will identify permits for design, construction, and operations of drainage facilities.

Deliverables:

- Preliminary Drainage Assessment (not a formal CALTRANS deliverable)
- Preliminary cost estimates to affected major drainage facilities

#### **D.4 TRAFFIC CAPACITY ANALYSIS**

CONSULTANT will evaluate the project in accordance with CALTRANS Traffic Operations Policy Directive 13-02: Intersection Control Evaluation. CONSULTANT will evaluate intersection variations based on the first step of the screening process. CONSULTANT will document evaluation in an ICE Technical Memorandum to identify the preferred intersection control for the three (3) build alternatives within the PSR-PDS.

Deliverables:

- Intersection Control Evaluation Technical Memorandum (Step 1)

#### **D.5 TRAFFIC ENGINEERING PERFORMANCE ASSESSMENT**

In coordination with the CITY and other project-related engineers, CONSULTANT will utilize available transportation reports for the corridor, performance monitoring systems, local agency transportation studies to complete the Traffic Engineering Performance Assessment (TEPA) as required within Section 5, Article 5 of the PSR-PDS guidelines (Appendix S) within the PDPM. CONSULTANT will estimate the scope and magnitude of the Traffic Engineering studies (i.e., Travel Forecasting; Traffic Analysis; Infrastructure Evaluation; Warrant Analysis; and Safety Review) that need to be performed during the subsequent Project Approval & Environmental Document (PA&ED) phase. To meet the purpose of the PSR-PDS, it is intended that the preliminary traffic engineering studies should be limited to an assessment of readily available information and data, and macro-level analysis and evaluation. This effort will produce preliminary traffic engineering findings and estimates to inform and advise the PDT on:

- The potential scope of work and features (especially the traffic "elements" referenced above)
- Planned CITY and Riverside County developments and land use changes including predicted year of beneficial use
- Potential performance benefits and deficiencies
- The scope and magnitude of traffic engineering work (traffic forecasting, modeling, analysis, and evaluation) to be performed during the Project Approval and Environmental Document phase

CONSULTANT will identify the traffic forecasting and traffic engineering studies needed to analyze, evaluate, and more accurately predict or estimate operational and safety performance of the proposed improvements during the future PA&ED phase. Future studies may require new data collection and forecasting. CONSULTANT will perform a macro-level analysis at the study intersections and locations using Synchro software and HCM methodology. Microsimulation is not assumed under this task. Traffic analysis will be conducted under existing conditions, design year (2055) no-build conditions, and design year (2055) with two build alternatives conditions. The analysis will present delay and level of service at each study intersection and freeway mainline. The analysis will be used to determine three (3) build alternatives for the PSR-PDS. Detailed analysis (FREQ, CORSIM, VISSIM, etc.) will not be performed as part of this scope of

work. CONSULTANT will summarize the assessment and key findings and estimates and incorporated into the PSR-PDS document.

Deliverables:

- Traffic Engineering Performance Assessment
- Preliminary traffic assessment of three (3) build alternatives
- Summary of traffic engineering studies and scope for PSR-PDS

#### **D.7 CONSTRUCTION ESTIMATES**

CONSULTANT will prepare a “Capital Outlay Project Estimate” in accordance with Section 4 of the PSR-PDS guidelines (Appendix S) within the PDPM. The cost estimate will be in the format of Appendix AA of the PDPM to support the PSR-PDS. A cost estimate will be prepared for three (3) build alternatives within the PSR-PDS. For the PSR-PDS capital cost estimates, an order of magnitude cost estimate will be prepared. CALTRANS will prepare the “Capital Outlay Support Estimate” to identify level of staff support for PA&ED.

Deliverables:

- Capital Outlay Project Estimates for three (3) build alternatives

#### **D.8 DOCUMENTATION AND EXCEPTIONS TO DESIGN STANDARDS**

Fact Sheets for exceptions to advisory and mandatory Highway Design Manual standards are not required and excluded from this scope of work. CONSULTANT will evaluate three (3) build alternatives using Design Information Bulletin 82-01 “Design Checklist”. Deviations from design standards will be identified and described in the PSR-PDS. CONSULTANT will perform a non-standard feature risk assessment to indicate a level of risk for conceptual acceptability of the build alternatives. The design standards risk assessment is a list of design standards that will likely not be met for each alternative and the probability of approval for each proposed non-standard feature. CONSULTANT will attend a Design Exception Risk Assessment meeting with CALTRANS design staff to obtain approval of risk assessment. A Multi-Modal Decision document will be prepared and coordinated with the CITY, RCTC, and CALTRANS for approval.

Deliverables:

- List of non-standard features for three (3) build alternatives
- Design Exception Risk Assessment for approval for non-standard features
- Multi-Modal/Complete Streets Decision Document

### **WBS 150.20 TASK F: PRELIMINARY ENVIRONMENTAL ANALYSIS (PEAR)**

#### **F.1 PEAR PREPARATION**

CONSULTANT will prepare a draft and final Preliminary Environmental Analysis Report (PEAR), per CALTRANS Standard Environmental Reference Guidelines and the PEAR Handbook. CALTRANS guidelines for the PEAR will follow the guidance available as of contract date. The PEAR will identify the anticipated Environmental Document, anticipated impacts, the future

technical studies, and anticipated mitigations. The PEAR will also estimate the scope, schedule and preliminary costs associated with completing environmental compliance. The PEAR will also present and discuss the results of preliminary environmental studies in order to identify environmental analyses that may affect design. The information contained in the PEAR will serve as a foundation to begin studies for the PA&ED phase.

In addition, cumulative impacts and context sensitive solutions will be summarized in the Technical Summaries section of the PEAR, but will not have a separate technical memoranda prepared.

The PEAR will also include:

- Purpose and Need Statement
- A discussion of environmental resources and a description of the potential PROJECT issues or impacts, which could delay the PROJECT or affect any PROJECT alternative.
- Description of studies that are needed to complete an environmental evaluation (noting as necessary any seasonal constraints for these studies).
- A recommended environmental determination/documentation and a tentative schedule for its completion.
- Required or anticipated permits or approvals.

Deliverables:

- Noise, Scenic Resource, Biology, Cultural, Air Quality, Water Quality, Floodplain, Paleontology Assessments (not formal CALTRANS deliverables)
- Initial Site Assessment Checklist
- Draft and Final PEAR

## **F.2 VEHICLE MILES OF TRAVEL DECISION DOCUMENT (VMTDD) ASSISTANCE**

CONSULTANT will assist the project team in filling out the VMTDD that is now required as part of the PSR/PDS phase of the project. CONSULTANT will include preliminary forecasting to assist in estimating VMT and coordination with the project team to derive information needed for the document. CONSULTANT to prepare information for, coordinate on, and respond to comments.

Preliminary VMT determinations will be initially identified to determine if there are VMT implications for Wildomar Trail Interchange to strategize for the potential impacts by adding additional through lanes that will need to be addressed in PA&ED. Preliminary options for mitigation if VMT increases are expected should be listed as risk mitigation for each PROJECT. No additional through lanes are believed to be necessary for Bundy Canyon Road Interchange, therefore no VMT impacts are expected.

Deliverables:

- VMT Decision Document
- Preliminary VMT determination and mitigation options for inclusion in the Risk Register for Wildomar Trail Interchange

## **WBS 150.25 TASK G: APPROVED PSR-PDS & SWDR**

### **G.1 DRAFT PSR-PDS**

CONSULTANT will prepare a Draft PSR-PDS Report to document the geometric assumptions, initial studies, methodology, alternatives, findings, FHWA coordination and involvement, anticipated design exceptions with general PROJECT strategy of how to address within PA&ED phase (no fact sheets anticipated), stakeholder meetings and involvement and results in accordance with the requirements outlined as outlined within PDPM Appendix S.

#### Deliverables:

- Draft PSR-PDS (including Preliminary Geometric Drawings for build alternatives)
- TMP Data Sheets

### **G.2 FINAL PSR-PDS**

CONSULTANT will prepare the Final PSR-PDS based on any comments received from CALTRANS and schedule a focus meeting on first review comments. Response to comments will be prepared to address all the CALTRANS comments received on the Draft PSR-PDS. The Final PSR-PDS will establish the scope, schedule, and estimated costs of the alternative concepts to the PROJECT. The document will also include a tabulation of estimated project support costs and capital costs by project phase and fiscal year. CONSULTANT will coordinate and obtain final approvals of the PSR-PDS. CONSULTANT will update the FTIP and coordinate with RCTC on the project description, funding, and schedule.

#### Deliverables:

- Approved Final PSR-PDS
- Cost Estimates for Alternatives
- Updated FTIP Description

### **G.3 STORMWATER DOCUMENTATION**

CONSULTANT will prepare stormwater documentation in accordance with Section 5, Article 3 of the PSR-PDS guidelines (Appendix S) within PDPM. Since the main purpose of the PSR-PDS is only to estimate the resources needed to complete PA&ED, the expected level of stormwater information for a PSR-PDS is much less than a regular Project Study Report or Project Report. The PSR-PDS evaluation will mainly focus on determining if there will be any significant impacts to the three (3) build alternatives, right-of-way needs, or PROJECT costs due to the need to incorporate treatment Best Management Practices (BMPs) for compliance with stormwater requirements.

#### Deliverables:

- Storm Water Data Report

**EXHIBIT "B"**

**SCHEDULE OF SERVICES**

**[attached behind this page]**

**DRAFT**

PROJECT SCHEDULE:

15 Month Schedule from Notice to Proceed

DRAFT



**EXHIBIT "C"**  
**COMPENSATION PROVISIONS**

**[attached behind this page]**

**DRAFT**

**EXHIBIT "C"**  
**COMPENSATION SUMMARY<sup>1</sup>**

FIRM	PROJECT TASKS/ROLE	COST
<i><b>Prime Consultant:</b></i>		
HDR Engineering Inc.	Project Study Reports	\$ 598,308.59
<i><b>Sub Consultants:</b></i>		
Fehr & Peers	Traffic	54,845.38
GPA Consulting	Environmental	75,494.56
Mark Thomas Company	Utilities and Right of Way	21,514.76
<b>TOTAL COSTS</b>		<b>\$ 750,163.29</b>

<sup>1</sup> Commission authorization pertains to total contract award amount. Compensation adjustments between consultants may occur; however, the maximum total compensation authorized may not be exceeded.

DRAFT

Agreement No. 08-1792  
Project No.: 082400236  
EA: 08-1R140  
08-RIV-15-13.6/16.3

## **COOPERATIVE AGREEMENT COVER SHEET**

### Work Description

THE WILDOMAR TRAIL INTERCHANGE IMPROVEMENT PROJECT ON INTERSTATE 15  
IN THE CITY OF WILDOMAR

### Contact Information

The information provided below indicates the primary contact information for each PARTY to this AGREEMENT. PARTIES will notify each other in writing of any personnel or location changes. Contact information changes do not require an amendment to this AGREEMENT.

#### CALTRANS

Emad Makar, Project Manager  
464 West 4th Street  
San Bernardino, CA 92401  
Office Phone: (909) 665-3469  
Email: emad.makar@dot.ca.gov

#### RIVERSIDE COUNTY TRANSPORTATION COMMISSION

David Lewis, Capital Projects Manager  
4080 Lemon Street, 3rd floor  
Riverside, CA 92501  
Office Phone: (951) 212-6936  
Mobile Phone: (951) 787-7141  
Email: dlewis@rctc.org

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## **COOPERATIVE AGREEMENT**

This AGREEMENT, executed on and effective from \_\_\_\_\_, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

Riverside County Transportation Commission, a public corporation/entity, referred to hereinafter as RCTC.

An individual signatory agency in this AGREEMENT is referred to as a PARTY. Collectively, the signatory agencies in this AGREEMENT are referred to as PARTIES.

### **RECITALS**

1. PARTIES are authorized to enter into a cooperative agreement for improvements to the State Highway System (SHS) per the California Streets and Highways Code, Sections 114 and 130 and California Government Code, Section 65086.5.
2. For the purpose of this AGREEMENT, *the Wildomar Trail interchange improvement project on Interstate 15 in the City of Wildomar*, will be referred to hereinafter as PROJECT. RCTC desires that a Project Initiation Document (PID) be developed for the PROJECT. The Project Initiation Document will be a Project Study Report-Project Development Support (PSR-PDS).
3. All obligations and responsibilities assigned in this AGREEMENT to complete the following PROJECT COMPONENT will be referred to hereinafter as WORK:
  - PROJECT INITIATION DOCUMENT (PID)

Each PROJECT COMPONENT is defined in the CALTRANS Workplan Standards Guide as a distinct group of activities/products in the project planning and development process.

4. The term AGREEMENT, as used herein, includes this document and any attachments, exhibits, and amendments.

This AGREEMENT is separate from and does not modify or replace any other cooperative agreement or memorandum of understanding between the PARTIES regarding the PROJECT.

PARTIES intend this AGREEMENT to be their final expression that supersedes any oral understanding or writings pertaining to the WORK. The requirements of this AGREEMENT will preside over any conflicting requirements in any documents that are made an express part of this AGREEMENT.

If any provisions in this AGREEMENT are found by a court of competent jurisdiction to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other AGREEMENT provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this AGREEMENT.

Except as otherwise provided in the AGREEMENT, PARTIES will execute a written amendment if there are any changes to the terms of this AGREEMENT.

AGREEMENT will terminate 180 days after PID is signed by PARTIES or as mutually agreed by PARTIES in writing. However, all indemnification articles will remain in effect until terminated or modified in writing by mutual agreement.

5. The following documents are attached to, and made an express part of this AGREEMENT:
  - Scope Summary
6. No PROJECT deliverables have been completed prior to this AGREEMENT.
7. In this AGREEMENT capitalized words represent defined terms, initialisms, or acronyms.
8. PARTIES hereby set forth the terms, covenants, and conditions of this AGREEMENT.

## **RESPONSIBILITIES**

### Sponsorship

9. A SPONSOR is responsible for establishing the scope of the PROJECT and securing the financial resources to fund the WORK. A SPONSOR is responsible for securing additional funds when necessary or implementing PROJECT changes to ensure the WORK can be completed with the funds committed in this AGREEMENT.

PROJECT changes, as described in the CALTRANS Project Development Procedures Manual, will be approved by CALTRANS as the owner/operator of the State Highway System.

10. RCTC is the SPONSOR for the WORK in this AGREEMENT.

### Implementing Agency

11. The IMPLEMENTING AGENCY is the PARTY responsible for managing the scope, cost, schedule, and quality of the work activities and products of a PROJECT COMPONENT.

- RCTC is the Project Initiation Document (PID) IMPLEMENTING AGENCY.

The PID identifies the PROJECT need and purpose, stakeholder input, project alternatives, anticipated right-of-way requirements, preliminary environmental analysis, initial cost estimates, and potential funding sources.

12. RCTC will provide a Quality Management Plan (QMP) for the WORK in every PROJECT COMPONENT that they are implementing. The QMP describes the IMPLEMENTING AGENCY's quality policy and how it will be used. The QMP will include a process for resolving disputes between the PARTIES at the team level. The QMP is subject to CALTRANS review and concurrence.

13. Any PARTY responsible for completing WORK will make its personnel and consultants that prepare WORK available to help resolve WORK-related problems and changes for the entire duration of the PROJECT including PROJECT work that may occur under separate agreements.

#### Funding

14. RCTC is the only PARTY committing funds in this AGREEMENT and will fund the cost of the WORK in accordance with this AGREEMENT.

If, in the future, CALTRANS is allocated state funds and Personnel Years (PYs) for PID review or development of this PROJECT, PARTIES will agree to amend this AGREEMENT to change the reimbursement arrangement for PID review.

15. PARTIES will not be reimbursed for costs beyond the funding commitments in this AGREEMENT.
16. Unless otherwise documented in the Reimbursement Summary, overall liability for project costs within a PROJECT COMPONENT, subject to program limitations, will be in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
17. Unless otherwise documented in the Reimbursement Summary, any savings recognized within a PROJECT COMPONENT will be credited or reimbursed, when allowed by policy or law, in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
18. WORK costs, except those that are specifically excluded in this AGREEMENT, are to be paid from the funds obligated in the Reimbursement Summary. Costs that are specifically excluded from the funds obligated in this AGREEMENT are to be paid by the PARTY incurring the costs from funds that are independent of this AGREEMENT.

#### CALTRANS' Quality Management

19. CALTRANS, as the owner/operator of the State Highway System (SHS), will perform quality management work including Quality Management Assessment (QMA) and owner/operator approvals for the portions of WORK within the existing and proposed SHS right-of-way.
20. CALTRANS' Quality Management Assessment (QMA) efforts are to ensure that RCTC's quality assurance results in WORK that is in accordance with the applicable standards and the PROJECT's quality management plan (QMP). QMA does not include any efforts necessary to develop or deliver WORK or any validation by verifying or rechecking WORK.

When CALTRANS performs QMA, it does so for its own benefit. No one can assign liability to CALTRANS due to its QMA.

21. CALTRANS, as the owner/operator of the State Highway System, will approve WORK products in accordance with CALTRANS policies and guidance and as indicated in this AGREEMENT.
22. RCTC will provide WORK-related products and supporting documentation upon CALTRANS' request for the purpose of CALTRANS' quality management work.



Project Initiation Document (PID)

23. As the PID IMPLEMENTING AGENCY, RCTC is responsible for all PID WORK except those activities and responsibilities that are assigned to another PARTY in this AGREEMENT and those activities that may be specifically excluded.
24. Should RCTC request CALTRANS to perform any portion of PID preparation work, except as otherwise set forth in this AGREEMENT, RCTC agrees to reimburse CALTRANS for such work and PARTIES will amend this AGREEMENT.
25. CALTRANS will be responsible for completing the following PID activities:

CALTRANS Work Breakdown Structure Identifier (If Applicable)	AGREEMENT Funded Cost
See Scope Summary	YES

26. CALTRANS will provide relevant existing proprietary information and maps related to:
  - Geologic and Geotechnical information
  - Utility information
  - Environmental constraints
  - Traffic modeling/forecasts
  - Topographic and Boundary surveys
  - As-built centerline and existing right-of-way

Due to the potential for data loss or errors, CALTRANS will not convert the format of existing proprietary information or maps.

27. When required, CALTRANS will perform pre-consultation with appropriate resource agencies in order to reach consensus on need and purpose, avoidance alternatives, and feasible alternatives.
28. CALTRANS will actively participate in the Project Development Team meetings.
29. The PID will be signed on behalf of RCTC by a Civil Engineer registered in the State of California.
30. CALTRANS will review and approve the Project Initiation Document (PID) as required by California Government Code, Section 65086.5.

CALTRANS will complete a review of the draft PID and provide its comments to RCTC within 60 calendar days from the date CALTRANS received the draft PID from RCTC. RCTC will address the comments provided by CALTRANS. If any interim reviews are requested of CALTRANS by

RCTC, CALTRANS will complete those reviews within 30 calendar days from the date CALTRANS received the draft PID from RCTC.

After RCTC revises the PID to address all of CALTRANS' comments and submits the revised draft PID and all related attachments and appendices, CALTRANS will complete its review and final determination of the revised draft PID within 30 calendar days from the date CALTRANS received the revised draft PID from RCTC. Should CALTRANS require supporting data necessary to defend facts or claims cited in the revised draft PID, RCTC will provide all available supporting data in a reasonable time so that CALTRANS may conclude its review. The 30 day CALTRANS review period will be stalled during that time and will continue to run after RCTC provides the required data.

No liability will be assigned to CALTRANS, its officers and employees by RCTC under the terms of this AGREEMENT or by third parties by reason of CALTRANS' review and approval of the PID.

RCTC shall provide CALTRANS with plans prepared by RCTC or RCTC's consultant on CD using Micro Station.dgn: files and RCTC shall provide CALTRANS with all documents pertaining to PROJECT in the appropriate electronic format (MSWORD, Excel, and .pdf). One copy should be provided to CALTRANS upon completion of the PROJECT's Project Initiation Document. CALTRANS reserves the right to modify the electronic files.

### Additional Provisions

#### Standards

31. PARTIES will perform all WORK in accordance with federal and California laws, regulations, and standards; Federal Highway Administration (FHWA) standards; and CALTRANS standards. CALTRANS standards include, but are not limited to, the guidance provided in the:
- CADD Users Manual
  - CALTRANS policies and directives
  - Plans Preparation Manual
  - Project Development Procedures Manual (PDPM)
  - Workplan Standards Guide
  - Construction Manual Supplement for Local Agency Resident Engineers
  - Local Agency Structure Representative Guidelines

#### Noncompliant Work

32. CALTRANS retains the right to reject noncompliant WORK. RCTC agrees to suspend WORK upon request by CALTRANS for the purpose of protecting public safety, preserving property rights, and ensuring that all WORK is in the best interest of the State Highway System.

#### Qualifications

33. Each PARTY will ensure that personnel participating in WORK are appropriately qualified or licensed to perform the tasks assigned to them.

Consultant Selection

34. RCTC will invite CALTRANS to participate in the selection of any consultants that participate in the WORK.

Encroachment Permits

35. CALTRANS will issue, upon proper application, the encroachment permits required for WORK within State Highway System (SHS) right-of-way. RCTC, their contractors, consultants, agents, and utility owners will not work within the SHS right-of-way without an encroachment permit issued by CALTRANS. CALTRANS will provide encroachment permits to RCTC at no cost. CALTRANS will provide encroachment permits to utility owners at no cost. If the encroachment permit and this AGREEMENT conflict, the requirements of this AGREEMENT will prevail.
36. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will coordinate, prepare, obtain, implement, renew, and amend any encroachment permits needed to complete the WORK.

Protected Resources

37. If any PARTY discovers unanticipated cultural, archaeological, paleontological, or other protected resources during WORK, all WORK in that area will stop and that PARTY will notify all PARTIES within 24 hours of discovery. WORK may only resume after a qualified professional has evaluated the nature and significance of the discovery and CALTRANS approves a plan for its removal or protection.

Disclosures

38. PARTIES will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the WORK in confidence to the extent permitted by law and where applicable, the provisions of California Government Code, Section 7921.505(c)(5) will protect the confidentiality of such documents in the event that said documents are shared between PARTIES.

PARTIES will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete the WORK without the written consent of the PARTY authorized to release them, unless required or authorized to do so by law.

39. If a PARTY receives a public records request pertaining to the WORK, that PARTY will notify PARTIES within five (5) working days of receipt and make PARTIES aware of any disclosed public records.

Hazardous Materials

40. If any hazardous materials, pursuant to Health and Safety Code 25260(d), are found within the PROJECT limits, the discovering PARTY will notify all other PARTIES within twenty-four (24) hours of discovery.

41. PARTIES agree to consider alternatives to PROJECT scope and/or alignment, to the extent practicable, in an effort to avoid any known hazardous materials within the proposed PROJECT limits.
42. If hazardous materials are discovered within PROJECT limits, but outside of State Highway System right-of-way, it is the responsibility of RCTC in concert with the local agency having land use jurisdiction over the property, and the property owner, to remedy before CALTRANS will acquire or accept title to such property.

Claims

43. Any PARTY that is responsible for completing WORK may accept, reject, compromise, settle, or litigate claims arising from the WORK without concurrence from the other PARTY.
44. PARTIES will confer on any claim that may affect the WORK or PARTIES' liability or responsibility under this AGREEMENT in order to retain resolution possibilities for potential future claims. No PARTY will prejudice the rights of another PARTY until after PARTIES confer on the claim.
45. If the WORK expends state or federal funds, each PARTY will comply with the Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards of 2 CFR, Part 200. PARTIES will ensure that any for-profit consultant hired to participate in the WORK will comply with the requirements in 48 CFR, Chapter 1, Part 31. When state or federal funds are expended on the WORK these principles and requirements apply to all funding types included in this AGREEMENT.

Accounting and Audits

46. PARTIES will maintain, and will ensure that any consultant hired by PARTIES to participate in WORK will maintain, a financial management system that conforms to Generally Accepted Accounting Principles (GAAP), and that can properly accumulate and segregate incurred PROJECT costs and billings.
47. PARTIES will maintain and make available to each other all WORK-related documents, including financial data, during the term of this AGREEMENT.

PARTIES will retain all WORK-related records for three (3) years after the final voucher.

PARTIES will require that any consultants hired to participate in the WORK will comply with this Article.

48. If the WORK expends state or federal funds, each PARTY will undergo an annual audit in accordance with the Single Audit Act in the Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as defined in 2 CFR, Part 200.
49. When a PARTY reimburses a consultant for WORK with state or federal funds, the procurement of the consultant and the consultant overhead costs will be in accordance with the Local Assistance Procedures Manual, Chapter 10.

Interruption of Work

50. If WORK stops for any reason, IMPLEMENTING AGENCY will place the PROJECT right-of-way in a safe and operable condition acceptable to CALTRANS.

Penalties, Judgments and Settlements

51. The cost of awards, judgments, fines, interest, penalties, attorney's fees, and/or settlements generated by the WORK are considered WORK costs.
52. Any PARTY whose action or lack of action causes the levy of fines, interest, or penalties will indemnify and hold all other PARTIES harmless per the terms of this AGREEMENT.

**GENERAL CONDITIONS**

53. All portions of this AGREEMENT, including the RECITALS section, are enforceable.

Venue

54. PARTIES understand that this AGREEMENT is in accordance with and governed by the Constitution and laws of the State of California. This AGREEMENT will be enforceable in the State of California. Any PARTY initiating legal action arising from this AGREEMENT will file and maintain that legal action in the Superior Court of the county in which the CALTRANS district office that is signatory to this AGREEMENT resides, or in the Superior Court of the county in which the PROJECT is physically located.

Exemptions

55. All CALTRANS' obligations and commitments under this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, programming and allocation of funds by the California Transportation Commission (CTC).

Indemnification

56. Neither CALTRANS nor any of its officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by RCTC, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon RCTC under this AGREEMENT. It is understood and agreed that RCTC, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by RCTC, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
57. Neither RCTC nor any of its officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CALTRANS, its

contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless RCTC and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.

#### Non-parties

58. PARTIES do not intend this AGREEMENT to create a third- party beneficiary or define duties, obligations, or rights for entities in PARTIES not signatory to this AGREEMENT. PARTIES do not intend this AGREEMENT to affect their legal liability by imposing any standard of care for fulfilling the WORK different from the standards imposed by law.
59. PARTIES will not assign or attempt to assign obligations to entities not signatory to this AGREEMENT without an amendment to this AGREEMENT.

#### Ambiguity and Performance

60. Neither PARTY will interpret any ambiguity contained in this AGREEMENT against the other PARTY. PARTIES waive the provisions of California Civil Code, Section 1654.

A waiver of a PARTY's performance under this AGREEMENT will not constitute a continuous waiver of any other provision.

61. A delay or omission to exercise a right or power due to a default does not negate the use of that right or power in the future when deemed necessary.

#### Defaults

62. If any PARTY defaults in its performance of the WORK, a non-defaulting PARTY will request in writing that the default be remedied within thirty (30) calendar days. If the defaulting PARTY fails to do so, the non-defaulting PARTY may initiate dispute resolution.

#### Dispute Resolution

63. PARTIES will first attempt to resolve AGREEMENT disputes at the PROJECT team level as described in the Quality Management Plan. If they cannot resolve the dispute themselves, the CALTRANS District Director and the Executive Officer of RCTC will attempt to negotiate a resolution. If PARTIES do not reach a resolution, PARTIES' legal counsel will initiate mediation. PARTIES agree to participate in mediation in good faith and will share equally in its costs.

Neither the dispute nor the mediation process relieves PARTIES from full and timely performance of the WORK in accordance with the terms of this AGREEMENT. However, if any PARTY stops

fulfilling its obligations, any other PARTY may seek equitable relief to ensure that the WORK continues.

Except for equitable relief, no PARTY may file a civil complaint until after mediation, or forty-five (45) calendar days after filing the written mediation request, whichever occurs first.

PARTIES will file any civil complaints in the Superior Court of the county in which the CALTRANS District Office signatory to this AGREEMENT resides or in the Superior Court of the county in which the PROJECT is physically located.

64. PARTIES maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.

#### Prevailing Wage

65. When WORK falls within the Labor Code § 1720(a)(1) definition of "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code § 1771, PARTIES will conform to the provisions of Labor Code §§ 1720-1815, and all applicable provisions of California Code of Regulations, Title 8, Division 1, Chapter 8, Subchapter 3, Articles 1-7. PARTIES will include prevailing wage requirements in contracts for public work and require contractors to include the same prevailing wage requirements in all subcontracts.

Work performed by a PARTY's own employees is exempt from the Labor Code's Prevailing Wage requirements.

If WORK is paid for, in whole or part, with federal funds and is of the type of work subject to federal prevailing wage requirements, PARTIES will conform to the provisions of the Davis-Bacon and Related Acts, 40 U.S.C. §§ 3141-3148.

When applicable, PARTIES will include federal prevailing wage requirements in contracts for public works. WORK performed by a PARTY's employees is exempt from federal prevailing wage requirements.

**REIMBURSEMENT SUMMARY**

FUNDING TABLE				
<u>IMPLEMENTING AGENCY:</u>			<u>RCTC</u>	
Source	Party	Fund Type	PID	Totals
LOCAL	RCTC	Local	1,500,000	1,500,000
Totals			1,500,000	1,500,000

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SPENDING TABLE			
Fund Type	PID		Totals
	CALTRANS	<u>RCTC</u>	
Local	300,000	1,200,000	1,500,000
Totals	300,000	1,200,000	1,500,000

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Funding

66. Per the State Budget Act of 2012, Chapter 603, amending item 2660-001-0042 of Section 2.00, the cost of any engineering support performed by CALTRANS towards any local government agency-sponsored PID project will only include direct costs. Indirect or overhead costs will not be applied during the development of the PID document.

Invoicing and Payment

67. PARTIES will invoice for funds where the SPENDING TABLE shows that one PARTY provides funds for use by another PARTY. PARTIES will pay invoices within forty-five (45) calendar days of receipt of invoice when not paying with Electronic Funds Transfer (EFT). When paying with EFT, RCTC will pay invoices within five (5) calendar days of receipt of invoice.
68. If RCTC has received EFT certification from CALTRANS then RCTC will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
69. When a PARTY is reimbursed for actual cost, invoices will be submitted each month for the prior month's expenditures. After all PROJECT COMPONENT WORK is complete, PARTIES will submit a final accounting of all PROJECT COMPONENT costs. Based on the final accounting, PARTIES will invoice or refund as necessary to satisfy the financial commitments of this AGREEMENT.

Project Initiation Document (PID)

70. CALTRANS will invoice RCTC for a \$45,000 initial deposit after execution of this AGREEMENT and forty-five (45) working days prior to the commencement of PID expenditures. This deposit represents two (2) months' estimated costs.

Thereafter, CALTRANS will invoice and RCTC will reimburse for actual costs incurred and paid.

**SIGNATURES**

PARTIES are authorized to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and hereby covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT. By signing below, the PARTIES each expressly agree to execute this AGREEMENT electronically.

The PARTIES acknowledge that executed copies of this AGREEMENT may be exchanged by facsimile or email, and that such copies shall be deemed to be effective as originals.

**STATE OF CALIFORNIA DEPARTMENT  
OF TRANSPORTATION**

\_\_\_\_\_  
Catalino Pining III  
District Director

**Verification of Funds and Authority:**

\_\_\_\_\_  
Corina Harriman  
District Budget Manager

**Certified as to financial terms and policies:**

\_\_\_\_\_  
Darwin Salmos  
HQ Accounting Supervisor

\_\_\_\_\_  
HQ Legal Representative  
HQ Legal Rep Title

**RIVERSIDE COUNTY TRANSPORTATION  
COMMISSION**

\_\_\_\_\_  
Aaron Hake  
Executive Director

**Attest:**

\_\_\_\_\_  
name TBD

\_\_\_\_\_  
name TBD

<b>SCOPE SUMMARY</b>			
<b>WORK ELEMENT</b>	<b>CALTRANS</b>	<b>RCTC</b>	<b>N/A</b>
0.100.05.05.xx - Quality Management Plan		X	
0.100.05.05.xx - Risk Management Plan		X	
0.100.05.05.xx - Project Communication Plan		X	
0.100.05.10.xx - Quality Management	X		
0.100.05.10.xx - Cooperative Agreement for PA&ED Phase	X	X	
0.100.05.10.xx - Independent Quality Assurance (IQA)	X		
0.100.05.10.xx - Project Development Team Meetings	X	X	
1.150.05.05 - Review of Existing Reports, Data, Studies, and Mapping	X	X	
1.150.05.10 - Geological Hazards Review		X	
1.150.05.10.xx - Provision of Existing Geological Information	X		
1.150.05.15 - Utility Search		X	
1.150.05.15.xx - Provision of Existing Utility Information	X		
1.150.05.20 - Environmental Constraints Identification		X	
1.150.05.20.xx - Provision of Environmental Constraints Information	X		
1.150.05.25 - Traffic Forecasts/Modeling		X	
1.150.05.25.xx - Provision of Existing Traffic Forecasts/Modeling Information	X		
1.150.05.30 - Surveys and Maps for PID		X	
1.150.05.30.xx - Provision of Existing Surveys and Mapping	X		
1.150.05.35 - Transportation Problem Definition and Site Assessment		X	
1.150.05.45 - As-Built Centerline and Existing Right of Way		X	
1.150.05.xx - Provision of Existing District Geotechnical Information	X		

1.150.05.50 - Transportation Climate Risk/Adaptation Evaluation		X	
1.150.10 – Initial Alternatives Development		X	
1.150.10.05 - Public/Local Agency Input		X	
1.150.10.15 – Concept Alternatives Development		X	
1.150.15 – Alternatives Analysis		X	
1.150.15.05 - Right of Way Data Sheets		X	
1.150.15.10 - Utility Relocation Requirements Assessment		X	
1.150.15.15 - Railroad Involvement Determination		X	
1.150.15.25 - Preliminary Materials Report		X	
1.150.15.30 – Structures Advance Planning Study (APS)		X	
1.150.15.35 - Multimodal/Complete Streets Review		X	
1.150.15.40 - Hydraulic Review		X	
1.150.15.50 - Traffic Studies		X	
1.150.15.55 - Construction Estimates		X	
1.150.15.60 – Preliminary Transportation Management Plan		X	
1.150.20 – Preliminary Environmental Analysis Report (PEAR)		X	
1.150.20.05 - Initial Noise Study		X	
1.150.20.10 - Hazardous Waste Initial Site Assessment/Investigations		X	
1.150.20.15 - Scenic Resources and Landscape Architecture Review		X	
1.150.20.20 – Initial NEPA/404 Coordination		X	
1.150.20.25 – Initial Biology Study		X	
1.150.20.30 - Initial Records and Literature Search for Cultural Resources		X	
1.150.20.40 - Initial Community Impact Analysis, Land Use, and Growth Studies		X	
1.150.20.45 - Initial Air Quality Study		X	
1.150.20.50 - Initial Water Quality Studies		X	
1.150.20.60 - Preliminary Environmental Analysis Report Preparation		X	

1.150.20.65 - Initial Paleontology Study		<b>x</b>	
1.150.25.05 - Draft PID		<b>x</b>	
1.150.25.10 – Approved Exceptions to Design Standards		<b>x</b>	
1.150.25.20 - PID Circulation, Review, and Approval	<b>x</b>		
1.150.25.25 - Storm Water Data Report		<b>x</b>	
1.150.25.30.05 – Cost Estimates for Alternatives		<b>x</b>	
1.150.25.99 – Other PID Products		<b>x</b>	
1.150.35 - Required Permits, Licenses, Agreements, and Certifications (PLACs) during Project Initiation Documents Development		<b>x</b>	
1.150.40 - PLACs During Project Initiation Documents Development		<b>x</b>	
1.150.45 - Base Maps and Plan Sheets for Project Initiation Documents		<b>x</b>	

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Agreement No. 08-1790  
Project No.: 0824000207  
EA: 08-1R030  
08-RIV-15-15/17.3

## **COOPERATIVE AGREEMENT COVER SHEET**

### Work Description

THE BUNDY CANYON ROAD INTERCHANGE IMPROVEMENT PROJECT ON  
INTERSTATE 15 IN THE CITY OF WILDOMAR

### Contact Information

The information provided below indicates the primary contact information for each PARTY to this AGREEMENT. PARTIES will notify each other in writing of any personnel or location changes. Contact information changes do not require an amendment to this AGREEMENT.

#### CALTRANS

Emad Makar, Project Manager  
464 West 4th Street  
San Bernardino, CA 92401  
Office Phone: 909-665-3469  
Email: emad.makar@dot.ca.gov

#### RIVERSIDE COUNTY TRANSPORTATION COMMISSION

David Lewis, Capital Project Manager  
4080 Lemon Street, 3rd Floor  
Riverside, CA 92501  
Office Phone: (951) 212-6936  
Mobile Phone: (951) 787-7141  
Email: dlewis@rctc.org

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## **COOPERATIVE AGREEMENT**

This AGREEMENT, executed on and effective from \_\_\_\_\_, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

Riverside County Transportation Commission, a public corporation/entity, referred to hereinafter as RCTC.

An individual signatory agency in this AGREEMENT is referred to as a PARTY. Collectively, the signatory agencies in this AGREEMENT are referred to as PARTIES.

### **RECITALS**

1. PARTIES are authorized to enter into a cooperative agreement for improvements to the State Highway System (SHS) per the California Streets and Highways Code, Sections 114 and 130 and California Government Code, Section 65086.5.
2. For the purpose of this AGREEMENT, *the Bundy Canyon Road interchange improvement project on Interstate 15 in the City of Wildomar*, will be referred to hereinafter as PROJECT. RCTC desires that a Project Initiation Document (PID) be developed for the PROJECT. The Project Initiation Document will be a Project Study Report-Project Development Support (PSR-PDS).
3. All obligations and responsibilities assigned in this AGREEMENT to complete the following PROJECT COMPONENT will be referred to hereinafter as WORK:
  - PROJECT INITIATION DOCUMENT (PID)

Each PROJECT COMPONENT is defined in the CALTRANS Workplan Standards Guide as a distinct group of activities/products in the project planning and development process.

4. The term AGREEMENT, as used herein, includes this document and any attachments, exhibits, and amendments.

This AGREEMENT is separate from and does not modify or replace any other cooperative agreement or memorandum of understanding between the PARTIES regarding the PROJECT.

PARTIES intend this AGREEMENT to be their final expression that supersedes any oral understanding or writings pertaining to the WORK. The requirements of this AGREEMENT will preside over any conflicting requirements in any documents that are made an express part of this AGREEMENT.

If any provisions in this AGREEMENT are found by a court of competent jurisdiction to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other AGREEMENT provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this AGREEMENT.

Except as otherwise provided in the AGREEMENT, PARTIES will execute a written amendment if there are any changes to the terms of this AGREEMENT.

AGREEMENT will terminate 180 days after PID is signed by PARTIES or as mutually agreed by PARTIES in writing. However, all indemnification articles will remain in effect until terminated or modified in writing by mutual agreement.

5. The following documents are attached to, and made an express part of this AGREEMENT:
  - Scope Summary
6. No PROJECT deliverables have been completed prior to this AGREEMENT.
7. In this AGREEMENT capitalized words represent defined terms, initialisms, or acronyms.
8. PARTIES hereby set forth the terms, covenants, and conditions of this AGREEMENT.

## **RESPONSIBILITIES**

### Sponsorship

9. A SPONSOR is responsible for establishing the scope of the PROJECT and securing the financial resources to fund the WORK. A SPONSOR is responsible for securing additional funds when necessary or implementing PROJECT changes to ensure the WORK can be completed with the funds committed in this AGREEMENT.

PROJECT changes, as described in the CALTRANS Project Development Procedures Manual, will be approved by CALTRANS as the owner/operator of the State Highway System.

10. RCTC is the SPONSOR for the WORK in this AGREEMENT.

### Implementing Agency

11. The IMPLEMENTING AGENCY is the PARTY responsible for managing the scope, cost, schedule, and quality of the work activities and products of a PROJECT COMPONENT.

- RCTC is the Project Initiation Document (PID) IMPLEMENTING AGENCY.

The PID identifies the PROJECT need and purpose, stakeholder input, project alternatives, anticipated right-of-way requirements, preliminary environmental analysis, initial cost estimates, and potential funding sources.

12. RCTC will provide a Quality Management Plan (QMP) for the WORK in every PROJECT COMPONENT that they are implementing. The QMP describes the IMPLEMENTING AGENCY's quality policy and how it will be used. The QMP will include a process for resolving disputes between the PARTIES at the team level. The QMP is subject to CALTRANS review and concurrence.

13. Any PARTY responsible for completing WORK will make its personnel and consultants that prepare WORK available to help resolve WORK-related problems and changes for the entire duration of the PROJECT including PROJECT work that may occur under separate agreements.

#### Funding

14. RCTC is the only PARTY committing funds in this AGREEMENT and will fund the cost of the WORK in accordance with this AGREEMENT.

If, in the future, CALTRANS is allocated state funds and Personnel Years (PYs) for PID review or development of this PROJECT, PARTIES will agree to amend this AGREEMENT to change the reimbursement arrangement for PID review.

15. PARTIES will not be reimbursed for costs beyond the funding commitments in this AGREEMENT.
16. Unless otherwise documented in the Reimbursement Summary, overall liability for project costs within a PROJECT COMPONENT, subject to program limitations, will be in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
17. Unless otherwise documented in the Reimbursement Summary, any savings recognized within a PROJECT COMPONENT will be credited or reimbursed, when allowed by policy or law, in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
18. WORK costs, except those that are specifically excluded in this AGREEMENT, are to be paid from the funds obligated in the Reimbursement Summary. Costs that are specifically excluded from the funds obligated in this AGREEMENT are to be paid by the PARTY incurring the costs from funds that are independent of this AGREEMENT.

#### CALTRANS' Quality Management

19. CALTRANS, as the owner/operator of the State Highway System (SHS), will perform quality management work including Quality Management Assessment (QMA) and owner/operator approvals for the portions of WORK within the existing and proposed SHS right-of-way.
20. CALTRANS' Quality Management Assessment (QMA) efforts are to ensure that RCTC's quality assurance results in WORK that is in accordance with the applicable standards and the PROJECT's quality management plan (QMP). QMA does not include any efforts necessary to develop or deliver WORK or any validation by verifying or rechecking WORK.

When CALTRANS performs QMA, it does so for its own benefit. No one can assign liability to CALTRANS due to its QMA.

21. CALTRANS, as the owner/operator of the State Highway System, will approve WORK products in accordance with CALTRANS policies and guidance and as indicated in this AGREEMENT.
22. RCTC will provide WORK-related products and supporting documentation upon CALTRANS' request for the purpose of CALTRANS' quality management work.

Project Initiation Document (PID)

- 23. As the PID IMPLEMENTING AGENCY, RCTC is responsible for all PID WORK except those activities and responsibilities that are assigned to another PARTY in this AGREEMENT and those activities that may be specifically excluded.
- 24. Should RCTC request CALTRANS to perform any portion of PID preparation work, except as otherwise set forth in this AGREEMENT, RCTC agrees to reimburse CALTRANS for such work and PARTIES will amend this AGREEMENT.
- 25. CALTRANS will be responsible for completing the following PID activities:

CALTRANS Work Breakdown Structure Identifier (If Applicable)	AGREEMENT Funded Cost
<a href="#">See Scope Summary</a>	YES

- 26. CALTRANS will provide relevant existing proprietary information and maps related to:
  - Geologic and Geotechnical information
  - Utility information
  - Environmental constraints
  - Traffic modeling/forecasts
  - Topographic and Boundary surveys
  - As-built centerline and existing right-of-way

Due to the potential for data loss or errors, CALTRANS will not convert the format of existing proprietary information or maps.

- 27. When required, CALTRANS will perform pre-consultation with appropriate resource agencies in order to reach consensus on need and purpose, avoidance alternatives, and feasible alternatives.
- 28. CALTRANS will actively participate in the Project Development Team meetings.
- 29. The PID will be signed on behalf of RCTC by a Civil Engineer registered in the State of California.
- 30. CALTRANS will review and approve the Project Initiation Document (PID) as required by California Government Code, Section 65086.5.

CALTRANS will complete a review of the draft PID and provide its comments to RCTC within 60 calendar days from the date CALTRANS received the draft PID from RCTC. RCTC will address the comments provided by CALTRANS. If any interim reviews are requested of CALTRANS by

RCTC, CALTRANS will complete those reviews within 30 calendar days from the date CALTRANS received the draft PID from RCTC.

After RCTC revises the PID to address all of CALTRANS' comments and submits the revised draft PID and all related attachments and appendices, CALTRANS will complete its review and final determination of the revised draft PID within 30 calendar days from the date CALTRANS received the revised draft PID from RCTC. Should CALTRANS require supporting data necessary to defend facts or claims cited in the revised draft PID, RCTC will provide all available supporting data in a reasonable time so that CALTRANS may conclude its review. The 30 day CALTRANS review period will be stalled during that time and will continue to run after RCTC provides the required data.

No liability will be assigned to CALTRANS, its officers and employees by RCTC under the terms of this AGREEMENT or by third parties by reason of CALTRANS' review and approval of the PID.

RCTC shall provide CALTRANS with plans prepared by RCTC or RCTC's consultant on CD using Micro Station.dgn: files and RCTC shall provide CALTRANS with all documents pertaining to PROJECT in the appropriate electronic format (MSWORD, Excel, and pdf). One copy should be provided to CALTRANS upon completion of the PROJECT's Project Initiation Document. CALTRANS reserves the right to modify the electronic files.

### Additional Provisions

#### Standards

31. PARTIES will perform all WORK in accordance with federal and California laws, regulations, and standards; Federal Highway Administration (FHWA) standards; and CALTRANS standards. CALTRANS standards include, but are not limited to, the guidance provided in the:
- CADD Users Manual
  - CALTRANS policies and directives
  - Plans Preparation Manual
  - Project Development Procedures Manual (PDPM)
  - Workplan Standards Guide
  - Construction Manual Supplement for Local Agency Resident Engineers
  - Local Agency Structure Representative Guidelines

#### Noncompliant Work

32. CALTRANS retains the right to reject noncompliant WORK. RCTC agrees to suspend WORK upon request by CALTRANS for the purpose of protecting public safety, preserving property rights, and ensuring that all WORK is in the best interest of the State Highway System.

#### Qualifications

33. Each PARTY will ensure that personnel participating in WORK are appropriately qualified or licensed to perform the tasks assigned to them.

Consultant Selection

34. RCTC will invite CALTRANS to participate in the selection of any consultants that participate in the WORK.

Encroachment Permits

35. CALTRANS will issue, upon proper application, the encroachment permits required for WORK within State Highway System (SHS) right-of-way. RCTC, their contractors, consultants, agents, and utility owners will not work within the SHS right-of-way without an encroachment permit issued by CALTRANS. CALTRANS will provide encroachment permits to RCTC at no cost. CALTRANS will provide encroachment permits to utility owners at no cost. If the encroachment permit and this AGREEMENT conflict, the requirements of this AGREEMENT will prevail.
36. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will coordinate, prepare, obtain, implement, renew, and amend any encroachment permits needed to complete the WORK.

Protected Resources

37. If any PARTY discovers unanticipated cultural, archaeological, paleontological, or other protected resources during WORK, all WORK in that area will stop and that PARTY will notify all PARTIES within 24 hours of discovery. WORK may only resume after a qualified professional has evaluated the nature and significance of the discovery and CALTRANS approves a plan for its removal or protection.

Disclosures

38. PARTIES will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the WORK in confidence to the extent permitted by law and where applicable, the provisions of California Government Code, Section 7921.505(c)(5) will protect the confidentiality of such documents in the event that said documents are shared between PARTIES.

PARTIES will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete the WORK without the written consent of the PARTY authorized to release them, unless required or authorized to do so by law.

39. If a PARTY receives a public records request pertaining to the WORK, that PARTY will notify PARTIES within five (5) working days of receipt and make PARTIES aware of any disclosed public records.

Hazardous Materials

40. If any hazardous materials, pursuant to Health and Safety Code 25260(d), are found within the PROJECT limits, the discovering PARTY will notify all other PARTIES within twenty-four (24) hours of discovery.

41. PARTIES agree to consider alternatives to PROJECT scope and/or alignment, to the extent practicable, in an effort to avoid any known hazardous materials within the proposed PROJECT limits.
42. If hazardous materials are discovered within PROJECT limits, but outside of State Highway System right-of-way, it is the responsibility of RCTC in concert with the local agency having land use jurisdiction over the property, and the property owner, to remedy before CALTRANS will acquire or accept title to such property.

#### Claims

43. Any PARTY that is responsible for completing WORK may accept, reject, compromise, settle, or litigate claims arising from the WORK without concurrence from the other PARTY.
44. PARTIES will confer on any claim that may affect the WORK or PARTIES' liability or responsibility under this AGREEMENT in order to retain resolution possibilities for potential future claims. No PARTY will prejudice the rights of another PARTY until after PARTIES confer on the claim.
45. If the WORK expends state or federal funds, each PARTY will comply with the Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards of 2 CFR, Part 200. PARTIES will ensure that any for-profit consultant hired to participate in the WORK will comply with the requirements in 48 CFR, Chapter 1, Part 31. When state or federal funds are expended on the WORK these principles and requirements apply to all funding types included in this AGREEMENT.

#### Accounting and Audits

46. PARTIES will maintain, and will ensure that any consultant hired by PARTIES to participate in WORK will maintain, a financial management system that conforms to Generally Accepted Accounting Principles (GAAP), and that can properly accumulate and segregate incurred PROJECT costs and billings.
47. PARTIES will maintain and make available to each other all WORK-related documents, including financial data, during the term of this AGREEMENT.

PARTIES will retain all WORK-related records for three (3) years after the final voucher.

PARTIES will require that any consultants hired to participate in the WORK will comply with this Article.

48. If the WORK expends state or federal funds, each PARTY will undergo an annual audit in accordance with the Single Audit Act in the Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as defined in 2 CFR, Part 200.
49. When a PARTY reimburses a consultant for WORK with state or federal funds, the procurement of the consultant and the consultant overhead costs will be in accordance with the Local Assistance Procedures Manual, Chapter 10.



Interruption of Work

50. If WORK stops for any reason, IMPLEMENTING AGENCY will place the PROJECT right-of-way in a safe and operable condition acceptable to CALTRANS.

Penalties, Judgments and Settlements

51. The cost of awards, judgments, fines, interest, penalties, attorney's fees, and/or settlements generated by the WORK are considered WORK costs.
52. Any PARTY whose action or lack of action causes the levy of fines, interest, or penalties will indemnify and hold all other PARTIES harmless per the terms of this AGREEMENT.

**GENERAL CONDITIONS**

53. All portions of this AGREEMENT, including the RECITALS section, are enforceable.

Venue

54. PARTIES understand that this AGREEMENT is in accordance with and governed by the Constitution and laws of the State of California. This AGREEMENT will be enforceable in the State of California. Any PARTY initiating legal action arising from this AGREEMENT will file and maintain that legal action in the Superior Court of the county in which the CALTRANS district office that is signatory to this AGREEMENT resides, or in the Superior Court of the county in which the PROJECT is physically located.

Exemptions

55. All CALTRANS' obligations and commitments under this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, programming and allocation of funds by the California Transportation Commission (CTC).

Indemnification

56. Neither CALTRANS nor any of its officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by RCTC, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon RCTC under this AGREEMENT. It is understood and agreed that RCTC, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by RCTC, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
57. Neither RCTC nor any of its officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CALTRANS, its

contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless RCTC and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.

#### Non-parties

58. PARTIES do not intend this AGREEMENT to create a third- party beneficiary or define duties, obligations, or rights for entities in PARTIES not signatory to this AGREEMENT. PARTIES do not intend this AGREEMENT to affect their legal liability by imposing any standard of care for fulfilling the WORK different from the standards imposed by law.
59. PARTIES will not assign or attempt to assign obligations to entities not signatory to this AGREEMENT without an amendment to this AGREEMENT.

#### Ambiguity and Performance

60. Neither PARTY will interpret any ambiguity contained in this AGREEMENT against the other PARTY. PARTIES waive the provisions of California Civil Code, Section 1654.

A waiver of a PARTY's performance under this AGREEMENT will not constitute a continuous waiver of any other provision.

61. A delay or omission to exercise a right or power due to a default does not negate the use of that right or power in the future when deemed necessary.

#### Defaults

62. If any PARTY defaults in its performance of the WORK, a non-defaulting PARTY will request in writing that the default be remedied within thirty (30) calendar days. If the defaulting PARTY fails to do so, the non-defaulting PARTY may initiate dispute resolution.

#### Dispute Resolution

63. PARTIES will first attempt to resolve AGREEMENT disputes at the PROJECT team level as described in the Quality Management Plan. If they cannot resolve the dispute themselves, the CALTRANS District Director and the Executive Officer of RCTC will attempt to negotiate a resolution. If PARTIES do not reach a resolution, PARTIES' legal counsel will initiate mediation. PARTIES agree to participate in mediation in good faith and will share equally in its costs.

Neither the dispute nor the mediation process relieves PARTIES from full and timely performance of the WORK in accordance with the terms of this AGREEMENT. However, if any PARTY stops

fulfilling its obligations, any other PARTY may seek equitable relief to ensure that the WORK continues.

Except for equitable relief, no PARTY may file a civil complaint until after mediation, or forty-five (45) calendar days after filing the written mediation request, whichever occurs first.

PARTIES will file any civil complaints in the Superior Court of the county in which the CALTRANS District Office signatory to this AGREEMENT resides or in the Superior Court of the county in which the PROJECT is physically located.

64. PARTIES maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.

#### Prevailing Wage

65. When WORK falls within the Labor Code § 1720(a)(1) definition of "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code § 1771, PARTIES will conform to the provisions of Labor Code §§ 1720-1815, and all applicable provisions of California Code of Regulations, Title 8, Division 1, Chapter 8, Subchapter 3, Articles 1-7. PARTIES will include prevailing wage requirements in contracts for public work and require contractors to include the same prevailing wage requirements in all subcontracts.

Work performed by a PARTY's own employees is exempt from the Labor Code's Prevailing Wage requirements.

If WORK is paid for, in whole or part, with federal funds and is of the type of work subject to federal prevailing wage requirements, PARTIES will conform to the provisions of the Davis-Bacon and Related Acts, 40 U.S.C. §§ 3141-3148.

When applicable, PARTIES will include federal prevailing wage requirements in contracts for public works. WORK performed by a PARTY's employees is exempt from federal prevailing wage requirements.

**REIMBURSEMENT SUMMARY**

<b>FUNDING TABLE</b>				
<b><u>IMPLEMENTING AGENCY:</u></b>			<b><u>RCTC</u></b>	
<b>Source</b>	<b>Party</b>	<b>Fund Type</b>	<b>PID</b>	<b>Totals</b>
LOCAL	RCTC	Local	1500,000	1,500,000
Totals			1,500,000	1,500,000

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<b>SPENDING TABLE</b>			
	<b>PID</b>		
<b>Fund Type</b>	<b>CALTRANS</b>	<b><u>RCTC</u></b>	<b>Totals</b>
Local	300,000	1,200,000	1,500,000
Totals	300,000	1,200,000	1,500,000

**DRAFT**

Funding

66. Per the State Budget Act of 2012, Chapter 603, amending item 2660-001-0042 of Section 2.00, the cost of any engineering support performed by CALTRANS towards any local government agency-sponsored PID project will only include direct costs. Indirect or overhead costs will not be applied during the development of the PID document.

Invoicing and Payment

67. PARTIES will invoice for funds where the SPENDING TABLE shows that one PARTY provides funds for use by another PARTY. PARTIES will pay invoices within forty-five (45) calendar days of receipt of invoice when not paying with Electronic Funds Transfer (EFT). When paying with EFT, RCTC will pay invoices within five (5) calendar days of receipt of invoice.
68. If RCTC has received EFT certification from CALTRANS then RCTC will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
69. When a PARTY is reimbursed for actual cost, invoices will be submitted each month for the prior month's expenditures. After all PROJECT COMPONENT WORK is complete, PARTIES will submit a final accounting of all PROJECT COMPONENT costs. Based on the final accounting, PARTIES will invoice or refund as necessary to satisfy the financial commitments of this AGREEMENT.

Project Initiation Document (PID)

70. CALTRANS will invoice RCTC for \$45,000 initial deposit after execution of this AGREEMENT and forty-five (45) working days prior to the commencement of PID expenditures. This deposit represents two (2) months' estimated costs.

Thereafter, CALTRANS will invoice and RCTC will reimburse for actual costs incurred and paid.

**SIGNATURES**

PARTIES are authorized to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and hereby covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT. By signing below, the PARTIES each expressly agree to execute this AGREEMENT electronically.

The PARTIES acknowledge that executed copies of this AGREEMENT may be exchanged by facsimile or email, and that such copies shall be deemed to be effective as originals.

**STATE OF CALIFORNIA  
DEPARTMENT OF  
TRANSPORTATION**

**RIVERSIDE COUNTY  
TRANSPORTATION  
COMMISSION**

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Catalino A. Pining III  
District Director

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Aaron Hake  
Executive Director

**Verification of Funds and Authority:**

**Attest:**

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Corina Harriman  
District Budget Manager

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name TBD

**Certified as to financial terms and policies:**

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Darwin Salmos  
HQ Accounting Supervisor

---

name TBD

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HQ Legal Representative  
HQ Legal Rep Title

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<b>SCOPE SUMMARY</b>			
<b>WORK ELEMENT</b>	<b>CALTRANS</b>	<b>RCTC</b>	<b>N/A</b>
0.100.05.05.xx - Quality Management Plan		X	
0.100.05.05.xx - Risk Management Plan		X	
0.100.05.05.xx - Project Communication Plan		X	
0.100.05.10.xx - Quality Management	X		
0.100.05.10.xx - Cooperative Agreement for PA&ED Phase	X	X	
0.100.05.10.xx - Independent Quality Assurance (IQA)	X		
0.100.05.10.xx - Project Development Team Meetings	X	X	
1.150.05.05 - Review of Existing Reports, Data, Studies, and Mapping		X	
1.150.05.05.xx - Review of Existing Reports, Data, Studies, and Mapping	X		
1.150.05.10 - Geological Hazards Review		X	
1.150.05.10.xx - Provision of Existing Geological Information	X		
1.150.05.15 - Utility Search		X	
1.150.05.15.xx - Provision of Existing Utility Information	X		
1.150.05.20 - Environmental Constraints Identification		X	
1.150.05.20.xx - Provision of Environmental Constraints Information	X		
1.150.05.25 - Traffic Forecasts/Modeling		X	
1.150.05.25.xx - Provision of Existing Traffic Forecasts/Modeling Information	X		
1.150.05.30 - Surveys and Maps for PID		X	
1.150.05.30.xx - Provision of Existing Surveys and Mapping	X		
1.150.05.35 - Transportation Problem Definition and Site Assessment		X	
1.150.05.45 - As-Built Centerline and Existing Right of Way		X	

1.150.05.xx - Provision of Existing District Geotechnical Information	x		
1.150.05.50 - Transportations Climate Risk/Adaptation Evaluation		x	
1.150.10 – Initial Alternatives Development		x	
1.150.10.05 - Public/Local Agency Input		x	
1.150.10.15 – Concept Alternatives Development		x	
1.150.15 – Alternatives Analysis		x	
1.150.15.05 - Right of Way Data Sheets		x	
1.150.15.10 - Utility Relocation Requirements Assessment		x	
1.150.15.15 - Railroad Involvement Determination		x	
1.150.15.25 - Preliminary Materials Report		x	
1.150.15.30 – Structures Advance Planning Study (APS)		x	
1.150.15.35 - Multimodal/Complete Streets Review		x	
1.150.15.40 - Hydraulic Review		x	
1.150.15.50 - Traffic Studies		x	
1.150.15.55 - Construction Estimates		x	
1.150.15.60 – Preliminary Transportation Management Plan		x	
1.150.20 – Preliminary Environmental Analysis Report (PEAR)		x	
1.150.20.05 - Initial Noise Study		x	
1.150.20.10 - Hazardous Waste Initial Site Assessment/Investigations		x	
1.150.20.15 - Scenic Resources and Landscape Architecture Review		x	
1.150.20.20 – Initial NEPA/404 Coordination		x	
1.150.20.25 – Initial Biology Study		x	
1.150.20.30 - Initial Records and Literature Search for Cultural Resources		x	
1.150.20.40 - Initial Community Impact Analysis, Land Use, and Growth Studies		x	
1.150.20.45 - Initial Air Quality Study		x	
1.150.20.50 - Initial Water Quality Studies		x	

1.150.20.60 - Preliminary Environmental Analysis Report Preparation		X	
1.150.20.65 - Initial Paleontology Study		X	
1.150.25.05 - Draft PID		X	
1.150.25.10 – Approved Exceptions to Design Standards		X	
1.150.25.20 - PID Circulation, Review, and Approval	X		
1.150.25.25 - Storm Water Data Report		X	
1.150.25.30.05 – Cost Estimates for Alternatives		X	
1.150.25.99 – Other PID Products		X	
1.150.35 - Required Permits, Licenses, Agreements, and Certifications (PLACs) during Project Initiation Documents Development		X	
1.150.40 - PLACs During Project Initiation Documents Development		X	
1.150.45 - Base Maps and Plan Sheets for Project Initiation Documents		X	

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# **AGENDA ITEM 8E**



<b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b>	
<b>DATE:</b>	October 9, 2024
<b>TO:</b>	Riverside County Transportation Commission
<b>FROM:</b>	Western Riverside County Programs and Projects Committee David Lewis, Capital Projects Manager
<b>THROUGH:</b>	Aaron Hake, Executive Director
<b>SUBJECT:</b>	On-Call Design Engineering and Environmental Services for the Construction of Commuter Rail Station Capital Improvement Projects

**WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE AND STAFF RECOMMENDATION:**

This item is for the Commission to:

- 1) Award the following agreements to provide on-call design engineering and environmental services for the construction of commuter rail station capital improvement projects for a three-year term, and one two-year option to extend the agreement, in an amount not to exceed an aggregate value of \$12,000,000;
  - a) Agreement No. 24-33-097-00 Moffat & Nichol;
  - b) Agreement No. 24-33-130-00 HDR Engineering, Inc.;
  - c) Agreement No. 24-33-131-00 HNTB Corporation;
  - d) Agreement No. 24-33-132-00 WSP USA Inc.;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements, including option years, on behalf of the Commission; and
- 3) Authorize the Executive Director, or designee, to execute task orders awarded to the consultants under the terms of the agreements.

**BACKGROUND INFORMATION:**

The Commission has a need for the provision of comprehensive on-call professional services for design engineering and environmental services for commuter rail, transit, and station capital improvement projects. Typically, the Commission procures design engineering and environmental services as the need for services arises. An on-call design engineering and environmental services contract provides a more streamlined process since formal solicitation, selection, and negotiation of basic rates and contracting are completed as part of the on-call procurement process.

The intention of this procurement is to provide the Commission with comprehensive on-call professional design engineering and environmental services for a variety of Commission commuter rail, transit, and station capital improvement projects which include future station

upgrades projects. Design engineering and environmental services will be funded with various Federal Transit Administration (FTA) grants and local funds.

## **DISCUSSION**

### **Procurement**

Pursuant to Government Code 4525 et seq, selection of architect, engineer, and related services shall be on the basis of demonstrated competence and on professional qualifications necessary for the satisfactory performance of the services required. Therefore, staff used the qualification method of selection for the procurement. Evaluation criteria included elements such as qualifications of firm, staffing and project organization, project understanding and approach, and the ability to respond to the requirements set forth under the terms of a request for qualifications (RFQ).

RFQ No. 24-33-097-00 for on-call design engineering and environmental services for the construction of commuter rail and station capital improvement projects was released by staff on June 6, 2024. The RFQ was posted on the Commission's PlanetBids website, which is accessible through the Commission's website. Through PlanetBids, 105 firms downloaded the RFQ, 18 of these firms are located in Riverside County. A pre-submittal conference was held on June 19, 2024, and attended by 16 firms. Staff responded to all questions submitted by potential proposers prior to the June 28, 2024, clarification deadline. Five (5) firms, HDR Engineering, Inc. (Riverside, CA), HNTB Corporation (Ontario, CA), Michael Baker International, Inc. (Ontario, CA), Moffatt & Nichol (Ontario, CA), and WSP USA Inc. (New York, NY) submitted responsive and responsible statements of qualifications prior to the 2:00 p.m. submittal deadline on July 18, 2024. Utilizing the evaluation criteria set forth in the RFQ, the firms were evaluated and scored by an evaluation committee comprised of Commission and Bechtel staff.

Based on the evaluation committee's assessment of the written proposals and pursuant to the terms of the RFP, the evaluation committee determined four (4) firms – Moffatt & Nichol, HDR Engineering, Inc., HNTB Corporation, and WSP USA Inc. – to be the most qualified firms to provide on-call design engineering and environmental services for the construction commuter rail station capital improvement projects.

As a result of the evaluation committee's assessment of the written proposals, the evaluation committee recommends contract awards to Moffatt & Nichol, HDR Engineering, Inc., HNTB Corporation, and WSP USA Inc. for a three-year term, and one, two-year option to extend the agreements, in the aggregate amount of \$12,000,000, as these firms earned the highest total evaluation scores.


The on-call, indefinite delivery/quantity task order type contracts do not guarantee work to any of the awardees; therefore, no funds are guaranteed to any consultant. Services will be provided through the Commission's issuance of task orders to the consultants on an as-needed basis. Pre-qualified consultants will be selected for specific tasks based on qualification information



contained in their proposals for the specific tasks. To ensure the consultants' prices are fair and reasonable, the contracts are subject to a pre-award audit.

The Commission's model on-call professional services agreement will be entered into with each consultant firm, subject to any changes approved by the Executive Director, pursuant to legal counsel review. Staff oversight of the contracts and task orders will maximize the effectiveness of the consultants and minimize costs to the Commission.

**FISCAL IMPACT:**

Financial Information					
In Fiscal Year Budget:	Yes	Year:	FY 2025/26+	Amount:	\$12,000,000
Source of Funds:	Federal Transit Administration			Budget Adjustment:	No
GL/Project Accounting No.:	XXXXXX 81115 XXX 33 81101 XXXXXX 81101 XXX 33 81101 XXXXXX 81102 XXX 33 81101				
Fiscal Procedures Approved:				Date:	09/09/2024

Attachments:

- 1) Draft On-Call Professional Services Agreement No. 24-33-097-00 With Moffatt & Nichol
- 2) Draft On-Call Professional Services Agreement No. 24-33-130-00 With HDR Engineering, Inc.
- 3) Draft On-Call Professional Services Agreement No. 24-33-131-00 With HNTB Corporation
- 4) Draft On-Call Professional Services Agreement No. 24-33-132-00 With WSP USA Inc.

<i>Approved by the Western Riverside County Programs and Projects Committee on September 23, 2024</i>					
In Favor:	8	Abstain:	1	No:	0



## Agreement No. 24-33-097-00

**PROFESSIONAL SERVICES AGREEMENT  
WITH FTA AND PROPOSITION 1B FUNDING ASSISTANCE**

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
AGREEMENT WITH  
MOFFATT & NICHOL  
FOR ON-CALL  
DESIGN ENGINEERING AND ENVIRONMENTAL SERVICES  
FOR THE  
CONSTRUCTION OF COMMUTER RAIL STATION CAPITAL IMPROVEMENT  
PROJECTS**

**Parties and Date.**

This Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_, 2024, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and **MOFFATT & NICHOL** ("Consultant"), a **CORPORATION**. The Commission and Consultant are sometimes referred to herein individually as "Party", and collectively as the "Parties".

**Recitals.**

A. On November 8, 1988 the Voters of Riverside County approved Measure A authorizing the collection of a one-half percent (1/2 %) retail transactions and use tax (the "tax") to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the "Plan").

B. Pursuant to Public Utility Code Sections 240000 et seq., the Commission is authorized to allocate the proceeds of the Tax in furtherance of the Plan.

C. On November 5, 2002, the voters of Riverside County approved an extension of the Measure A tax for an additional thirty (30) years for the continued funding of transportation and improvements within the County of Riverside.

D. A source of funding for payment for on-call professional consulting services provided under this Agreement may be Proposition 1B funds ("Prop 1B") funds administered by the California Department of Transportation ("Caltrans"), and/or funds from the Federal Transit Administration ("FTA"). This Agreement shall not be deemed to be approved by the Commission until the certification shown in Exhibit "E" attached hereto and incorporated herein by reference, is executed.

E. Consultant desires to perform and assume responsibility for the provision of certain on-call design engineering and environmental services for the construction of

commuter rail station capital improvement projects in the County of Riverside, California. Services shall be provided on the terms and conditions set forth in this Agreement and in the task order(s) to be solicited, awarded and authorized by Commission as further described in this Agreement ("Task Order"). Consultant represents that it is experienced in providing such services to public clients, is licensed in the State of California (if necessary), and is familiar with the plans of the Commission.

F. Commission desires to engage Consultant to render such services on an on-call basis. Services shall be ordered by Task Order(s) to be issued pursuant to this Agreement for future projects as set forth herein and in each Task Order (each such project shall be designated a "Project" under this Agreement).

## **Terms.**

1. General Scope of Services. Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, and incidental and customary work necessary to fully and adequately supply the on-call design engineering and environmental services for the Projects ("Services"). The Services are generally described in Exhibit "A" attached hereto and incorporated herein by reference. The Services shall be more particularly described in the individual Task Orders issued by the Commission's Executive Director or designee. No Services shall be performed unless authorized by a fully executed Task Order. All Services shall be subject to, and performed in accordance with, this Agreement, the relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

2. Task Orders; Commencement of Services; Schedule of Services. Services under this Agreement shall be requested by the Commission pursuant to Task Order requests. If Commission accepts Consultant's Task Order proposal, Commission shall issue a purchase order or executed task order for the Services ("Commission's Task Order Authorization"). Consultant's agreement to the final terms of a proposed Task Order, Commission's Task Order Authorization and Consultant's commencement of the Services shall indicate the Parties' agreement to the terms of the relevant Task Order.

Consultant shall commence Services under a Task Order within five (5) days of receiving Commission's Task Order Authorization.

Consultant shall perform the Services expeditiously, in accordance with the Schedule of Services set forth in a Task Order. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, Commission shall respond to Consultant's submittals in a timely manner. Upon request of the Commission, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3. Pre-Award Audit. As a result of the funding for this Project, and to the extent Caltrans procedures apply in connection therewith, issuance of a "Notice to Proceed" or

other authorization to proceed under a Task Order may be contingent upon completion and approval of a pre-award audit. Any questions raised during the pre-award audit shall be resolved before the Commission will consider approval of this Agreement. The funding provided under this Agreement is contingent on meeting all funding requirements and could be withdrawn, thereby entitling the Commission to terminate this Agreement, if the procedures are not completed. The Consultant's files shall be maintained in a manner to facilitate State process reviews. In addition, Caltrans may require that prior to performance of any work for which funding reimbursement through Caltrans is requested and provided, that Caltrans must give to Commission an "Authorization to Proceed".

#### 4. Audit Procedures.

4.1 Consultant and certain subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an Independent Cost Review (ICR) Audit, or a CPA ICR audit work paper review. If selected for audit or review, this Agreement, Consultant's cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. This Agreement, Consultant's cost proposal, and ICR shall be adjusted by Consultant and approved by the Commission's contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into this Agreement by this reference if directed by Commission at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of the Agreement terms and cause for termination of this Agreement and disallowance of prior reimbursed costs. Additional audit provisions applicable to this Agreement are set forth in Sections 22 and 23 of this Agreement.

Section 4.2 and 4.3 shall apply to the extent applicable to the Task Order and funding source.

4.2 During any Caltrans' review of the ICR audit work papers created by the Consultant's independent CPA, Caltrans will work with the CPA and/or Consultant toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, Commission will reimburse the Consultant at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines is received and approved by Caltrans.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
- b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
- c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

4.3 If Caltrans is unable to issue a cognizant letter per Section 4.2 above, Caltrans may require Consultant to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the Caltrans' management letter. Caltrans will then have up to six (6) months to review the Consultant's and/or the independent CPA's revisions.

If the Consultant fails to comply with the provisions of this Section 4, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in Section 4.2 above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this Agreement.

Consultant may submit to Commission final invoice only when all of the following items have occurred: (1) Caltrans accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this Agreement has been completed to the satisfaction of Commission; and, (3) Caltrans has issued its final ICR review letter. The Consultant must submit its final invoice to Commission no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this Agreement and all Task Orders issued under this Agreement, and all other agreements executed between the Commission and the Consultant, either as a prime or subconsultant, with the same fiscal period ICR.

## 5. Term.

5.1 This Agreement shall go into effect on the date first set forth above, contingent upon approval by Commission, and Consultant shall commence work after notification to proceed by Commission's Contract Administrator. This Agreement shall end on (DATE), unless extended by contract amendment. The Commission may extend the term of this Agreement, in its sole discretion, for one additional two (2) year period.

5.2 Consultant is advised that any recommendation for contract award is not binding on Commission until this Agreement is fully executed and approved by the Commission.

5.3 This Agreement shall remain in effect until the date set forth above, unless earlier terminated as provided herein. Consultant shall complete the Services

within the term of this Agreement, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Commission's Contract Administrator. The Commission hereby designates the Commission's Executive Director, or his or her designee, to act as its Contract Administrator for the performance of this Agreement ("Commission's Contract Administrator"). Commission's Contract Administrator shall have the authority to act on behalf of the Commission for all purposes under this Agreement. Commission's Contract Administrator shall also review and give approval, as needed, to the details of Consultant's work as it progresses. Consultant shall not accept direction or orders from any person other than the Commission's Contract Administrator or his or her designee.

7. Consultant's Representative. Consultant hereby designates **Sam Mansour** to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to act on behalf of Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her professional skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with Commission's Contract Administrator and any other agencies which may have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the Commission staff at all reasonable times. Any substitution in Consultant's Representative shall be approved in writing by Commission's Contract Administrator.

8. Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions herein. The key personnel for performance of this Agreement are: **Sam Mansour, Amr Zaher, Stephanie Oslick, Anil Verma, Jose Avendado, Jared Bernard, Alaedin Moubayes, and Jason Seccombe**, or as otherwise identified in the Task Order.

9. Standard of Care; Licenses. Consultant represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Agreement to fully and adequately complete the Project. Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents and warrants to the Commission that its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be

maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Consultant's errors and omissions. Any employee of Consultant or its sub-consultants who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

10. Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Consultant on an independent contractor basis and not as an employee, agent or representative of the Commission. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their performance of Services and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security taxes, income tax withholdings, unemployment insurance, disability insurance, and workers' compensation insurance.

#### 11. Project Progress.

11.1 Modification of the Schedule. Consultant shall regularly report to the Commission, through correspondence or progress reports, its progress in providing required Services within the scheduled time periods. Commission shall be promptly informed of all anticipated delays. In the event that Consultant determines that a schedule modification is necessary, Consultant shall promptly submit a revised Schedule of Services for approval by Commission's Contract Administrator.

11.2 Trend Meetings. Consultant shall conduct trend meetings with the Commission's Contract Administrator and other interested parties, as requested by the Commission, on a bi-weekly basis or as may be mutually scheduled by the Parties at a standard day and time. These trend meetings will encompass focused and informal discussions concerning scope, schedule, and current progress of Services, relevant cost issues, and future Project objectives. Consultant shall be responsible for the preparation and distribution of meeting agendas to be received by the Commission and other attendees no later than three (3) working days prior to the meeting.

11.3 Progress Reports. As part of its monthly invoice, Consultant shall submit a progress report, in a form determined by the Commission, which will indicate



the progress achieved during the previous month in relation to the Schedule of Services. Submission of such progress report by Consultant shall be a condition precedent to receipt of payment from the Commission for each monthly invoice submitted.

12. Delay in Performance.

12.1 Excusable Delays. Should Consultant be delayed or prevented from the timely performance of any act or Services required by the terms of the Agreement by reason of acts of God or of the public enemy, acts or omissions of the Commission or other governmental agencies in either their sovereign or contractual capacities, fires, floods, pandemics, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, performance of such act shall be excused for the period of such delay.

12.2 Written Notice. If Consultant believes it is entitled to an extension of time due to conditions set forth in subsection 12.1, Consultant shall provide written notice to the Commission within seven (7) working days from the time Consultant knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of Consultant to provide such timely notice shall constitute a waiver by Consultant of any right to an excusable delay in time of performance.

12.3 Mutual Agreement. Performance of any Services under this Agreement may be delayed upon mutual agreement of the Parties. Upon such agreement, Consultant's Schedule of Services shall be extended as necessary by the Commission. Consultant shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

13. Preliminary Review of Work. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Agreement shall be submitted to the Commission's Contract Administrator in draft form, and the Commission may require revisions of such drafts prior to formal submission and approval. In the event plans and designs are to be developed as part of the Project, final detailed plans and designs shall be contingent upon obtaining environmental clearance as may be required in connection with Federal funding. In the event that Commission's Contract Administrator, in his or her sole discretion, determines the formally submitted work product to be not in accordance with the standard of care established under this Agreement, Commission's Contract Administrator may require Consultant to revise and resubmit the work at no cost to the Commission.

14. Appearance at Hearings. If and when required by the Commission, Consultant shall render assistance at public hearings or other meetings related to the Project or necessary to the performance of the Services. However, Consultant shall not be required to, and will not, render any decision, interpretation or recommendation regarding questions of a legal nature or which may be construed as constituting a legal opinion.

15. Opportunity to Cure; Inspection of Work. Commission may provide Consultant an opportunity to cure, at Consultant's expense, all errors and omissions which may be disclosed during Project implementation. Should Consultant fail to make such correction in a timely manner, such correction may be made by the Commission, and the cost thereof charged to Consultant. Consultant shall allow the Commission's Contract Administrator and Caltrans to inspect or review Consultant's work in progress at any reasonable time.

16. Claims Filed by Contractor.

16.1 If claims are filed by the Commission's contractor for the Project ("Contractor") relating to work performed by Consultant's personnel, and additional information or assistance from the Consultant's personnel is required by the Commission in order to evaluate or defend against such claims; Consultant agrees to make reasonable efforts to make its personnel available for consultation with the Commission's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

16.2 Consultant's personnel that the Commission considers essential to assist in defending against Contractor claims will be made available on reasonable notice from the Commission. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this Agreement.

16.3 Services of the Consultant's personnel and other support staff in connection with Contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to finally resolve the claims.

16.4 Nothing contained in this Section shall be construed to in any way limit Consultant's indemnification obligations contained in Section 29. In the case of any conflict between this Section and Section 29, Section 29 shall govern. This Section is not intended to obligate the Commission to reimburse Consultant for time spent by its personnel related to Contractor claims for which Consultant is required to indemnify and defend the Commission pursuant to Section 29 of this Agreement.

17. Final Acceptance. Upon determination by the Commission that Consultant has satisfactorily completed the Services required under this Agreement and within the term set forth herein the Commission shall give Consultant a written Notice of Final Acceptance. Upon receipt of such notice, Consultant shall incur no further costs hereunder, unless otherwise specified in the Notice of Final Acceptance. Consultant may request issuance of a Notice of Final Acceptance when, in its opinion, it has satisfactorily completed all Services required under the terms of this Agreement. In the event copyrights are permitted under this Agreement, then in connection with Federal funding, it is hereby acknowledged and agreed that the United States Department of Transportation shall have the royalty-free non-exclusive and irrevocable right to

reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes.

18. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. For example, and not by way of limitation, Consultant shall keep itself fully informed of and in compliance with all implementing regulations, design standards, specifications, previous commitments that must be incorporated in the design of the Project, and administrative controls including those of the United States Department of Transportation. Compliance with Federal procedures may include completion of the applicable environmental documents and approved by the United States Department of Transportation. For example, and not by way of limitation, a signed Categorical Exclusion, Finding of No Significant Impact, or published Record of Decision may be required to be approved and/or completed by the United States Department of Transportation. For Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Commission, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

19. Fees and Payment.

19.1 The method of payment for this Agreement will be based on actual cost plus a fixed fee. Commission shall reimburse Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by Consultant in performance of the Services. Consultant shall not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved Consultant cost proposal attached hereto as Exhibit "B" and incorporated herein by reference, or any cost proposal included as part of a Task Order ("Cost Proposal") unless additional reimbursement is provided for by written amendment. In no event, shall Consultant be reimbursed for overhead costs at a rate that exceeds Commission's approved overhead rate set forth in the Cost Proposal. To the extent legally permissible, Consultant's approved overhead rate shall be fixed for the term of this Agreement. In the event that Commission determines that a change to the Services from that specified in the Cost Proposal, this Agreement or any Task Order is required, the Agreement time or actual costs reimbursable by Commission shall be adjusted by written amendment to accommodate the changed work. The maximum total cost as specified in Section 19.8 shall not be exceeded, unless authorized by a written amendment.

19.2 In addition to the allowable incurred costs, Commission shall pay Consultant a fixed fee to be set forth in each Task Order ("Fixed Fee"). The Fixed Fee is

nonadjustable for each Task Order, except in the event of a significant change in the Scope of Services, and such adjustment is made by written amendment.

19.3 Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal. In addition, payments to Consultant for travel and subsistence expenses claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid exempt non-represented State employees under current State Department of Personnel Administration (DPA) rules, unless otherwise authorized by Commission. If the rates invoiced are in excess of those authorized DPA rates, and Commission has not otherwise approved said rates, then Consultant is responsible for the cost difference and any overpayments shall be reimbursed to the Commission on demand.

19.4 When milestone cost estimates are included in the approved Cost Proposal for a Task Order, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

19.5 Progress payments shall be made monthly in arrears based on Services provided and allowable incurred costs. A pro rata portion of the Fixed Fee shall be included in the monthly progress payments. If Consultant fails to submit the required deliverable items according to the schedule set forth in the Scope of Services, Commission shall have the right to delay payment or terminate this Agreement in accordance with the provisions of Section 21, Termination.

19.6 No payment shall be made prior to approval of any Services, nor for any Services performed prior to approval of this Agreement.

19.7 Consultant shall be reimbursed, as promptly as fiscal procedures will permit upon receipt by Commission's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain the final cost and all credits due Commission including any equipment purchased under the Equipment Purchase provisions of this Agreement. The final invoice should be submitted within 60 calendar days after completion of Consultant's work. Invoices shall be mailed to Commission's Contract Administrator at the following address:

Riverside County Transportation Commission  
Attention: Accounts Payable  
P.O. 12008  
Riverside, CA 92502

19.8 The total amount payable by Commission, including the Fixed Fee, shall not exceed the amount set forth in each Task Order.

19.9 Commission has or will enter into four (4) task order contracts for performance of the Scope of Services identified in Exhibit "A", including this Agreement ("Design & Environmental Services Task Order Contracts"). The other Design & Environmental Services Task Order Contracts are HDR Engineering, Inc. (24-33-130-00), HNTB Corporation (24-33-131-00), and WSP USA, Inc. (24-33-132-00). The total amount payable by Commission for the Design & Environmental Services Task Order Contracts shall not exceed a cumulative maximum total value of Twelve Million Dollars (\$12,000,000) ("NTE Sum"). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under the Design & Environmental Services Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the Design & Environmental Services Task Order Contracts, Commission must send written notification to Consultant and each of the other consultants entering into the Design & Environmental Services Task Order Contracts. The notice must identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Consultant acknowledges and agrees that Commission must not pay any amount under this Agreement that would exceed the NTE Sum, and Consultant must not enter into a Task Order that exceeds the NTE Sum.

19.10 Salary increases shall be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by Commission's Contract Administrator. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

19.11 Consultant shall not be reimbursed for any expenses unless authorized in writing by the Commission's Contract Administrator.

19.12 All subcontracts in excess of \$25,000 shall contain the above provisions.

## 20. Disputes.

20.1 Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by mutual agreement of the Parties shall be decided by a committee consisting of RCTC's Contract Administrator and the Director of Capital Projects, who may consider written or verbal information submitted by Consultant.

20.2 Not later than 30 days after completion of all Services under this Agreement, Consultant may request review by the Commission's Executive Director of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

20.3 Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.

## 21. Termination.

21.1 Commission reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to Consultant, for any or no reason, with the reasons for termination stated in the notice. Commission may terminate Services under a Task Order, at any time, for any or no reason, with the effective date of termination to be specified in the notice of termination of Task Order.

21.2 Commission may terminate this Agreement with Consultant should Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, Commission may proceed with the Services in any manner deemed proper by Commission. If Commission terminates this Agreement with Consultant, Commission shall pay Consultant the sum due to Consultant under this Agreement for Services completed and accepted prior to termination, unless the cost of completion to Commission exceeds the funds remaining in the Agreement. In such case, the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.

21.3 In addition to the above, payment upon termination shall include a prorated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed Services. Consultant shall provide documentation deemed adequate by Commission's Contract Administrator to show the Services actually completed by Consultant prior to the effective date of termination. This Agreement shall terminate on the effective date of the Notice of Termination

21.4 Upon receipt of the written Notice of Termination, Consultant shall discontinue all affected Services as directed in the Notice or as otherwise provided herein, and deliver to the Commission all Documents and Data, as defined in this Agreement, as may have been prepared or accumulated by Consultant in performance of the Services, whether completed or in progress.

21.5 In addition to the above, Consultant shall be liable to the Commission for any reasonable additional costs incurred by the Commission to revise work for which the Commission has compensated Consultant under this Agreement, but which the Commission has determined in its sole discretion needs to be revised, in part or whole, to complete the Project because it did not meet the standard of care established in this Agreement. Termination of this Agreement for cause may be considered by the Commission in determining whether to enter into future agreements with Consultant.

21.6 The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

21.7 Consultant, in executing this Agreement, shall be deemed to have waived any and all claims for damages which may otherwise arise from the Commission's termination of this Agreement, for convenience or cause, as provided in this Section.

21.8 Consultant may not terminate this Agreement except for cause.

22. Cost Principles and Administrative Requirements.

22.1 Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

22.2 Consultant also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

22.3 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to Commission.

22.4 All subcontracts in excess of \$25,000 shall contain the above provisions.

23. Retention of Records/Audit. For the purpose of determining compliance with, as applicable, 2 CFR Part 200, Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this Agreement pursuant to Government Code 8546.7; Consultant, subconsultants, and Commission shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under this Agreement. The State, State Auditor, Commission, or any duly authorized representative of the State or Federal Government shall have access to any books, records, and documents of Consultant and its certified public accountants (CPA) work papers that are pertinent to this Agreement and, if applicable, indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

23.1 Accounting System. Consultant and its subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate expenditures by line item for the Services. The accounting system of Consultant and its subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of

completion, and provide support for reimbursement payment vouchers or invoices.

24. Audit Review Procedures.

24.1 Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by Commission's Chief Financial Officer.

24.2 Not later than 30 days after issuance of the final audit report, Consultant may request a review by Commission's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

24.3 Neither the pendency of a dispute nor its consideration by Commission shall excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

25. Subcontracting.

25.1 Nothing contained in this Agreement or otherwise, shall create any contractual relation between Commission and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to Commission for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from Commission's obligation to make payments to the Consultant.

25.2 Consultant shall perform the Services contemplated with resources available within its own organization and no portion of the Services pertinent to this Agreement shall be subcontracted without written authorization by Commission's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

25.3 Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by Commission.

25.4 Any subcontract in excess of \$25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

25.5 Any substitution of subconsultant(s) must be approved in writing by Commission's Contract Administrator prior to the start of work by the subconsultant(s).

25.6 Exhibit "B" may set forth the rates at which each subconsultant shall bill the Consultant for Services and that are subject to reimbursement by the Commission to Consultant. Additional Direct Costs, as defined in Exhibit "B" shall be the same for both the Consultant and all subconsultants, unless otherwise identified in Exhibit "B" or



in a Task Order. The subconsultant rate schedules and cost proposals contained herein are for accounting purposes only.

26. Equipment Purchase.

26.1 Prior authorization, in writing, by Commission's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract for supplies, equipment, or services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

26.2 For purchase of any item, service or consulting work not covered in the Cost Proposal and exceeding \$5,000 prior authorization, in writing, by Commission's Contract Administrator is required. Three competitive quotations must be submitted with the request for such purchase, or the absence of bidding must be adequately justified.

26.3 Any equipment purchased as a result of this Agreement is subject to the following: Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, Commission shall receive a proper refund or credit at the conclusion of this Agreement, or if this Agreement is terminated, Consultant may either keep the equipment and credit Commission in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established Commission procedures; and credit Commission in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by Commission and Consultant. If Consultant determines to sell the equipment, the terms and conditions of such sale must be approved in advance by Commission. 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the Project.

26.4 All subcontracts in excess \$25,000 shall contain the above provisions.

27. Labor Code Requirements.

27.1 Prevailing Wages.

(a) Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the Services.

(b) Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.

(c) When prevailing wages apply to the Services described in the Scope of Services, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

(d) Copies of the prevailing rate of per diem wages in effect at commencement of this Agreement are on file at the Commission's offices. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Commission, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

27.2 DIR Registration. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

27.3 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Consultant or the Services are not subject to the Eight-Hour Law. Consultant shall forfeit to Commission as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any sub-consultant under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Consultant or the Services are not subject to the Eight-Hour Law.

27.4 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Consultant

28. Ownership of Materials/Confidentiality.

28.1 Documents & Data. This Agreement creates an exclusive and perpetual license for Commission to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”).

Consultant shall require all subcontractors to agree in writing that Commission is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Commission.

Commission shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Commission’s sole risk.

28.2 Intellectual Property. In addition, Commission shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media (“Intellectual Property”) prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

The Commission shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for wholly or in part by Commission, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Commission.

Consultant shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the Commission.

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

Commission further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

28.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Commission, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Commission's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Commission.

28.4 Infringement Indemnification. Consultant shall defend, indemnify and hold the Commission, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by Commission of the Documents & Data, including any method, process, product, or concept specified or depicted.

29. Indemnification. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold Commission, Caltrans and their directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, inverse condemnation, and any claims related to property acquisition and relocation rules or failure to detect or abate hazardous materials, which are brought by a third party, and which , in any manner arise out of or are incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, Caltrans, and their directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission, Caltrans or their directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Commission, Caltrans and their directors, officials, officers, employees, consultants, agents, and/or volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission, Caltrans or their directors, officials officers, employees, consultants, agents, or volunteers.

If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Consultant's obligations as set forth in this Section shall survive expiration or termination of this Agreement.

30. Insurance.

30.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the Commission that it has secured all insurance required under this Section, in a form and with insurance companies acceptable to the Commission. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this Section.

30.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(a) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(b) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of \$1,000,000 per accident.

30.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. For Consultant, such insurance shall be in an amount not less than \$1,000,000 per claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. Subconsultants of Consultant shall obtain such insurance in an amount not less than \$2,000,000 per claim. Notwithstanding the foregoing, the Commission may consider written requests to lower or dispense with the errors and omissions liability insurance requirement contained in this Section for certain subconsultants of Consultant, on a case-by-case basis, depending on the nature and scope of the Services to be provided by the subconsultant. Approval of such request shall be in writing, signed by the Commission's Contract Administrator.

30.4 Aircraft Liability Insurance. Prior to conducting any Services requiring use of aircraft, Consultant shall procure and maintain, or cause to be procured and maintained, aircraft liability insurance or equivalent form, with a single limit as shall be required by the Commission. Such insurance shall include coverage for owned, hired and non-owned aircraft and passengers, and shall name, or be endorsed to name, the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant.

30.5 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the Commission to add the following provisions to the insurance policies:

(a) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) bodily Injury and property damage; (2) personal Injury/advertising Injury; (3) premises/operations liability; (4) products/completed operations liability; (5) aggregate limits that apply per Project; (6) explosion, collapse and underground (UCX) exclusion deleted; (7) contractual liability with respect to this Agreement; (8) broad form property damage; and (9) independent consultants coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to this Agreement.

(iii) The policy shall give the Commission, its directors, officials, officers, employees, and agents insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be "primary and non-contributory" and will not seek contribution from the Commission's or Caltrans' insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(b) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Commission, Caltrans and their directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the Commission, Caltrans and their directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the Commission, Caltrans and their directors, officials, officers, employees and agents shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(c) Workers' Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against the Commission, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(d) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Commission (if agreed to in a written contract or agreement) before the Commission's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide the Commission at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Commission at least ten (10) days prior to the effective date of cancellation or expiration.



(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Commission, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Commission has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Commission will be promptly reimbursed by Consultant or Commission will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Commission may cancel this Agreement. The Commission may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither the Commission nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

30.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Commission. If the Commission does not approve the deductibles or self-insured retentions as presented, Consultant shall guarantee that, at the option of the Commission, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Commission, its directors, officials, officers, employees and agents; or, (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expense.

30.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Commission.

30.8 Verification of Coverage. Consultant shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Commission before work commences. The Commission reserves the right to require complete, certified copies of all required insurance policies, at any time.

30.9 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all insurance required under this Section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

30.10 Other Insurance. At its option, the Commission may require such additional coverage(s), limits and/or the reduction of deductibles or retentions it considers reasonable and prudent based upon risk factors that may directly or indirectly impact the Project. In retaining this option Commission does not warrant Consultant's insurance program to be adequate. Consultant shall have the right to purchase insurance in addition to the insurance required in this Section.

31. Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the Commission has determined that the Project will contain areas that are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

32. Additional Work. Any work or activities that are in addition to, or otherwise outside of, the Services to be performed pursuant to this Agreement shall only be performed pursuant to a separate agreement between the parties. Notwithstanding the foregoing, the Commission's Executive Director may make a change to the Agreement, other than a Cardinal Change. For purposes of this Agreement, a Cardinal Change is a change which is "outside the scope" of the Agreement; in other words, work which should not be regarded as having been fairly and reasonably within the contemplation of the parties when the Agreement was entered into. An example of a change which is not a Cardinal Change would be where, in a contract to construct a building there are many changes in the materials used, but the size and layout of the building remains the same.

Cardinal Changes are not within the authority of this provision to order, and shall be processed by the Commission as “sole source” procurements according to applicable law, including the requirements of FTA Circular 4220.1D, paragraph 9(f).

(a) In addition to the changes authorized above, a modification which is signed by Consultant and the Commission’s Executive Director, other than a Cardinal Change, may be made in order to: (1) make a negotiated equitable adjustment to the Agreement price, delivery schedule and other terms resulting from the issuance of a Change Order, (2) reflect definitive letter contracts, and (3) reflect other agreements of the parties modifying the terms of this Agreement (“Bilateral Contract Modification”).

(b) Consultant shall not perform, nor be compensated for any change, without written authorization from the Commission’s Executive Director as set forth herein. In the event such a change authorization is not issued and signed by the Commission’s Executive Director, Consultant shall not provide such change.

### 33. Prohibited Interests.

33.1 Solicitation. Consultant warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to rescind this Agreement without liability.

### 33.2 Consultant Conflict of Interest.

(a) Consultant shall disclose any financial, business, or other relationship with Commission that may have an impact upon the outcome of this Agreement, or any ensuing Commission construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing Commission construction project, which will follow.

(b) Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

(c) Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

(d) Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within the construction contract. Additionally, Consultant certifies that no person working under

this Agreement is also employed by the construction contractor for any project included within this Agreement.

33.3 Commission Conflict of Interest. For the term of this Agreement, no member, officer or employee of the Commission, during the term of his or her service with the Commission, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

33.4 Conflict of Employment. Employment by the Consultant of personnel currently on the payroll of the Commission shall not be permitted in the performance of this Agreement, even though such employment may occur outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, the employment by the Consultant of personnel who have been on the Commission payroll within one year prior to the date of execution of this Agreement, where this employment is caused by and or dependent upon the Consultant securing this or related Agreements with the Commission, is prohibited.

33.5 Covenant Against Contingent Fees. As required in connection with federal funding, the Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the Commission shall have the right to terminate this Agreement without liability pursuant to the terms herein, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

33.6 Rebates, Kickbacks or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any Commission employee. For breach or violation of this warranty, Commission shall have the right in its discretion; to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

33.7 Covenant Against Expenditure of Commission, State or Federal Funds for Lobbying. The Consultant certifies that to the best of his/ her knowledge and belief no state, federal or local agency appropriated funds have been paid, or will be paid by or on behalf of the Consultant to any person for the purpose of influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the award of any state or federal contract, grant, loan, or cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

(a) If any funds other than federal appropriated funds have been paid, or will be paid to any person for the purpose of influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this Agreement, the Consultant shall complete and submit the attached Exhibit "F", Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with the attached instructions.

(b) The Consultant's certification provided in this Section is a material representation of fact upon which reliance was placed when this Agreement was entered into, and is a prerequisite for entering into this Agreement pursuant to Section 1352, Title 31, US. Code. Failure to comply with the restrictions on expenditures, or the disclosure and certification requirements set forth in Section 1352, Title 31, US. Code may result in a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(c) The Consultant also agrees by signing this Agreement that he/she shall require that the language set forth in this Section 3.23.5 be included in all Consultant subcontracts which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

33.8 Employment Adverse to the Commission. Consultant shall notify the Commission, and shall obtain the Commission's written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against the Commission during the term of this Agreement.

34. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

35. Right to Employ Other Consultants. Commission reserves the right to employ other consultants in connection with the Project.

36. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California. Venue shall be in Riverside County.

37. Disputes; Attorneys' Fees.

37.1 Prior to commencing any action hereunder, the Parties shall attempt in good faith to resolve any dispute arising between them. The pendency of a dispute shall not excuse Consultant from full and timely performance of the Services.

37.2. If the Parties are unable to resolve a dispute after attempting in good faith to do so, the Parties may seek any other available remedy to resolve the dispute. If

either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and, all other costs of such actions.

38. Time of Essence. Time is of the essence for each and every provision of this Agreement.

39. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

40. Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**CONSULTANT:**  
Moffatt & Nichol  
3636 Concours, Ste. 200  
Ontario, CA 91764

Attn: Sam Mansour

**COMMISSION:**  
Riverside County  
Transportation Commission  
4080 Lemon Street, 3<sup>rd</sup> Floor  
Riverside, CA 92501

Attn: Executive Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. mail, first class postage prepaid, and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

41. Conflicting Provisions. In the event that provisions of any attached exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the performance of the Services.

42. Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

43. Entire Agreement. This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.

44. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

45. Provisions Applicable When State Funds or Federal Funds Are Involved. When funding for the Services under a Task Order is provided, in whole or in part, from

Caltrans, Consultant shall also fully and adequately comply with the provisions included in Exhibit "C" (California Department of Transportation requirements) attached hereto and incorporated herein by reference. When funding for the Services under a Task Order is provided, in whole or in part, from the FTA, Consultant shall also fully and adequately comply with the provisions included in Exhibit "D" (FTA Requirements) attached hereto and incorporated herein by reference.

46. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

47. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

48. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

49. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

50. Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to the Commission. Consultant shall not respond to any such subpoena or court order until notice to the Commission is provided as required herein, and shall cooperate with the Commission in responding to the subpoena or court order.

51. Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein, without the prior written consent of the Commission. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

52. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, and shall not be assigned by Consultant without the prior written consent of Commission.

53. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

54. No Waiver. Failure of Commission to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any

rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

**[Signatures on following page]**



**SIGNATURE PAGE  
TO  
PROFESSIONAL SERVICES AGREEMENT  
WITH FTA AND PROPOSITION 1B FUNDING/ASSISTANCE**

**IN WITNESS WHEREOF**, this Agreement was executed on the date first written above.

<p><b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b></p> <p>By: _____                Aaron Hake                Executive Director</p> <p><i>Approved as to Form:</i></p> <p>By: _____                Best, Best &amp; Krieger LLP                General Counsel</p>	<p><b>CONSULTANT MOFFATT &amp; NICHOL</b></p> <p>By: _____                Signature</p> <p>_____</p> <p style="text-align: center;">Name</p> <p>_____</p> <p style="text-align: center;">Title</p> <p><b>ATTEST:</b></p> <p>By: _____</p> <p>Its: _____</p>
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\* A corporation requires the signatures of two corporate officers.

One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to RCTC.

**TO BE INSERTED FROM RFP:**

**EXHIBIT "A" - SCOPE OF SERVICES**

**EXHIBIT "D" - FTA PROVISIONS**

**EXHIBIT "F" – LOBBYING ACTIVITIES DISCLOSURE**

**TO BE INSERTED FROM CONSULTANT PROPOSAL:**

**EXHIBIT "B"- COMPENSATION AND PAYMENT**

## **EXHIBIT "C"**

### **CALTRANS REQUIREMENTS/ PROP 1 B PROVISIONS**

#### **1. STATEMENT OF COMPLIANCE.**

A. Consultant's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. During the performance of this Agreement, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

#### **2. DEBARMENT AND SUSPENSION CERTIFICATION**

A. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to Commission.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

### **3. PROMPT PAYMENT**

Consultant agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 10 days from the receipt of each payment the Consultant receives from the Commission. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Commission.

### **4. RELEASE OF RETAINAGE**

No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to Consultant and its subconsultants.

### **5. LEGAL REMEDIES**

In addition to those contract remedies set forth under relevant provisions of California law, either Party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or "whistleblower" actions, as well as any and all other applicable federal and state provisions of law.

The Consultant shall include a provision to this effect in each of its agreements with its subcontractors.

### **6. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Consultant certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with

an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

## **7. INVENTIONS**

Rights to Inventions and Data Made Under a Contract or Agreement — Consultant shall comply with Federal requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under the Contract, and shall be in compliance with 10 CFR 600.325 and Appendix A—Patent and Data Rights to Subpart D, Part 600.

## **8. ENVIRONMENTAL COMPLIANCE**

A. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

B. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

C. Energy Policy and Conservation Act (Pub. L. 94—163, 89 Stat. 871.) — Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871), which are incorporated by reference in this Contract. (10 CFR 600.236(i)(13).)

**EXHIBIT "E"**

**CERTIFICATE OF CONSULTANT**

I HEREBY CERTIFY that I am the \_\_\_\_\_ and duly authorized representative of the firm of \_\_\_\_\_ whose address is \_\_\_\_\_, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor
- (b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_

## Agreement No. 24-33-130-00

**PROFESSIONAL SERVICES AGREEMENT  
 WITH FTA AND PROPOSITION 1B FUNDING ASSISTANCE**

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
 AGREEMENT WITH  
 HDR ENGINEERING, INC.  
 FOR ON-CALL  
 DESIGN ENGINEERING AND ENVIRONMENTAL SERVICES  
 FOR THE  
 CONSTRUCTION OF COMMUTER RAIL STATION CAPITAL IMPROVEMENT  
 PROJECTS**

**Parties and Date.**

This Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_, 2024, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and **HDR ENGINEERING, INC.** ("Consultant"), a **CORPORATION**. The Commission and Consultant are sometimes referred to herein individually as "Party", and collectively as the "Parties".

**Recitals.**

A. On November 8, 1988 the Voters of Riverside County approved Measure A authorizing the collection of a one-half percent (1/2 %) retail transactions and use tax (the "tax") to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the "Plan").

B. Pursuant to Public Utility Code Sections 240000 et seq., the Commission is authorized to allocate the proceeds of the Tax in furtherance of the Plan.

C. On November 5, 2002, the voters of Riverside County approved an extension of the Measure A tax for an additional thirty (30) years for the continued funding of transportation and improvements within the County of Riverside.

D. A source of funding for payment for on-call professional consulting services provided under this Agreement may be Proposition 1B funds ("Prop 1B") funds administered by the California Department of Transportation ("Caltrans"), and/or funds from the Federal Transit Administration ("FTA"). This Agreement shall not be deemed to be approved by the Commission until the certification shown in Exhibit "E" attached hereto and incorporated herein by reference, is executed.

E. Consultant desires to perform and assume responsibility for the provision of certain on-call design engineering and environmental services for the construction of

commuter rail station capital improvement projects in the County of Riverside, California. Services shall be provided on the terms and conditions set forth in this Agreement and in the task order(s) to be solicited, awarded and authorized by Commission as further described in this Agreement ("Task Order"). Consultant represents that it is experienced in providing such services to public clients, is licensed in the State of California (if necessary), and is familiar with the plans of the Commission.

F. Commission desires to engage Consultant to render such services on an on-call basis. Services shall be ordered by Task Order(s) to be issued pursuant to this Agreement for future projects as set forth herein and in each Task Order (each such project shall be designated a "Project" under this Agreement).

## **Terms.**

1. General Scope of Services. Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, and incidental and customary work necessary to fully and adequately supply the on-call design engineering and environmental services for the Projects ("Services"). The Services are generally described in Exhibit "A" attached hereto and incorporated herein by reference. The Services shall be more particularly described in the individual Task Orders issued by the Commission's Executive Director or designee. No Services shall be performed unless authorized by a fully executed Task Order. All Services shall be subject to, and performed in accordance with, this Agreement, the relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

2. Task Orders; Commencement of Services; Schedule of Services. Services under this Agreement shall be requested by the Commission pursuant to Task Order requests. If Commission accepts Consultant's Task Order proposal, Commission shall issue a purchase order or executed task order for the Services ("Commission's Task Order Authorization"). Consultant's agreement to the final terms of a proposed Task Order, Commission's Task Order Authorization and Consultant's commencement of the Services shall indicate the Parties' agreement to the terms of the relevant Task Order.

Consultant shall commence Services under a Task Order within five (5) days of receiving Commission's Task Order Authorization.

Consultant shall perform the Services expeditiously, in accordance with the Schedule of Services set forth in a Task Order. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, Commission shall respond to Consultant's submittals in a timely manner. Upon request of the Commission, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3. Pre-Award Audit. As a result of the funding for this Project, and to the extent Caltrans procedures apply in connection therewith, issuance of a "Notice to Proceed" or



other authorization to proceed under a Task Order may be contingent upon completion and approval of a pre-award audit. Any questions raised during the pre-award audit shall be resolved before the Commission will consider approval of this Agreement. The funding provided under this Agreement is contingent on meeting all funding requirements and could be withdrawn, thereby entitling the Commission to terminate this Agreement, if the procedures are not completed. The Consultant's files shall be maintained in a manner to facilitate State process reviews. In addition, Caltrans may require that prior to performance of any work for which funding reimbursement through Caltrans is requested and provided, that Caltrans must give to Commission an "Authorization to Proceed".

#### 4. Audit Procedures.

4.1 Consultant and certain subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an Independent Cost Review (ICR) Audit, or a CPA ICR audit work paper review. If selected for audit or review, this Agreement, Consultant's cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. This Agreement, Consultant's cost proposal, and ICR shall be adjusted by Consultant and approved by the Commission's contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into this Agreement by this reference if directed by Commission at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of the Agreement terms and cause for termination of this Agreement and disallowance of prior reimbursed costs. Additional audit provisions applicable to this Agreement are set forth in Sections 22 and 23 of this Agreement.

Section 4.2 and 4.3 shall apply to the extent applicable to the Task Order and funding source.

4.2 During any Caltrans' review of the ICR audit work papers created by the Consultant's independent CPA, Caltrans will work with the CPA and/or Consultant toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, Commission will reimburse the Consultant at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines is received and approved by Caltrans.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
- b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
- c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

4.3 If Caltrans is unable to issue a cognizant letter per Section 4.2 above, Caltrans may require Consultant to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the Caltrans' management letter. Caltrans will then have up to six (6) months to review the Consultant's and/or the independent CPA's revisions.

If the Consultant fails to comply with the provisions of this Section 4, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in Section 4.2 above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this Agreement.

Consultant may submit to Commission final invoice only when all of the following items have occurred: (1) Caltrans accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this Agreement has been completed to the satisfaction of Commission; and, (3) Caltrans has issued its final ICR review letter. The Consultant must submit its final invoice to Commission no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this Agreement and all Task Orders issued under this Agreement, and all other agreements executed between the Commission and the Consultant, either as a prime or subconsultant, with the same fiscal period ICR.

## 5. Term.

5.1 This Agreement shall go into effect on the date first set forth above, contingent upon approval by Commission, and Consultant shall commence work after notification to proceed by Commission's Contract Administrator. This Agreement shall end on (DATE), unless extended by contract amendment. The Commission may extend the term of this Agreement, in its sole discretion, for one additional two (2) year period.

5.2 Consultant is advised that any recommendation for contract award is not binding on Commission until this Agreement is fully executed and approved by the Commission.

5.3 This Agreement shall remain in effect until the date set forth above, unless earlier terminated as provided herein. Consultant shall complete the Services

within the term of this Agreement, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Commission's Contract Administrator. The Commission hereby designates the Commission's Executive Director, or his or her designee, to act as its Contract Administrator for the performance of this Agreement ("Commission's Contract Administrator"). Commission's Contract Administrator shall have the authority to act on behalf of the Commission for all purposes under this Agreement. Commission's Contract Administrator shall also review and give approval, as needed, to the details of Consultant's work as it progresses. Consultant shall not accept direction or orders from any person other than the Commission's Contract Administrator or his or her designee.

7. Consultant's Representative. Consultant hereby designates **Gerard Reminiskey** to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to act on behalf of Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her professional skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with Commission's Contract Administrator and any other agencies which may have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the Commission staff at all reasonable times. Any substitution in Consultant's Representative shall be approved in writing by Commission's Contract Administrator.

8. Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions herein. The key personnel for performance of this Agreement are: **Rob Klovsy, Gerard Reminiskey, Scott Gaastra, Thomas Jacques, Esmeralda Aranda, Chuck Christoplis, Darren Pynn, Eric Aubry, Ryan Cheung, Jake Hyles, Brett Brandle, Kelly Czechowski, Mario Osorio, Nina Delu, and Dan Weatherby** or as otherwise identified in the Task Order.

9. Standard of Care; Licenses. Consultant represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Agreement to fully and adequately complete the Project. Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents and warrants to the Commission that its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally

required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Consultant's errors and omissions. Any employee of Consultant or its sub-consultants who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

10. Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Consultant on an independent contractor basis and not as an employee, agent or representative of the Commission. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their performance of Services and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security taxes, income tax withholdings, unemployment insurance, disability insurance, and workers' compensation insurance.

11. Project Progress.

11.1 Modification of the Schedule. Consultant shall regularly report to the Commission, through correspondence or progress reports, its progress in providing required Services within the scheduled time periods. Commission shall be promptly informed of all anticipated delays. In the event that Consultant determines that a schedule modification is necessary, Consultant shall promptly submit a revised Schedule of Services for approval by Commission's Contract Administrator.

11.2 Trend Meetings. Consultant shall conduct trend meetings with the Commission's Contract Administrator and other interested parties, as requested by the Commission, on a bi-weekly basis or as may be mutually scheduled by the Parties at a standard day and time. These trend meetings will encompass focused and informal discussions concerning scope, schedule, and current progress of Services, relevant cost issues, and future Project objectives. Consultant shall be responsible for the preparation and distribution of meeting agendas to be received by the Commission and other attendees no later than three (3) working days prior to the meeting.

11.3 Progress Reports. As part of its monthly invoice, Consultant shall submit a progress report, in a form determined by the Commission, which will indicate the progress achieved during the previous month in relation to the Schedule of Services. Submission of such progress report by Consultant shall be a condition precedent to receipt of payment from the Commission for each monthly invoice submitted.

12. Delay in Performance.

12.1 Excusable Delays. Should Consultant be delayed or prevented from the timely performance of any act or Services required by the terms of the Agreement by reason of acts of God or of the public enemy, acts or omissions of the Commission or other governmental agencies in either their sovereign or contractual capacities, fires, floods, pandemics, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, performance of such act shall be excused for the period of such delay.

12.2 Written Notice. If Consultant believes it is entitled to an extension of time due to conditions set forth in subsection 12.1, Consultant shall provide written notice to the Commission within seven (7) working days from the time Consultant knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of Consultant to provide such timely notice shall constitute a waiver by Consultant of any right to an excusable delay in time of performance.

12.3 Mutual Agreement. Performance of any Services under this Agreement may be delayed upon mutual agreement of the Parties. Upon such agreement, Consultant's Schedule of Services shall be extended as necessary by the Commission. Consultant shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

13. Preliminary Review of Work. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Agreement shall be submitted to the Commission's Contract Administrator in draft form, and the Commission may require revisions of such drafts prior to formal submission and approval. In the event plans and designs are to be developed as part of the Project, final detailed plans and designs shall be contingent upon obtaining environmental clearance as may be required in connection with Federal funding. In the event that Commission's Contract Administrator, in his or her sole discretion, determines the formally submitted work product to be not in accordance with the standard of care established under this Agreement, Commission's Contract Administrator may require Consultant to revise and resubmit the work at no cost to the Commission.

14. Appearance at Hearings. If and when required by the Commission, Consultant shall render assistance at public hearings or other meetings related to the Project or necessary to the performance of the Services. However, Consultant shall not be required to, and will not, render any decision, interpretation or recommendation regarding questions of a legal nature or which may be construed as constituting a legal opinion.

15. Opportunity to Cure; Inspection of Work. Commission may provide Consultant an opportunity to cure, at Consultant's expense, all errors and omissions which may be disclosed during Project implementation. Should Consultant fail to make such correction in a timely manner, such correction may be made by the Commission, and the cost thereof charged to Consultant. Consultant shall allow the Commission's Contract Administrator and Caltrans to inspect or review Consultant's work in progress at any reasonable time.

16. Claims Filed by Contractor.

16.1 If claims are filed by the Commission's contractor for the Project ("Contractor") relating to work performed by Consultant's personnel, and additional information or assistance from the Consultant's personnel is required by the Commission in order to evaluate or defend against such claims; Consultant agrees to make reasonable efforts to make its personnel available for consultation with the Commission's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

16.2 Consultant's personnel that the Commission considers essential to assist in defending against Contractor claims will be made available on reasonable notice from the Commission. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this Agreement.

16.3 Services of the Consultant's personnel and other support staff in connection with Contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to finally resolve the claims.

16.4 Nothing contained in this Section shall be construed to in any way limit Consultant's indemnification obligations contained in Section 29. In the case of any conflict between this Section and Section 29, Section 29 shall govern. This Section is not intended to obligate the Commission to reimburse Consultant for time spent by its personnel related to Contractor claims for which Consultant is required to indemnify and defend the Commission pursuant to Section 29 of this Agreement.

17. Final Acceptance. Upon determination by the Commission that Consultant has satisfactorily completed the Services required under this Agreement and within the term set forth herein the Commission shall give Consultant a written Notice of Final Acceptance. Upon receipt of such notice, Consultant shall incur no further costs hereunder, unless otherwise specified in the Notice of Final Acceptance. Consultant may request issuance of a Notice of Final Acceptance when, in its opinion, it has satisfactorily completed all Services required under the terms of this Agreement. In the event copyrights are permitted under this Agreement, then in connection with Federal funding, it is hereby acknowledged and agreed that the United States Department of Transportation shall have the royalty-free non-exclusive and irrevocable right to

reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes.

18. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. For example, and not by way of limitation, Consultant shall keep itself fully informed of and in compliance with all implementing regulations, design standards, specifications, previous commitments that must be incorporated in the design of the Project, and administrative controls including those of the United States Department of Transportation. Compliance with Federal procedures may include completion of the applicable environmental documents and approved by the United States Department of Transportation. For example, and not by way of limitation, a signed Categorical Exclusion, Finding of No Significant Impact, or published Record of Decision may be required to be approved and/or completed by the United States Department of Transportation. For Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Commission, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

19. Fees and Payment.

19.1 The method of payment for this Agreement will be based on actual cost plus a fixed fee. Commission shall reimburse Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by Consultant in performance of the Services. Consultant shall not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved Consultant cost proposal attached hereto as Exhibit "B" and incorporated herein by reference, or any cost proposal included as part of a Task Order ("Cost Proposal") unless additional reimbursement is provided for by written amendment. In no event, shall Consultant be reimbursed for overhead costs at a rate that exceeds Commission's approved overhead rate set forth in the Cost Proposal. To the extent legally permissible, Consultant's approved overhead rate shall be fixed for the term of this Agreement. In the event that Commission determines that a change to the Services from that specified in the Cost Proposal, this Agreement or any Task Order is required, the Agreement time or actual costs reimbursable by Commission shall be adjusted by written amendment to accommodate the changed work. The maximum total cost as specified in Section 19.8 shall not be exceeded, unless authorized by a written amendment.

19.2 In addition to the allowable incurred costs, Commission shall pay Consultant a fixed fee to be set forth in each Task Order ("Fixed Fee"). The Fixed Fee is

nonadjustable for each Task Order, except in the event of a significant change in the Scope of Services, and such adjustment is made by written amendment.

19.3 Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal. In addition, payments to Consultant for travel and subsistence expenses claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid exempt non-represented State employees under current State Department of Personnel Administration (DPA) rules, unless otherwise authorized by Commission. If the rates invoiced are in excess of those authorized DPA rates, and Commission has not otherwise approved said rates, then Consultant is responsible for the cost difference and any overpayments shall be reimbursed to the Commission on demand.

19.4 When milestone cost estimates are included in the approved Cost Proposal for a Task Order, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

19.5 Progress payments shall be made monthly in arrears based on Services provided and allowable incurred costs. A pro rata portion of the Fixed Fee shall be included in the monthly progress payments. If Consultant fails to submit the required deliverable items according to the schedule set forth in the Scope of Services, Commission shall have the right to delay payment or terminate this Agreement in accordance with the provisions of Section 21, Termination.

19.6 No payment shall be made prior to approval of any Services, nor for any Services performed prior to approval of this Agreement.

19.7 Consultant shall be reimbursed, as promptly as fiscal procedures will permit upon receipt by Commission's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain the final cost and all credits due Commission including any equipment purchased under the Equipment Purchase provisions of this Agreement. The final invoice should be submitted within 60 calendar days after completion of Consultant's work. Invoices shall be mailed to Commission's Contract Administrator at the following address:

Riverside County Transportation Commission  
Attention: Accounts Payable  
P.O. 12008  
Riverside, CA 92502

19.8 The total amount payable by Commission, including the Fixed Fee, shall not exceed the amount set forth in each Task Order.



19.9 Commission has or will enter into four (4) task order contracts for performance of the Scope of Services identified in Exhibit "A", including this Agreement ("Design & Environmental Services Task Order Contracts"). The other Design & Environmental Services Task Order Contracts are Moffatt & Nichol (24-33-097-00), HNTB Corporation (24-33-131-00), and WSP USA, Inc. (24-33-132-00). The total amount payable by Commission for the Design & Environmental Services Task Order Contracts shall not exceed a cumulative maximum total value of Twelve Million Dollars (\$12,000,000) ("NTE Sum"). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under the Design & Environmental Services Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the Design & Environmental Services Task Order Contracts, Commission must send written notification to Consultant and each of the other consultants entering into the Design & Environmental Services Task Order Contracts. The notice must identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Consultant acknowledges and agrees that Commission must not pay any amount under this Agreement that would exceed the NTE Sum, and Consultant must not enter into a Task Order that exceeds the NTE Sum.

19.10 Salary increases shall be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by Commission's Contract Administrator. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

19.11 Consultant shall not be reimbursed for any expenses unless authorized in writing by the Commission's Contract Administrator.

19.12 All subcontracts in excess of \$25,000 shall contain the above provisions.

## 20. Disputes.

20.1 Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by mutual agreement of the Parties shall be decided by a committee consisting of RCTC's Contract Administrator and the Director of Capital Projects, who may consider written or verbal information submitted by Consultant.

20.2 Not later than 30 days after completion of all Services under this Agreement, Consultant may request review by the Commission's Executive Director of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

20.3 Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.

## 21. Termination.

21.1 Commission reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to Consultant, for any or no reason, with the reasons for termination stated in the notice. Commission may terminate Services under a Task Order, at any time, for any or no reason, with the effective date of termination to be specified in the notice of termination of Task Order.

21.2 Commission may terminate this Agreement with Consultant should Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, Commission may proceed with the Services in any manner deemed proper by Commission. If Commission terminates this Agreement with Consultant, Commission shall pay Consultant the sum due to Consultant under this Agreement for Services completed and accepted prior to termination, unless the cost of completion to Commission exceeds the funds remaining in the Agreement. In such case, the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.

21.3 In addition to the above, payment upon termination shall include a prorated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed Services. Consultant shall provide documentation deemed adequate by Commission's Contract Administrator to show the Services actually completed by Consultant prior to the effective date of termination. This Agreement shall terminate on the effective date of the Notice of Termination

21.4 Upon receipt of the written Notice of Termination, Consultant shall discontinue all affected Services as directed in the Notice or as otherwise provided herein, and deliver to the Commission all Documents and Data, as defined in this Agreement, as may have been prepared or accumulated by Consultant in performance of the Services, whether completed or in progress.

21.5 In addition to the above, Consultant shall be liable to the Commission for any reasonable additional costs incurred by the Commission to revise work for which the Commission has compensated Consultant under this Agreement, but which the Commission has determined in its sole discretion needs to be revised, in part or whole, to complete the Project because it did not meet the standard of care established in this Agreement. Termination of this Agreement for cause may be considered by the Commission in determining whether to enter into future agreements with Consultant.

21.6 The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

21.7 Consultant, in executing this Agreement, shall be deemed to have waived any and all claims for damages which may otherwise arise from the Commission's termination of this Agreement, for convenience or cause, as provided in this Section.

21.8 Consultant may not terminate this Agreement except for cause.

22. Cost Principles and Administrative Requirements.

22.1 Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

22.2 Consultant also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

22.3 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to Commission.

22.4 All subcontracts in excess of \$25,000 shall contain the above provisions.

23. Retention of Records/Audit. For the purpose of determining compliance with, as applicable, 2 CFR Part 200, Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this Agreement pursuant to Government Code 8546.7; Consultant, subconsultants, and Commission shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under this Agreement. The State, State Auditor, Commission, or any duly authorized representative of the State or Federal Government shall have access to any books, records, and documents of Consultant and its certified public accountants (CPA) work papers that are pertinent to this Agreement and, if applicable, indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

23.1 Accounting System. Consultant and its subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate expenditures by line item for the Services. The accounting system of Consultant and its subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of

completion, and provide support for reimbursement payment vouchers or invoices.

24. Audit Review Procedures.

24.1 Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by Commission's Chief Financial Officer.

24.2 Not later than 30 days after issuance of the final audit report, Consultant may request a review by Commission's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

24.3 Neither the pendency of a dispute nor its consideration by Commission shall excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

25. Subcontracting.

25.1 Nothing contained in this Agreement or otherwise, shall create any contractual relation between Commission and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to Commission for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from Commission's obligation to make payments to the Consultant.

25.2 Consultant shall perform the Services contemplated with resources available within its own organization and no portion of the Services pertinent to this Agreement shall be subcontracted without written authorization by Commission's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

25.3 Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by Commission.

25.4 Any subcontract in excess of \$25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

25.5 Any substitution of subconsultant(s) must be approved in writing by Commission's Contract Administrator prior to the start of work by the subconsultant(s).

25.6 Exhibit "B" may set forth the rates at which each subconsultant shall bill the Consultant for Services and that are subject to reimbursement by the Commission to Consultant. Additional Direct Costs, as defined in Exhibit "B" shall be the same for both the Consultant and all subconsultants, unless otherwise identified in Exhibit "B" or

in a Task Order. The subconsultant rate schedules and cost proposals contained herein are for accounting purposes only.

26. Equipment Purchase.

26.1 Prior authorization, in writing, by Commission's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract for supplies, equipment, or services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

26.2 For purchase of any item, service or consulting work not covered in the Cost Proposal and exceeding \$5,000 prior authorization, in writing, by Commission's Contract Administrator is required. Three competitive quotations must be submitted with the request for such purchase, or the absence of bidding must be adequately justified.

26.3 Any equipment purchased as a result of this Agreement is subject to the following: Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, Commission shall receive a proper refund or credit at the conclusion of this Agreement, or if this Agreement is terminated, Consultant may either keep the equipment and credit Commission in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established Commission procedures; and credit Commission in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by Commission and Consultant. If Consultant determines to sell the equipment, the terms and conditions of such sale must be approved in advance by Commission. 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the Project.

26.4 All subcontracts in excess \$25,000 shall contain the above provisions.

27. Labor Code Requirements.

27.1 Prevailing Wages.

(a) Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the Services.

(b) Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.

(c) When prevailing wages apply to the Services described in the Scope of Services, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

(d) Copies of the prevailing rate of per diem wages in effect at commencement of this Agreement are on file at the Commission's offices. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Commission, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

27.2 DIR Registration. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

27.3 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Consultant or the Services are not subject to the Eight-Hour Law. Consultant shall forfeit to Commission as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any sub-consultant under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Consultant or the Services are not subject to the Eight-Hour Law.

27.4 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Consultant.

28. Ownership of Materials/Confidentiality.

28.1 Documents & Data. This Agreement creates an exclusive and perpetual license for Commission to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”).

Consultant shall require all subcontractors to agree in writing that Commission is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Commission.

Commission shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Commission’s sole risk.

28.2 Intellectual Property. In addition, Commission shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media (“Intellectual Property”) prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

The Commission shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for wholly or in part by Commission, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Commission.

Consultant shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the Commission.

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

Commission further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

28.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Commission, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Commission's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Commission.

28.4 Infringement Indemnification. Consultant shall defend, indemnify and hold the Commission, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by Commission of the Documents & Data, including any method, process, product, or concept specified or depicted.



29. Indemnification. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold Commission, Caltrans and their directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, inverse condemnation, and any claims related to property acquisition and relocation rules or failure to detect or abate hazardous materials, which are brought by a third party, and which , in any manner arise out of or are incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, Caltrans, and their directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission, Caltrans or their directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Commission, Caltrans and their directors, officials, officers, employees, consultants, agents, and/or volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission, Caltrans or their directors, officials officers, employees, consultants, agents, or volunteers.

If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Consultant's obligations as set forth in this Section shall survive expiration or termination of this Agreement.

30. Insurance.

30.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the Commission that it has secured all insurance required under this Section, in a form and with insurance companies acceptable to the Commission. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this Section.

30.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(a) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(b) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of \$1,000,000 per accident.

30.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. For Consultant, such insurance shall be in an amount not less than \$1,000,000 per claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. Subconsultants of Consultant shall obtain such insurance in an amount not less than \$2,000,000 per claim. Notwithstanding the foregoing, the Commission may consider written requests to lower or dispense with the errors and omissions liability insurance requirement contained in this Section for certain subconsultants of Consultant, on a case-by-case basis, depending on the nature and scope of the Services to be provided by the subconsultant. Approval of such request shall be in writing, signed by the Commission's Contract Administrator.

30.4 Aircraft Liability Insurance. Prior to conducting any Services requiring use of aircraft, Consultant shall procure and maintain, or cause to be procured and maintained, aircraft liability insurance or equivalent form, with a single limit as shall be required by the Commission. Such insurance shall include coverage for owned, hired and non-owned aircraft and passengers, and shall name, or be endorsed to name, the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant.

30.5 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the Commission to add the following provisions to the insurance policies:

(a) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) bodily Injury and property damage; (2) personal Injury/advertising Injury; (3) premises/operations liability; (4) products/completed operations liability; (5) aggregate limits that apply per Project; (6) explosion, collapse and underground (UCX) exclusion deleted; (7) contractual liability with respect to this Agreement; (8) broad form property damage; and (9) independent consultants coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to this Agreement.

(iii) The policy shall give the Commission, its directors, officials, officers, employees, and agents insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be "primary and non-contributory" and will not seek contribution from the Commission's or Caltrans' insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(b) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Commission, Caltrans and their directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the Commission, Caltrans and their directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the Commission, Caltrans and their directors, officials, officers, employees and agents shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(c) Workers' Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against the Commission, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(d) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Commission (if agreed to in a written contract or agreement) before the Commission's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide the Commission at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Commission at least ten (10) days prior to the effective date of cancellation or expiration.

(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Commission, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Commission has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Commission will be promptly reimbursed by Consultant or Commission will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Commission may cancel this Agreement. The Commission may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither the Commission nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

30.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Commission. If the Commission does not approve the deductibles or self-insured retentions as presented, Consultant shall guarantee that, at the option of the Commission, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Commission, its directors, officials, officers, employees and agents; or, (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expense.

30.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Commission.

30.8 Verification of Coverage. Consultant shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Commission before work commences. The Commission reserves the right to require complete, certified copies of all required insurance policies, at any time.

30.9 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all insurance required under this Section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

30.10 Other Insurance. At its option, the Commission may require such additional coverage(s), limits and/or the reduction of deductibles or retentions it considers reasonable and prudent based upon risk factors that may directly or indirectly impact the Project. In retaining this option Commission does not warrant Consultant's insurance program to be adequate. Consultant shall have the right to purchase insurance in addition to the insurance required in this Section.

31. Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the Commission has determined that the Project will contain areas that are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

32. Additional Work. Any work or activities that are in addition to, or otherwise outside of, the Services to be performed pursuant to this Agreement shall only be performed pursuant to a separate agreement between the parties. Notwithstanding the foregoing, the Commission's Executive Director may make a change to the Agreement, other than a Cardinal Change. For purposes of this Agreement, a Cardinal Change is a change which is "outside the scope" of the Agreement; in other words, work which should not be regarded as having been fairly and reasonably within the contemplation of the parties when the Agreement was entered into. An example of a change which is not a Cardinal Change would be where, in a contract to construct a building there are many changes in the materials used, but the size and layout of the building remains the same.

Cardinal Changes are not within the authority of this provision to order, and shall be processed by the Commission as “sole source” procurements according to applicable law, including the requirements of FTA Circular 4220.1D, paragraph 9(f).

(a) In addition to the changes authorized above, a modification which is signed by Consultant and the Commission’s Executive Director, other than a Cardinal Change, may be made in order to: (1) make a negotiated equitable adjustment to the Agreement price, delivery schedule and other terms resulting from the issuance of a Change Order, (2) reflect definitive letter contracts, and (3) reflect other agreements of the parties modifying the terms of this Agreement (“Bilateral Contract Modification”).

(b) Consultant shall not perform, nor be compensated for any change, without written authorization from the Commission’s Executive Director as set forth herein. In the event such a change authorization is not issued and signed by the Commission’s Executive Director, Consultant shall not provide such change.

### 33. Prohibited Interests.

33.1 Solicitation. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to rescind this Agreement without liability.

### 33.2 Consultant Conflict of Interest.

(a) Consultant shall disclose any financial, business, or other relationship with Commission that may have an impact upon the outcome of this Agreement, or any ensuing Commission construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing Commission construction project, which will follow.

(b) Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

(c) Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

(d) Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within the construction contract. Additionally, Consultant certifies that no person working under

this Agreement is also employed by the construction contractor for any project included within this Agreement.

33.3 Commission Conflict of Interest. For the term of this Agreement, no member, officer or employee of the Commission, during the term of his or her service with the Commission, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

33.4 Conflict of Employment. Employment by the Consultant of personnel currently on the payroll of the Commission shall not be permitted in the performance of this Agreement, even though such employment may occur outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, the employment by the Consultant of personnel who have been on the Commission payroll within one year prior to the date of execution of this Agreement, where this employment is caused by and or dependent upon the Consultant securing this or related Agreements with the Commission, is prohibited.

33.5 Covenant Against Contingent Fees. As required in connection with federal funding, the Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the Commission shall have the right to terminate this Agreement without liability pursuant to the terms herein, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

33.6 Rebates, Kickbacks or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any Commission employee. For breach or violation of this warranty, Commission shall have the right in its discretion; to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

33.7 Covenant Against Expenditure of Commission, State or Federal Funds for Lobbying. The Consultant certifies that to the best of his/ her knowledge and belief no state, federal or local agency appropriated funds have been paid, or will be paid by or on behalf of the Consultant to any person for the purpose of influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the award of any state or federal contract, grant, loan, or cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.



(a) If any funds other than federal appropriated funds have been paid, or will be paid to any person for the purpose of influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this Agreement, the Consultant shall complete and submit the attached Exhibit "F", Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with the attached instructions.

(b) The Consultant's certification provided in this Section is a material representation of fact upon which reliance was placed when this Agreement was entered into, and is a prerequisite for entering into this Agreement pursuant to Section 1352, Title 31, US. Code. Failure to comply with the restrictions on expenditures, or the disclosure and certification requirements set forth in Section 1352, Title 31, US. Code may result in a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(c) The Consultant also agrees by signing this Agreement that he/she shall require that the language set forth in this Section 3.23.5 be included in all Consultant subcontracts which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

33.8 Employment Adverse to the Commission. Consultant shall notify the Commission, and shall obtain the Commission's written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against the Commission during the term of this Agreement.

34. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

35. Right to Employ Other Consultants. Commission reserves the right to employ other consultants in connection with the Project.

36. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California. Venue shall be in Riverside County.

37. Disputes; Attorneys' Fees.

37.1 Prior to commencing any action hereunder, the Parties shall attempt in good faith to resolve any dispute arising between them. The pendency of a dispute shall not excuse Consultant from full and timely performance of the Services.

37.2. If the Parties are unable to resolve a dispute after attempting in good faith to do so, the Parties may seek any other available remedy to resolve the dispute. If

either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and, all other costs of such actions.

38. Time of Essence. Time is of the essence for each and every provision of this Agreement.

39. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

40. Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**CONSULTANT:**

HDR Engineering, Inc.  
2280 Market Street, Ste. 100  
Riverside, CA 92501

Attn: \_Gerard Reminiskey

**COMMISSION:**

Riverside County  
Transportation Commission  
4080 Lemon Street, 3<sup>rd</sup> Floor  
Riverside, CA 92501

Attn: Executive Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. mail, first class postage prepaid, and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

41. Conflicting Provisions. In the event that provisions of any attached exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the performance of the Services.

42. Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

43. Entire Agreement. This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.

44. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

45. Provisions Applicable When State Funds or Federal Funds Are Involved. When funding for the Services under a Task Order is provided, in whole or in part, from

Caltrans, Consultant shall also fully and adequately comply with the provisions included in Exhibit "C" (California Department of Transportation requirements) attached hereto and incorporated herein by reference. When funding for the Services under a Task Order is provided, in whole or in part, from the FTA, Consultant shall also fully and adequately comply with the provisions included in Exhibit "D" (FTA Requirements) attached hereto and incorporated herein by reference.

46. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

47. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

48. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

49. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

50. Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to the Commission. Consultant shall not respond to any such subpoena or court order until notice to the Commission is provided as required herein, and shall cooperate with the Commission in responding to the subpoena or court order.

51. Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein, without the prior written consent of the Commission. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

52. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, and shall not be assigned by Consultant without the prior written consent of Commission.

53. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

54. No Waiver. Failure of Commission to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any

rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

**[Signatures on following page]**

**SIGNATURE PAGE  
TO  
PROFESSIONAL SERVICES AGREEMENT  
WITH FTA AND PROPOSITION 1B FUNDING/ASSISTANCE**

**IN WITNESS WHEREOF**, this Agreement was executed on the date first written above.

<p><b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b></p> <p>By: _____                Aaron Hake                Executive Director</p> <p><i>Approved as to Form:</i></p> <p>By: _____                Best, Best &amp; Krieger LLP                General Counsel</p>	<p><b>CONSULTANT HDR ENGINEERING, INC.</b></p> <p>By: _____                Signature</p> <p>_____</p> <p>      Name</p> <p>_____</p> <p>      Title</p> <p><b>ATTEST:</b></p> <p>By: _____</p> <p>Its: _____</p>
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\* A corporation requires the signatures of two corporate officers.

One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to RCTC.

**TO BE INSERTED FROM RFP:**

**EXHIBIT "A" - SCOPE OF SERVICES**

**EXHIBIT "D" - FTA PROVISIONS**

**EXHIBIT "F" – LOBBYING ACTIVITIES DISCLOSURE**

**TO BE INSERTED FROM CONSULTANT PROPOSAL:**

**EXHIBIT "B"- COMPENSATION AND PAYMENT**

## **EXHIBIT "C"**

### **CALTRANS REQUIREMENTS/ PROP 1 B PROVISIONS**

#### **1. STATEMENT OF COMPLIANCE**

A. Consultant's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. During the performance of this Agreement, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

#### **2. DEBARMENT AND SUSPENSION CERTIFICATION**

A. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to Commission.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

### **3. PROMPT PAYMENT**

Consultant agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 10 days from the receipt of each payment the Consultant receives from the Commission. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Commission.

### **4. RELEASE OF RETAINAGE**

No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to Consultant and its subconsultants.

### **5. LEGAL REMEDIES**

In addition to those contract remedies set forth under relevant provisions of California law, either Party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or "whistleblower" actions, as well as any and all other applicable federal and state provisions of law.

The Consultant shall include a provision to this effect in each of its agreements with its subcontractors.

### **6. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Consultant certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with



an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

## **7. INVENTIONS**

Rights to Inventions and Data Made Under a Contract or Agreement — Consultant shall comply with Federal requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under the Contract, and shall be in compliance with 10 CFR 600.325 and Appendix A—Patent and Data Rights to Subpart D, Part 600.

## **8. ENVIRONMENTAL COMPLIANCE**

A. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

B. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

C. Energy Policy and Conservation Act (Pub. L. 94—163, 89 Stat. 871.) — Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871), which are incorporated by reference in this Contract. (10 CFR 600.236(i)(13).)

**EXHIBIT "E"**

**CERTIFICATE OF CONSULTANT**

I HEREBY CERTIFY that I am the \_\_\_\_\_ and duly authorized representative of the firm of \_\_\_\_\_ whose address is \_\_\_\_\_, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor
- (b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_

## Agreement No. 24-33-131-00

**PROFESSIONAL SERVICES AGREEMENT  
WITH FTA AND PROPOSITION 1B FUNDING ASSISTANCE**

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
AGREEMENT WITH  
HNTB CORPORATION  
FOR ON-CALL  
DESIGN ENGINEERING AND ENVIRONMENTAL SERVICES  
FOR THE  
CONSTRUCTION OF COMMUTER RAIL STATION CAPITAL IMPROVEMENT  
PROJECTS**

**Parties and Date.**

This Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_, 2024, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and **HNTB CORPORATION** ("Consultant"), a **CORPORATION**. The Commission and Consultant are sometimes referred to herein individually as "Party", and collectively as the "Parties".

**Recitals.**

A. On November 8, 1988 the Voters of Riverside County approved Measure A authorizing the collection of a one-half percent (1/2 %) retail transactions and use tax (the "tax") to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the "Plan").

B. Pursuant to Public Utility Code Sections 240000 et seq., the Commission is authorized to allocate the proceeds of the Tax in furtherance of the Plan.

C. On November 5, 2002, the voters of Riverside County approved an extension of the Measure A tax for an additional thirty (30) years for the continued funding of transportation and improvements within the County of Riverside.

D. A source of funding for payment for on-call professional consulting services provided under this Agreement may be Proposition 1B funds ("Prop 1B") funds administered by the California Department of Transportation ("Caltrans"), and/or funds from the Federal Transit Administration ("FTA"). This Agreement shall not be deemed to be approved by the Commission until the certification shown in Exhibit "E" attached hereto and incorporated herein by reference, is executed.

E. Consultant desires to perform and assume responsibility for the provision of certain on-call design engineering and environmental services for the construction of

commuter rail station capital improvement projects in the County of Riverside, California. Services shall be provided on the terms and conditions set forth in this Agreement and in the task order(s) to be solicited, awarded and authorized by Commission as further described in this Agreement ("Task Order"). Consultant represents that it is experienced in providing such services to public clients, is licensed in the State of California (if necessary), and is familiar with the plans of the Commission.

F. Commission desires to engage Consultant to render such services on an on-call basis. Services shall be ordered by Task Order(s) to be issued pursuant to this Agreement for future projects as set forth herein and in each Task Order (each such project shall be designated a "Project" under this Agreement).

## **Terms.**

1. General Scope of Services. Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, and incidental and customary work necessary to fully and adequately supply the on-call design engineering and environmental services for the Projects ("Services"). The Services are generally described in Exhibit "A" attached hereto and incorporated herein by reference. The Services shall be more particularly described in the individual Task Orders issued by the Commission's Executive Director or designee. No Services shall be performed unless authorized by a fully executed Task Order. All Services shall be subject to, and performed in accordance with, this Agreement, the relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

2. Task Orders; Commencement of Services; Schedule of Services. Services under this Agreement shall be requested by the Commission pursuant to Task Order requests. If Commission accepts Consultant's Task Order proposal, Commission shall issue a purchase order or executed task order for the Services ("Commission's Task Order Authorization"). Consultant's agreement to the final terms of a proposed Task Order, Commission's Task Order Authorization and Consultant's commencement of the Services shall indicate the Parties' agreement to the terms of the relevant Task Order.

Consultant shall commence Services under a Task Order within five (5) days of receiving Commission's Task Order Authorization.

Consultant shall perform the Services expeditiously, in accordance with the Schedule of Services set forth in a Task Order. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, Commission shall respond to Consultant's submittals in a timely manner. Upon request of the Commission, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3. Pre-Award Audit. As a result of the funding for this Project, and to the extent Caltrans procedures apply in connection therewith, issuance of a "Notice to Proceed" or

other authorization to proceed under a Task Order may be contingent upon completion and approval of a pre-award audit. Any questions raised during the pre-award audit shall be resolved before the Commission will consider approval of this Agreement. The funding provided under this Agreement is contingent on meeting all funding requirements and could be withdrawn, thereby entitling the Commission to terminate this Agreement, if the procedures are not completed. The Consultant's files shall be maintained in a manner to facilitate State process reviews. In addition, Caltrans may require that prior to performance of any work for which funding reimbursement through Caltrans is requested and provided, that Caltrans must give to Commission an "Authorization to Proceed".

#### 4. Audit Procedures.

4.1 Consultant and certain subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an Independent Cost Review (ICR) Audit, or a CPA ICR audit work paper review. If selected for audit or review, this Agreement, Consultant's cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. This Agreement, Consultant's cost proposal, and ICR shall be adjusted by Consultant and approved by the Commission's contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into this Agreement by this reference if directed by Commission at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of the Agreement terms and cause for termination of this Agreement and disallowance of prior reimbursed costs. Additional audit provisions applicable to this Agreement are set forth in Sections 22 and 23 of this Agreement.

Section 4.2 and 4.3 shall apply to the extent applicable to the Task Order and funding source.

4.2 During any Caltrans' review of the ICR audit work papers created by the Consultant's independent CPA, Caltrans will work with the CPA and/or Consultant toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, Commission will reimburse the Consultant at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines is received and approved by Caltrans.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
- b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
- c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

4.3 If Caltrans is unable to issue a cognizant letter per Section 4.2 above, Caltrans may require Consultant to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the Caltrans' management letter. Caltrans will then have up to six (6) months to review the Consultant's and/or the independent CPA's revisions.

If the Consultant fails to comply with the provisions of this Section 4, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in Section 4.2 above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this Agreement.

Consultant may submit to Commission final invoice only when all of the following items have occurred: (1) Caltrans accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this Agreement has been completed to the satisfaction of Commission; and, (3) Caltrans has issued its final ICR review letter. The Consultant must submit its final invoice to Commission no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this Agreement and all Task Orders issued under this Agreement, and all other agreements executed between the Commission and the Consultant, either as a prime or subconsultant, with the same fiscal period ICR.

## 5. Term.

5.1 This Agreement shall go into effect on the date first set forth above, contingent upon approval by Commission, and Consultant shall commence work after notification to proceed by Commission's Contract Administrator. This Agreement shall end on (DATE), unless extended by contract amendment. The Commission may extend the term of this Agreement, in its sole discretion, for one additional two (2) year period.

5.2 Consultant is advised that any recommendation for contract award is not binding on Commission until this Agreement is fully executed and approved by the Commission.

5.3 This Agreement shall remain in effect until the date set forth above, unless earlier terminated as provided herein. Consultant shall complete the Services

within the term of this Agreement, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Commission's Contract Administrator. The Commission hereby designates the Commission's Executive Director, or his or her designee, to act as its Contract Administrator for the performance of this Agreement ("Commission's Contract Administrator"). Commission's Contract Administrator shall have the authority to act on behalf of the Commission for all purposes under this Agreement. Commission's Contract Administrator shall also review and give approval, as needed, to the details of Consultant's work as it progresses. Consultant shall not accept direction or orders from any person other than the Commission's Contract Administrator or his or her designee.

7. Consultant's Representative. Consultant hereby designates **Kevin A. Haboian** to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to act on behalf of Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her professional skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with Commission's Contract Administrator and any other agencies which may have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the Commission staff at all reasonable times. Any substitution in Consultant's Representative shall be approved in writing by Commission's Contract Administrator.

8. Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions herein. The key personnel for performance of this Agreement are: **Matt Bushman, Liz Suh, James Santos, and Tanja Brix**, or as otherwise identified in the Task Order.

9. Standard of Care; Licenses. Consultant represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Agreement to fully and adequately complete the Project. Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents and warrants to the Commission that its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own

cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Consultant's errors and omissions. Any employee of Consultant or its sub-consultants who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

10. Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Consultant on an independent contractor basis and not as an employee, agent or representative of the Commission. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their performance of Services and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security taxes, income tax withholdings, unemployment insurance, disability insurance, and workers' compensation insurance.

#### 11. Project Progress.

11.1 Modification of the Schedule. Consultant shall regularly report to the Commission, through correspondence or progress reports, its progress in providing required Services within the scheduled time periods. Commission shall be promptly informed of all anticipated delays. In the event that Consultant determines that a schedule modification is necessary, Consultant shall promptly submit a revised Schedule of Services for approval by Commission's Contract Administrator.

11.2 Trend Meetings. Consultant shall conduct trend meetings with the Commission's Contract Administrator and other interested parties, as requested by the Commission, on a bi-weekly basis or as may be mutually scheduled by the Parties at a standard day and time. These trend meetings will encompass focused and informal discussions concerning scope, schedule, and current progress of Services, relevant cost issues, and future Project objectives. Consultant shall be responsible for the preparation and distribution of meeting agendas to be received by the Commission and other attendees no later than three (3) working days prior to the meeting.

11.3 Progress Reports. As part of its monthly invoice, Consultant shall submit a progress report, in a form determined by the Commission, which will indicate the progress achieved during the previous month in relation to the Schedule of Services.



Submission of such progress report by Consultant shall be a condition precedent to receipt of payment from the Commission for each monthly invoice submitted.

12. Delay in Performance.

12.1 Excusable Delays. Should Consultant be delayed or prevented from the timely performance of any act or Services required by the terms of the Agreement by reason of acts of God or of the public enemy, acts or omissions of the Commission or other governmental agencies in either their sovereign or contractual capacities, fires, floods, pandemics, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, performance of such act shall be excused for the period of such delay.

12.2 Written Notice. If Consultant believes it is entitled to an extension of time due to conditions set forth in subsection 12.1, Consultant shall provide written notice to the Commission within seven (7) working days from the time Consultant knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of Consultant to provide such timely notice shall constitute a waiver by Consultant of any right to an excusable delay in time of performance.

12.3 Mutual Agreement. Performance of any Services under this Agreement may be delayed upon mutual agreement of the Parties. Upon such agreement, Consultant's Schedule of Services shall be extended as necessary by the Commission. Consultant shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

13. Preliminary Review of Work. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Agreement shall be submitted to the Commission's Contract Administrator in draft form, and the Commission may require revisions of such drafts prior to formal submission and approval. In the event plans and designs are to be developed as part of the Project, final detailed plans and designs shall be contingent upon obtaining environmental clearance as may be required in connection with Federal funding. In the event that Commission's Contract Administrator, in his or her sole discretion, determines the formally submitted work product to be not in accordance with the standard of care established under this Agreement, Commission's Contract Administrator may require Consultant to revise and resubmit the work at no cost to the Commission.

14. Appearance at Hearings. If and when required by the Commission, Consultant shall render assistance at public hearings or other meetings related to the Project or necessary to the performance of the Services. However, Consultant shall not be required to, and will not, render any decision, interpretation or recommendation regarding questions of a legal nature or which may be construed as constituting a legal opinion.

15. Opportunity to Cure; Inspection of Work. Commission may provide Consultant an opportunity to cure, at Consultant's expense, all errors and omissions

which may be disclosed during Project implementation. Should Consultant fail to make such correction in a timely manner, such correction may be made by the Commission, and the cost thereof charged to Consultant. Consultant shall allow the Commission's Contract Administrator and Caltrans to inspect or review Consultant's work in progress at any reasonable time.

16. Claims Filed by Contractor.

16.1 If claims are filed by the Commission's contractor for the Project ("Contractor") relating to work performed by Consultant's personnel, and additional information or assistance from the Consultant's personnel is required by the Commission in order to evaluate or defend against such claims; Consultant agrees to make reasonable efforts to make its personnel available for consultation with the Commission's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

16.2 Consultant's personnel that the Commission considers essential to assist in defending against Contractor claims will be made available on reasonable notice from the Commission. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this Agreement.

16.3 Services of the Consultant's personnel and other support staff in connection with Contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to finally resolve the claims.

16.4 Nothing contained in this Section shall be construed to in any way limit Consultant's indemnification obligations contained in Section 29. In the case of any conflict between this Section and Section 29, Section 29 shall govern. This Section is not intended to obligate the Commission to reimburse Consultant for time spent by its personnel related to Contractor claims for which Consultant is required to indemnify and defend the Commission pursuant to Section 29 of this Agreement.

17. Final Acceptance. Upon determination by the Commission that Consultant has satisfactorily completed the Services required under this Agreement and within the term set forth herein the Commission shall give Consultant a written Notice of Final Acceptance. Upon receipt of such notice, Consultant shall incur no further costs hereunder, unless otherwise specified in the Notice of Final Acceptance. Consultant may request issuance of a Notice of Final Acceptance when, in its opinion, it has satisfactorily completed all Services required under the terms of this Agreement. In the event copyrights are permitted under this Agreement, then in connection with Federal funding, it is hereby acknowledged and agreed that the United States Department of Transportation shall have the royalty-free non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes.

18. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. For example, and not by way of limitation, Consultant shall keep itself fully informed of and in compliance with all implementing regulations, design standards, specifications, previous commitments that must be incorporated in the design of the Project, and administrative controls including those of the United States Department of Transportation. Compliance with Federal procedures may include completion of the applicable environmental documents and approved by the United States Department of Transportation. For example, and not by way of limitation, a signed Categorical Exclusion, Finding of No Significant Impact, or published Record of Decision may be required to be approved and/or completed by the United States Department of Transportation. For Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Commission, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

19. Fees and Payment.

19.1 The method of payment for this Agreement will be based on actual cost plus a fixed fee. Commission shall reimburse Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by Consultant in performance of the Services. Consultant shall not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved Consultant cost proposal attached hereto as Exhibit "B" and incorporated herein by reference, or any cost proposal included as part of a Task Order ("Cost Proposal") unless additional reimbursement is provided for by written amendment. In no event, shall Consultant be reimbursed for overhead costs at a rate that exceeds Commission's approved overhead rate set forth in the Cost Proposal. To the extent legally permissible, Consultant's approved overhead rate shall be fixed for the term of this Agreement. In the event that Commission determines that a change to the Services from that specified in the Cost Proposal, this Agreement or any Task Order is required, the Agreement time or actual costs reimbursable by Commission shall be adjusted by written amendment to accommodate the changed work. The maximum total cost as specified in Section 19.8 shall not be exceeded, unless authorized by a written amendment.

19.2 In addition to the allowable incurred costs, Commission shall pay Consultant a fixed fee to be set forth in each Task Order ("Fixed Fee"). The Fixed Fee is nonadjustable for each Task Order, except in the event of a significant change in the Scope of Services, and such adjustment is made by written amendment.

19.3 Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal. In addition, payments to Consultant for travel and subsistence expenses claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid exempt non-represented State employees under current State Department of Personnel Administration (DPA) rules, unless otherwise authorized by Commission. If the rates invoiced are in excess of those authorized DPA rates, and Commission has not otherwise approved said rates, then Consultant is responsible for the cost difference and any overpayments shall be reimbursed to the Commission on demand.

19.4 When milestone cost estimates are included in the approved Cost Proposal for a Task Order, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

19.5 Progress payments shall be made monthly in arrears based on Services provided and allowable incurred costs. A pro rata portion of the Fixed Fee shall be included in the monthly progress payments. If Consultant fails to submit the required deliverable items according to the schedule set forth in the Scope of Services, Commission shall have the right to delay payment or terminate this Agreement in accordance with the provisions of Section 21, Termination.

19.6 No payment shall be made prior to approval of any Services, nor for any Services performed prior to approval of this Agreement.

19.7 Consultant shall be reimbursed, as promptly as fiscal procedures will permit upon receipt by Commission's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain the final cost and all credits due Commission including any equipment purchased under the Equipment Purchase provisions of this Agreement. The final invoice should be submitted within 60 calendar days after completion of Consultant's work. Invoices shall be mailed to Commission's Contract Administrator at the following address:

Riverside County Transportation Commission  
Attention: Accounts Payable  
P.O. 12008  
Riverside, CA 92502

19.8 The total amount payable by Commission, including the Fixed Fee, shall not exceed the amount set forth in each Task Order.

19.9 Commission has or will enter into four (4) task order contracts for performance of the Scope of Services identified in Exhibit "A", including this Agreement

("Design & Environmental Services Task Order Contracts"). The other Design & Environmental Services Task Order Contracts are Moffatt & Nichol (24-33-097-00), HDR Engineering, Inc. (24-33-130-00), and WSP USA, Inc. (24-33-132-00). The total amount payable by Commission for the Design & Environmental Services Task Order Contracts shall not exceed a cumulative maximum total value of Twelve Million Dollars (\$12,000,000) ("NTE Sum"). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under the Design & Environmental Services Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the Design & Environmental Services Task Order Contracts, Commission must send written notification to Consultant and each of the other consultants entering into the Design & Environmental Services Task Order Contracts. The notice must identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Consultant acknowledges and agrees that Commission must not pay any amount under this Agreement that would exceed the NTE Sum, and Consultant must not enter into a Task Order that exceeds the NTE Sum.

19.10 Salary increases shall be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by Commission's Contract Administrator. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

19.11 Consultant shall not be reimbursed for any expenses unless authorized in writing by the Commission's Contract Administrator.

19.12 All subcontracts in excess of \$25,000 shall contain the above provisions.

## 20. Disputes.

20.1 Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by mutual agreement of the Parties shall be decided by a committee consisting of RCTC's Contract Administrator and the Director of Capital Projects, who may consider written or verbal information submitted by Consultant.

20.2 Not later than 30 days after completion of all Services under this Agreement, Consultant may request review by the Commission's Executive Director of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

20.3 Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.

## 21. Termination.

21.1 Commission reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to Consultant, for any or no reason, with the reasons for termination stated in the notice. Commission may terminate Services under a Task Order, at any time, for any or no reason, with the effective date of termination to be specified in the notice of termination of Task Order.

21.2 Commission may terminate this Agreement with Consultant should Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, Commission may proceed with the Services in any manner deemed proper by Commission. If Commission terminates this Agreement with Consultant, Commission shall pay Consultant the sum due to Consultant under this Agreement for Services completed and accepted prior to termination, unless the cost of completion to Commission exceeds the funds remaining in the Agreement. In such case, the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.

21.3 In addition to the above, payment upon termination shall include a prorated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed Services. Consultant shall provide documentation deemed adequate by Commission's Contract Administrator to show the Services actually completed by Consultant prior to the effective date of termination. This Agreement shall terminate on the effective date of the Notice of Termination

21.4 Upon receipt of the written Notice of Termination, Consultant shall discontinue all affected Services as directed in the Notice or as otherwise provided herein, and deliver to the Commission all Documents and Data, as defined in this Agreement, as may have been prepared or accumulated by Consultant in performance of the Services, whether completed or in progress.

21.5 In addition to the above, Consultant shall be liable to the Commission for any reasonable additional costs incurred by the Commission to revise work for which the Commission has compensated Consultant under this Agreement, but which the Commission has determined in its sole discretion needs to be revised, in part or whole, to complete the Project because it did not meet the standard of care established in this Agreement. Termination of this Agreement for cause may be considered by the Commission in determining whether to enter into future agreements with Consultant.

21.6 The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

21.7 Consultant, in executing this Agreement, shall be deemed to have waived any and all claims for damages which may otherwise arise from the Commission's termination of this Agreement, for convenience or cause, as provided in this Section.

21.8 Consultant may not terminate this Agreement except for cause.

22. Cost Principles and Administrative Requirements.

22.1 Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

22.2 Consultant also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

22.3 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to Commission.

22.4 All subcontracts in excess of \$25,000 shall contain the above provisions.

23. Retention of Records/Audit. For the purpose of determining compliance with, as applicable, 2 CFR Part 200, Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this Agreement pursuant to Government Code 8546.7; Consultant, subconsultants, and Commission shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under this Agreement. The State, State Auditor, Commission, or any duly authorized representative of the State or Federal Government shall have access to any books, records, and documents of Consultant and its certified public accountants (CPA) work papers that are pertinent to this Agreement and, if applicable, indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

23.1 Accounting System. Consultant and its subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate expenditures by line item for the Services. The accounting system of Consultant and its subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.

24. Audit Review Procedures.

24.1 Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by Commission's Chief Financial Officer.

24.2 Not later than 30 days after issuance of the final audit report, Consultant may request a review by Commission's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

24.3 Neither the pendency of a dispute nor its consideration by Commission shall excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

25. Subcontracting.

25.1 Nothing contained in this Agreement or otherwise, shall create any contractual relation between Commission and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to Commission for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from Commission's obligation to make payments to the Consultant.

25.2 Consultant shall perform the Services contemplated with resources available within its own organization and no portion of the Services pertinent to this Agreement shall be subcontracted without written authorization by Commission's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

25.3 Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by Commission.

25.4 Any subcontract in excess of \$25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

25.5 Any substitution of subconsultant(s) must be approved in writing by Commission's Contract Administrator prior to the start of work by the subconsultant(s).

25.6 Exhibit "B" may set forth the rates at which each subconsultant shall bill the Consultant for Services and that are subject to reimbursement by the Commission to Consultant. Additional Direct Costs, as defined in Exhibit "B" shall be the same for both the Consultant and all subconsultants, unless otherwise identified in Exhibit "B" or in a Task Order. The subconsultant rate schedules and cost proposals contained herein are for accounting purposes only.



26. Equipment Purchase.

26.1 Prior authorization, in writing, by Commission's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract for supplies, equipment, or services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

26.2 For purchase of any item, service or consulting work not covered in the Cost Proposal and exceeding \$5,000 prior authorization, in writing, by Commission's Contract Administrator is required. Three competitive quotations must be submitted with the request for such purchase, or the absence of bidding must be adequately justified.

26.3 Any equipment purchased as a result of this Agreement is subject to the following: Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, Commission shall receive a proper refund or credit at the conclusion of this Agreement, or if this Agreement is terminated, Consultant may either keep the equipment and credit Commission in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established Commission procedures; and credit Commission in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by Commission and Consultant. If Consultant determines to sell the equipment, the terms and conditions of such sale must be approved in advance by Commission. 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the Project.

26.4 All subcontracts in excess \$25,000 shall contain the above provisions.

27. Labor Code Requirements.

27.1 Prevailing Wages.

(a) Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the Services.

(b) Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.

(c) When prevailing wages apply to the Services described in the Scope of Services, transportation and subsistence costs shall be reimbursed at the

minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

(d) Copies of the prevailing rate of per diem wages in effect at commencement of this Agreement are on file at the Commission's offices. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Commission, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

27.2 DIR Registration. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

27.3 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Consultant or the Services are not subject to the Eight-Hour Law. Consultant shall forfeit to Commission as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any sub-consultant under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Consultant or the Services are not subject to the Eight-Hour Law.

27.4 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade

shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Consultant

28. Ownership of Materials/Confidentiality.

28.1 Documents & Data. This Agreement creates an exclusive and perpetual license for Commission to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”).

Consultant shall require all subcontractors to agree in writing that Commission is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Commission.

Commission shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Commission’s sole risk.

28.2 Intellectual Property. In addition, Commission shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media (“Intellectual Property”) prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

The Commission shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for

wholly or in part by Commission, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Commission.

Consultant shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the Commission.

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

Commission further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

**28.3 Confidentiality.** All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Commission, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Commission's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Commission.

**28.4 Infringement Indemnification.** Consultant shall defend, indemnify and hold the Commission, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by Commission of the Documents & Data, including any method, process, product, or concept specified or depicted.

29. Indemnification. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold Commission, Caltrans and their directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, inverse condemnation, and any claims related to property acquisition and relocation rules or failure to detect or abate hazardous materials, which are brought by a third party, and which , in any manner arise out of or are incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, Caltrans, and their directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission, Caltrans or their directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Commission, Caltrans and their directors, officials, officers, employees, consultants, agents, and/or volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission, Caltrans or their directors, officials officers, employees, consultants, agents, or volunteers.

If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Consultant's obligations as set forth in this Section shall survive expiration or termination of this Agreement.

30. Insurance.

30.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the Commission that it has secured all insurance required under this Section, in a form and with insurance companies acceptable to the Commission. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this Section.

30.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(a) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(b) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of \$1,000,000 per accident.

30.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. For Consultant, such insurance shall be in an amount not less than \$1,000,000 per claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. Subconsultants of Consultant shall obtain such insurance in an amount not less than \$2,000,000 per claim. Notwithstanding the foregoing, the Commission may consider written requests to lower or dispense with the errors and omissions liability insurance requirement contained in this Section for certain subconsultants of Consultant, on a case-by-case basis, depending on the nature and scope of the Services to be provided by the subconsultant. Approval of such request shall be in writing, signed by the Commission's Contract Administrator.

30.4 Aircraft Liability Insurance. Prior to conducting any Services requiring use of aircraft, Consultant shall procure and maintain, or cause to be procured and maintained, aircraft liability insurance or equivalent form, with a single limit as shall be required by the Commission. Such insurance shall include coverage for owned, hired and non-owned aircraft and passengers, and shall name, or be endorsed to name, the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant.

30.5 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the Commission to add the following provisions to the insurance policies:

(a) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) bodily Injury and property damage; (2) personal Injury/advertising Injury; (3) premises/operations liability; (4) products/completed operations liability; (5) aggregate limits that apply per Project; (6) explosion, collapse and underground (UCX) exclusion deleted; (7) contractual liability with respect to this Agreement; (8) broad form property damage; and (9) independent consultants coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to this Agreement.

(iii) The policy shall give the Commission, its directors, officials, officers, employees, and agents insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be "primary and non-contributory" and will not seek contribution from the Commission's or Caltrans' insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(b) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Commission, Caltrans and their directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the Commission, Caltrans and their directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the Commission, Caltrans and their directors, officials, officers, employees and agents shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(c) Workers' Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against the Commission, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(d) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Commission (if agreed to in a written contract or agreement) before the Commission's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide the Commission at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Commission at least ten (10) days prior to the effective date of cancellation or expiration.



(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Commission, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Commission has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Commission will be promptly reimbursed by Consultant or Commission will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Commission may cancel this Agreement. The Commission may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither the Commission nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

30.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Commission. If the Commission does not approve the deductibles or self-insured retentions as presented, Consultant shall guarantee that, at the option of the Commission, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Commission, its directors, officials, officers, employees and agents; or, (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expense.

30.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Commission.

30.8 Verification of Coverage. Consultant shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Commission before work commences. The Commission reserves the right to require complete, certified copies of all required insurance policies, at any time.

30.9 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all insurance required under this Section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

30.10 Other Insurance. At its option, the Commission may require such additional coverage(s), limits and/or the reduction of deductibles or retentions it considers reasonable and prudent based upon risk factors that may directly or indirectly impact the Project. In retaining this option Commission does not warrant Consultant's insurance program to be adequate. Consultant shall have the right to purchase insurance in addition to the insurance required in this Section.

31. Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the Commission has determined that the Project will contain areas that are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

32. Additional Work. Any work or activities that are in addition to, or otherwise outside of, the Services to be performed pursuant to this Agreement shall only be performed pursuant to a separate agreement between the parties. Notwithstanding the foregoing, the Commission's Executive Director may make a change to the Agreement, other than a Cardinal Change. For purposes of this Agreement, a Cardinal Change is a change which is "outside the scope" of the Agreement; in other words, work which should not be regarded as having been fairly and reasonably within the contemplation of the parties when the Agreement was entered into. An example of a change which is not a Cardinal Change would be where, in a contract to construct a building there are many changes in the materials used, but the size and layout of the building remains the same.

Cardinal Changes are not within the authority of this provision to order, and shall be processed by the Commission as “sole source” procurements according to applicable law, including the requirements of FTA Circular 4220.1D, paragraph 9(f).

(a) In addition to the changes authorized above, a modification which is signed by Consultant and the Commission’s Executive Director, other than a Cardinal Change, may be made in order to: (1) make a negotiated equitable adjustment to the Agreement price, delivery schedule and other terms resulting from the issuance of a Change Order, (2) reflect definitive letter contracts, and (3) reflect other agreements of the parties modifying the terms of this Agreement (“Bilateral Contract Modification”).

(b) Consultant shall not perform, nor be compensated for any change, without written authorization from the Commission’s Executive Director as set forth herein. In the event such a change authorization is not issued and signed by the Commission’s Executive Director, Consultant shall not provide such change.

### 33. Prohibited Interests.

33.1 Solicitation. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to rescind this Agreement without liability.

### 33.2 Consultant Conflict of Interest.

(a) Consultant shall disclose any financial, business, or other relationship with Commission that may have an impact upon the outcome of this Agreement, or any ensuing Commission construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing Commission construction project, which will follow.

(b) Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

(c) Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

(d) Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within the construction contract. Additionally, Consultant certifies that no person working under

this Agreement is also employed by the construction contractor for any project included within this Agreement.

33.3 Commission Conflict of Interest. For the term of this Agreement, no member, officer or employee of the Commission, during the term of his or her service with the Commission, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

33.4 Conflict of Employment. Employment by the Consultant of personnel currently on the payroll of the Commission shall not be permitted in the performance of this Agreement, even though such employment may occur outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, the employment by the Consultant of personnel who have been on the Commission payroll within one year prior to the date of execution of this Agreement, where this employment is caused by and or dependent upon the Consultant securing this or related Agreements with the Commission, is prohibited.

33.5 Covenant Against Contingent Fees. As required in connection with federal funding, the Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the Commission shall have the right to terminate this Agreement without liability pursuant to the terms herein, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

33.6 Rebates, Kickbacks or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any Commission employee. For breach or violation of this warranty, Commission shall have the right in its discretion; to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

33.7 Covenant Against Expenditure of Commission, State or Federal Funds for Lobbying. The Consultant certifies that to the best of his/ her knowledge and belief no state, federal or local agency appropriated funds have been paid, or will be paid by or on behalf of the Consultant to any person for the purpose of influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the award of any state or federal contract, grant, loan, or cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

(a) If any funds other than federal appropriated funds have been paid, or will be paid to any person for the purpose of influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this Agreement, the Consultant shall complete and submit the attached Exhibit "F", Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with the attached instructions.

(b) The Consultant's certification provided in this Section is a material representation of fact upon which reliance was placed when this Agreement was entered into, and is a prerequisite for entering into this Agreement pursuant to Section 1352, Title 31, US. Code. Failure to comply with the restrictions on expenditures, or the disclosure and certification requirements set forth in Section 1352, Title 31, US. Code may result in a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(c) The Consultant also agrees by signing this Agreement that he/she shall require that the language set forth in this Section 3.23.5 be included in all Consultant subcontracts which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

33.8 Employment Adverse to the Commission. Consultant shall notify the Commission, and shall obtain the Commission's written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against the Commission during the term of this Agreement.

34. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

35. Right to Employ Other Consultants. Commission reserves the right to employ other consultants in connection with the Project.

36. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California. Venue shall be in Riverside County.

37. Disputes; Attorneys' Fees.

37.1 Prior to commencing any action hereunder, the Parties shall attempt in good faith to resolve any dispute arising between them. The pendency of a dispute shall not excuse Consultant from full and timely performance of the Services.

37.2. If the Parties are unable to resolve a dispute after attempting in good faith to do so, the Parties may seek any other available remedy to resolve the dispute. If

either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and, all other costs of such actions.

38. Time of Essence. Time is of the essence for each and every provision of this Agreement.

39. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

40. Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**CONSULTANT:**

HNTB Corporation  
3633 Inland Empire Blvd., Ste. 750  
Ontario, CA 91764

Attn: Matthew Bushman

**COMMISSION:**

Riverside County  
Transportation Commission  
4080 Lemon Street, 3<sup>rd</sup> Floor  
Riverside, CA 92501

Attn: Executive Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. mail, first class postage prepaid, and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

41. Conflicting Provisions. In the event that provisions of any attached exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the performance of the Services.

42. Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

43. Entire Agreement. This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.

44. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

45. Provisions Applicable When State Funds or Federal Funds Are Involved. When funding for the Services under a Task Order is provided, in whole or in part, from

Caltrans, Consultant shall also fully and adequately comply with the provisions included in Exhibit "C" (California Department of Transportation requirements) attached hereto and incorporated herein by reference. When funding for the Services under a Task Order is provided, in whole or in part, from the FTA, Consultant shall also fully and adequately comply with the provisions included in Exhibit "D" (FTA Requirements) attached hereto and incorporated herein by reference.

46. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

47. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

48. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

49. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

50. Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to the Commission. Consultant shall not respond to any such subpoena or court order until notice to the Commission is provided as required herein, and shall cooperate with the Commission in responding to the subpoena or court order.

51. Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein, without the prior written consent of the Commission. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

52. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, and shall not be assigned by Consultant without the prior written consent of Commission.

53. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

54. No Waiver. Failure of Commission to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any

rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

**[Signatures on following page]**



**SIGNATURE PAGE  
TO  
PROFESSIONAL SERVICES AGREEMENT  
WITH FTA AND PROPOSITION 1B FUNDING/ASSISTANCE**

**IN WITNESS WHEREOF**, this Agreement was executed on the date first written above.

<p><b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b></p> <p>By: _____                Aaron Hake                Executive Director</p> <p><i>Approved as to Form:</i></p> <p>By: _____                Best, Best &amp; Krieger LLP                General Counsel</p>	<p><b>CONSULTANT HNTB CORPORATION</b></p> <p>By: _____                Signature</p> <p>_____</p> <p>      Name</p> <p>_____</p> <p>      Title</p> <p><b>ATTEST:</b></p> <p>By: _____</p> <p>Its: _____</p>
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\* A corporation requires the signatures of two corporate officers.

One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to RCTC.

**TO BE INSERTED FROM RFP:**

**EXHIBIT "A" - SCOPE OF SERVICES**

**EXHIBIT "D" - FTA PROVISIONS**

**EXHIBIT "F" – LOBBYING ACTIVITIES DISCLOSURE**

**TO BE INSERTED FROM CONSULTANT PROPOSAL:**

**EXHIBIT "B"- COMPENSATION AND PAYMENT**

## **EXHIBIT "C"**

### **CALTRANS REQUIREMENTS/ PROP 1 B PROVISIONS**

#### **1. STATEMENT OF COMPLIANCE.**

A. Consultant's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. During the performance of this Agreement, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

#### **2. DEBARMENT AND SUSPENSION CERTIFICATION**

A. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to Commission.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

### **3. PROMPT PAYMENT**

Consultant agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 10 days from the receipt of each payment the Consultant receives from the Commission. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Commission.

### **4. RELEASE OF RETAINAGE**

No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to Consultant and its subconsultants.

### **5. LEGAL REMEDIES**

In addition to those contract remedies set forth under relevant provisions of California law, either Party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or "whistleblower" actions, as well as any and all other applicable federal and state provisions of law.

The Consultant shall include a provision to this effect in each of its agreements with its subcontractors.

### **6. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Consultant certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with

an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

## **7. INVENTIONS.**

Rights to Inventions and Data Made Under a Contract or Agreement — Consultant shall comply with Federal requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under the Contract, and shall be in compliance with 10 CFR 600.325 and Appendix A—Patent and Data Rights to Subpart D, Part 600.

## **8. ENVIRONMENTAL COMPLIANCE**

A. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

B. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

C. Energy Policy and Conservation Act (Pub. L. 94—163, 89 Stat. 871.) — Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871), which are incorporated by reference in this Contract. (10 CFR 600.236(i)(13).)

**EXHIBIT "E"**

**CERTIFICATE OF CONSULTANT**

I HEREBY CERTIFY that I am the \_\_\_\_\_ and duly authorized representative of the firm of \_\_\_\_\_ whose address is \_\_\_\_\_, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor
- (b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_

## Agreement No. 24-33-132-00

**PROFESSIONAL SERVICES AGREEMENT  
 WITH FTA AND PROPOSITION 1B FUNDING ASSISTANCE**  
  
**RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
 AGREEMENT WITH  
 WSP USA INC.  
 FOR ON-CALL  
 DESIGN ENGINEERING AND ENVIRONMENTAL SERVICES  
 FOR THE  
 CONSTRUCTION OF COMMUTER RAIL STATION CAPITAL IMPROVEMENT  
 PROJECTS**

**Parties and Date.**

This Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_, 2024, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and **WSP USA INC.** ("Consultant"), a **CORPORATION**. The Commission and Consultant are sometimes referred to herein individually as "Party", and collectively as the "Parties".

**Recitals.**

A. On November 8, 1988 the Voters of Riverside County approved Measure A authorizing the collection of a one-half percent (1/2 %) retail transactions and use tax (the "tax") to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the "Plan").

B. Pursuant to Public Utility Code Sections 240000 et seq., the Commission is authorized to allocate the proceeds of the Tax in furtherance of the Plan.

C. On November 5, 2002, the voters of Riverside County approved an extension of the Measure A tax for an additional thirty (30) years for the continued funding of transportation and improvements within the County of Riverside.

D. A source of funding for payment for on-call professional consulting services provided under this Agreement may be Proposition 1B funds ("Prop 1B") funds administered by the California Department of Transportation ("Caltrans"), and/or funds from the Federal Transit Administration ("FTA"). This Agreement shall not be deemed to be approved by the Commission until the certification shown in Exhibit "E" attached hereto and incorporated herein by reference, is executed.

E. Consultant desires to perform and assume responsibility for the provision of certain on-call design engineering and environmental services for the construction of

commuter rail station capital improvement projects in the County of Riverside, California. Services shall be provided on the terms and conditions set forth in this Agreement and in the task order(s) to be solicited, awarded and authorized by Commission as further described in this Agreement ("Task Order"). Consultant represents that it is experienced in providing such services to public clients, is licensed in the State of California (if necessary), and is familiar with the plans of the Commission.

F. Commission desires to engage Consultant to render such services on an on-call basis. Services shall be ordered by Task Order(s) to be issued pursuant to this Agreement for future projects as set forth herein and in each Task Order (each such project shall be designated a "Project" under this Agreement).

## **Terms.**

1. General Scope of Services. Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, and incidental and customary work necessary to fully and adequately supply the on-call design engineering and environmental services for the Projects ("Services"). The Services are generally described in Exhibit "A" attached hereto and incorporated herein by reference. The Services shall be more particularly described in the individual Task Orders issued by the Commission's Executive Director or designee. No Services shall be performed unless authorized by a fully executed Task Order. All Services shall be subject to, and performed in accordance with, this Agreement, the relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

2. Task Orders; Commencement of Services; Schedule of Services. Services under this Agreement shall be requested by the Commission pursuant to Task Order requests. If Commission accepts Consultant's Task Order proposal, Commission shall issue a purchase order or executed task order for the Services ("Commission's Task Order Authorization"). Consultant's agreement to the final terms of a proposed Task Order, Commission's Task Order Authorization and Consultant's commencement of the Services shall indicate the Parties' agreement to the terms of the relevant Task Order.

Consultant shall commence Services under a Task Order within five (5) days of receiving Commission's Task Order Authorization.

Consultant shall perform the Services expeditiously, in accordance with the Schedule of Services set forth in a Task Order. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, Commission shall respond to Consultant's submittals in a timely manner. Upon request of the Commission, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3. Pre-Award Audit. As a result of the funding for this Project, and to the extent Caltrans procedures apply in connection therewith, issuance of a "Notice to Proceed" or



other authorization to proceed under a Task Order may be contingent upon completion and approval of a pre-award audit. Any questions raised during the pre-award audit shall be resolved before the Commission will consider approval of this Agreement. The funding provided under this Agreement is contingent on meeting all funding requirements and could be withdrawn, thereby entitling the Commission to terminate this Agreement, if the procedures are not completed. The Consultant's files shall be maintained in a manner to facilitate State process reviews. In addition, Caltrans may require that prior to performance of any work for which funding reimbursement through Caltrans is requested and provided, that Caltrans must give to Commission an "Authorization to Proceed".

#### 4. Audit Procedures.

4.1 Consultant and certain subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an Independent Cost Review (ICR) Audit, or a CPA ICR audit work paper review. If selected for audit or review, this Agreement, Consultant's cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. This Agreement, Consultant's cost proposal, and ICR shall be adjusted by Consultant and approved by the Commission's contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into this Agreement by this reference if directed by Commission at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of the Agreement terms and cause for termination of this Agreement and disallowance of prior reimbursed costs. Additional audit provisions applicable to this Agreement are set forth in Sections 22 and 23 of this Agreement.

Section 4.2 and 4.3 shall apply to the extent applicable to the Task Order and funding source.

4.2 During any Caltrans' review of the ICR audit work papers created by the Consultant's independent CPA, Caltrans will work with the CPA and/or Consultant toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, Commission will reimburse the Consultant at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines is received and approved by Caltrans.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
- b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
- c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

4.3 If Caltrans is unable to issue a cognizant letter per Section 4.2 above, Caltrans may require Consultant to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the Caltrans' management letter. Caltrans will then have up to six (6) months to review the Consultant's and/or the independent CPA's revisions.

If the Consultant fails to comply with the provisions of this Section 4, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in Section 4.2 above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this Agreement.

Consultant may submit to Commission final invoice only when all of the following items have occurred: (1) Caltrans accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this Agreement has been completed to the satisfaction of Commission; and, (3) Caltrans has issued its final ICR review letter. The Consultant must submit its final invoice to Commission no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this Agreement and all Task Orders issued under this Agreement, and all other agreements executed between the Commission and the Consultant, either as a prime or subconsultant, with the same fiscal period ICR.

## 5. Term.

5.1 This Agreement shall go into effect on the date first set forth above, contingent upon approval by Commission, and Consultant shall commence work after notification to proceed by Commission's Contract Administrator. This Agreement shall end on (DATE), unless extended by contract amendment. The Commission may extend the term of this Agreement, in its sole discretion, for one additional two (2) year period.

5.2 Consultant is advised that any recommendation for contract award is not binding on Commission until this Agreement is fully executed and approved by the Commission.

5.3 This Agreement shall remain in effect until the date set forth above, unless earlier terminated as provided herein. Consultant shall complete the Services

within the term of this Agreement, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Commission's Contract Administrator. The Commission hereby designates the Commission's Executive Director, or his or her designee, to act as its Contract Administrator for the performance of this Agreement ("Commission's Contract Administrator"). Commission's Contract Administrator shall have the authority to act on behalf of the Commission for all purposes under this Agreement. Commission's Contract Administrator shall also review and give approval, as needed, to the details of Consultant's work as it progresses. Consultant shall not accept direction or orders from any person other than the Commission's Contract Administrator or his or her designee.

7. Consultant's Representative. Consultant hereby designates **Christopher Lee** to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to act on behalf of Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her professional skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with Commission's Contract Administrator and any other agencies which may have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the Commission staff at all reasonable times. Any substitution in Consultant's Representative shall be approved in writing by Commission's Contract Administrator.

8. Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions herein. The key personnel for performance of this Agreement are: **Ali Mir, Christopher Lee, Sergio Magallon, Theresa Dickerson, Chris Turnage, Jackson Huang, Melad Hanna, Matt Geyer, Bita Shahla, Eric Roe, Edna Jimenez, Cody Festa, Bill Doran, and Linda Bohlinger**, or as otherwise identified in the Task Order.

9. Standard of Care; Licenses. Consultant represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Agreement to fully and adequately complete the Project. Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents and warrants to the Commission that its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally

required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Consultant's errors and omissions. Any employee of Consultant or its sub-consultants who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

10. Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Consultant on an independent contractor basis and not as an employee, agent or representative of the Commission. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their performance of Services and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security taxes, income tax withholdings, unemployment insurance, disability insurance, and workers' compensation insurance.

11. Project Progress.

11.1 Modification of the Schedule. Consultant shall regularly report to the Commission, through correspondence or progress reports, its progress in providing required Services within the scheduled time periods. Commission shall be promptly informed of all anticipated delays. In the event that Consultant determines that a schedule modification is necessary, Consultant shall promptly submit a revised Schedule of Services for approval by Commission's Contract Administrator.

11.2 Trend Meetings. Consultant shall conduct trend meetings with the Commission's Contract Administrator and other interested parties, as requested by the Commission, on a bi-weekly basis or as may be mutually scheduled by the Parties at a standard day and time. These trend meetings will encompass focused and informal discussions concerning scope, schedule, and current progress of Services, relevant cost issues, and future Project objectives. Consultant shall be responsible for the preparation and distribution of meeting agendas to be received by the Commission and other attendees no later than three (3) working days prior to the meeting.

11.3 Progress Reports. As part of its monthly invoice, Consultant shall submit a progress report, in a form determined by the Commission, which will indicate the progress achieved during the previous month in relation to the Schedule of Services. Submission of such progress report by Consultant shall be a condition precedent to receipt of payment from the Commission for each monthly invoice submitted.

12. Delay in Performance.

12.1 Excusable Delays. Should Consultant be delayed or prevented from the timely performance of any act or Services required by the terms of the Agreement by reason of acts of God or of the public enemy, acts or omissions of the Commission or other governmental agencies in either their sovereign or contractual capacities, fires, floods, pandemics, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, performance of such act shall be excused for the period of such delay.

12.2 Written Notice. If Consultant believes it is entitled to an extension of time due to conditions set forth in subsection 12.1, Consultant shall provide written notice to the Commission within seven (7) working days from the time Consultant knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of Consultant to provide such timely notice shall constitute a waiver by Consultant of any right to an excusable delay in time of performance.

12.3 Mutual Agreement. Performance of any Services under this Agreement may be delayed upon mutual agreement of the Parties. Upon such agreement, Consultant's Schedule of Services shall be extended as necessary by the Commission. Consultant shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

13. Preliminary Review of Work. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Agreement shall be submitted to the Commission's Contract Administrator in draft form, and the Commission may require revisions of such drafts prior to formal submission and approval. In the event plans and designs are to be developed as part of the Project, final detailed plans and designs shall be contingent upon obtaining environmental clearance as may be required in connection with Federal funding. In the event that Commission's Contract Administrator, in his or her sole discretion, determines the formally submitted work product to be not in accordance with the standard of care established under this Agreement, Commission's Contract Administrator may require Consultant to revise and resubmit the work at no cost to the Commission.

14. Appearance at Hearings. If and when required by the Commission, Consultant shall render assistance at public hearings or other meetings related to the Project or necessary to the performance of the Services. However, Consultant shall not be required to, and will not, render any decision, interpretation or recommendation regarding questions of a legal nature or which may be construed as constituting a legal opinion.

15. Opportunity to Cure; Inspection of Work. Commission may provide Consultant an opportunity to cure, at Consultant's expense, all errors and omissions which may be disclosed during Project implementation. Should Consultant fail to make such correction in a timely manner, such correction may be made by the Commission, and the cost thereof charged to Consultant. Consultant shall allow the Commission's Contract Administrator and Caltrans to inspect or review Consultant's work in progress at any reasonable time.

16. Claims Filed by Contractor.

16.1 If claims are filed by the Commission's contractor for the Project ("Contractor") relating to work performed by Consultant's personnel, and additional information or assistance from the Consultant's personnel is required by the Commission in order to evaluate or defend against such claims; Consultant agrees to make reasonable efforts to make its personnel available for consultation with the Commission's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

16.2 Consultant's personnel that the Commission considers essential to assist in defending against Contractor claims will be made available on reasonable notice from the Commission. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this Agreement.

16.3 Services of the Consultant's personnel and other support staff in connection with Contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to finally resolve the claims.

16.4 Nothing contained in this Section shall be construed to in any way limit Consultant's indemnification obligations contained in Section 29. In the case of any conflict between this Section and Section 29, Section 29 shall govern. This Section is not intended to obligate the Commission to reimburse Consultant for time spent by its personnel related to Contractor claims for which Consultant is required to indemnify and defend the Commission pursuant to Section 29 of this Agreement.

17. Final Acceptance. Upon determination by the Commission that Consultant has satisfactorily completed the Services required under this Agreement and within the term set forth herein the Commission shall give Consultant a written Notice of Final Acceptance. Upon receipt of such notice, Consultant shall incur no further costs hereunder, unless otherwise specified in the Notice of Final Acceptance. Consultant may request issuance of a Notice of Final Acceptance when, in its opinion, it has satisfactorily completed all Services required under the terms of this Agreement. In the event copyrights are permitted under this Agreement, then in connection with Federal funding, it is hereby acknowledged and agreed that the United States Department of Transportation shall have the royalty-free non-exclusive and irrevocable right to

reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes.

18. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. For example, and not by way of limitation, Consultant shall keep itself fully informed of and in compliance with all implementing regulations, design standards, specifications, previous commitments that must be incorporated in the design of the Project, and administrative controls including those of the United States Department of Transportation. Compliance with Federal procedures may include completion of the applicable environmental documents and approved by the United States Department of Transportation. For example, and not by way of limitation, a signed Categorical Exclusion, Finding of No Significant Impact, or published Record of Decision may be required to be approved and/or completed by the United States Department of Transportation. For Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Commission, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

19. Fees and Payment.

19.1 The method of payment for this Agreement will be based on actual cost plus a fixed fee. Commission shall reimburse Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by Consultant in performance of the Services. Consultant shall not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved Consultant cost proposal attached hereto as Exhibit "B" and incorporated herein by reference, or any cost proposal included as part of a Task Order ("Cost Proposal") unless additional reimbursement is provided for by written amendment. In no event, shall Consultant be reimbursed for overhead costs at a rate that exceeds Commission's approved overhead rate set forth in the Cost Proposal. To the extent legally permissible, Consultant's approved overhead rate shall be fixed for the term of this Agreement. In the event that Commission determines that a change to the Services from that specified in the Cost Proposal, this Agreement or any Task Order is required, the Agreement time or actual costs reimbursable by Commission shall be adjusted by written amendment to accommodate the changed work. The maximum total cost as specified in Section 19.8 shall not be exceeded, unless authorized by a written amendment.

19.2 In addition to the allowable incurred costs, Commission shall pay Consultant a fixed fee to be set forth in each Task Order ("Fixed Fee"). The Fixed Fee is

nonadjustable for each Task Order, except in the event of a significant change in the Scope of Services, and such adjustment is made by written amendment.

19.3 Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal. In addition, payments to Consultant for travel and subsistence expenses claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid exempt non-represented State employees under current State Department of Personnel Administration (DPA) rules, unless otherwise authorized by Commission. If the rates invoiced are in excess of those authorized DPA rates, and Commission has not otherwise approved said rates, then Consultant is responsible for the cost difference and any overpayments shall be reimbursed to the Commission on demand.

19.4 When milestone cost estimates are included in the approved Cost Proposal for a Task Order, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

19.5 Progress payments shall be made monthly in arrears based on Services provided and allowable incurred costs. A pro rata portion of the Fixed Fee shall be included in the monthly progress payments. If Consultant fails to submit the required deliverable items according to the schedule set forth in the Scope of Services, Commission shall have the right to delay payment or terminate this Agreement in accordance with the provisions of Section 21, Termination.

19.6 No payment shall be made prior to approval of any Services, nor for any Services performed prior to approval of this Agreement.

19.7 Consultant shall be reimbursed, as promptly as fiscal procedures will permit upon receipt by Commission's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain the final cost and all credits due Commission including any equipment purchased under the Equipment Purchase provisions of this Agreement. The final invoice should be submitted within 60 calendar days after completion of Consultant's work. Invoices shall be mailed to Commission's Contract Administrator at the following address:

Riverside County Transportation Commission  
Attention: Accounts Payable  
P.O. 12008  
Riverside, CA 92502

19.8 The total amount payable by Commission, including the Fixed Fee, shall not exceed the amount set forth in each Task Order.



19.9 Commission has or will enter into four (4) task order contracts for performance of the Scope of Services identified in Exhibit "A", including this Agreement ("Design & Environmental Services Task Order Contracts"). The other Design & Environmental Services Task Order Contracts are Moffatt & Nichol (24-33-097-00), HDR Engineering, Inc. (24-33-130-00), and HNTB Corporation (24-33-131-00). The total amount payable by Commission for the Design & Environmental Services Task Order Contracts shall not exceed a cumulative maximum total value of Twelve Million Dollars (\$12,000,000) ("NTE Sum"). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under the Design & Environmental Services Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the Design & Environmental Services Task Order Contracts, Commission must send written notification to Consultant and each of the other consultants entering into the Design & Environmental Services Task Order Contracts. The notice must identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Consultant acknowledges and agrees that Commission must not pay any amount under this Agreement that would exceed the NTE Sum, and Consultant must not enter into a Task Order that exceeds the NTE Sum.

19.10 Salary increases shall be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by Commission's Contract Administrator. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

19.11 Consultant shall not be reimbursed for any expenses unless authorized in writing by the Commission's Contract Administrator.

19.12 All subcontracts in excess of \$25,000 shall contain the above provisions.

## 20. Disputes.

20.1 Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by mutual agreement of the Parties shall be decided by a committee consisting of RCTC's Contract Administrator and the Director of Capital Projects, who may consider written or verbal information submitted by Consultant.

20.2 Not later than 30 days after completion of all Services under this Agreement, Consultant may request review by the Commission's Executive Director of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

20.3 Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.

## 21. Termination.

21.1 Commission reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to Consultant, for any or no reason, with the reasons for termination stated in the notice. Commission may terminate Services under a Task Order, at any time, for any or no reason, with the effective date of termination to be specified in the notice of termination of Task Order.

21.2 Commission may terminate this Agreement with Consultant should Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, Commission may proceed with the Services in any manner deemed proper by Commission. If Commission terminates this Agreement with Consultant, Commission shall pay Consultant the sum due to Consultant under this Agreement for Services completed and accepted prior to termination, unless the cost of completion to Commission exceeds the funds remaining in the Agreement. In such case, the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.

21.3 In addition to the above, payment upon termination shall include a prorated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed Services. Consultant shall provide documentation deemed adequate by Commission's Contract Administrator to show the Services actually completed by Consultant prior to the effective date of termination. This Agreement shall terminate on the effective date of the Notice of Termination

21.4 Upon receipt of the written Notice of Termination, Consultant shall discontinue all affected Services as directed in the Notice or as otherwise provided herein, and deliver to the Commission all Documents and Data, as defined in this Agreement, as may have been prepared or accumulated by Consultant in performance of the Services, whether completed or in progress.

21.5 In addition to the above, Consultant shall be liable to the Commission for any reasonable additional costs incurred by the Commission to revise work for which the Commission has compensated Consultant under this Agreement, but which the Commission has determined in its sole discretion needs to be revised, in part or whole, to complete the Project because it did not meet the standard of care established in this Agreement. Termination of this Agreement for cause may be considered by the Commission in determining whether to enter into future agreements with Consultant.

21.6 The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

21.7 Consultant, in executing this Agreement, shall be deemed to have waived any and all claims for damages which may otherwise arise from the Commission's termination of this Agreement, for convenience or cause, as provided in this Section.

21.8 Consultant may not terminate this Agreement except for cause.

22. Cost Principles and Administrative Requirements.

22.1 Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

22.2 Consultant also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

22.3 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to Commission.

22.4 All subcontracts in excess of \$25,000 shall contain the above provisions.

23. Retention of Records/Audit. For the purpose of determining compliance with, as applicable, 2 CFR Part 200, Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this Agreement pursuant to Government Code 8546.7; Consultant, subconsultants, and Commission shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under this Agreement. The State, State Auditor, Commission, or any duly authorized representative of the State or Federal Government shall have access to any books, records, and documents of Consultant and its certified public accountants (CPA) work papers that are pertinent to this Agreement and, if applicable, indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

23.1 Accounting System. Consultant and its subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate expenditures by line item for the Services. The accounting system of Consultant and its subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of

completion, and provide support for reimbursement payment vouchers or invoices.

24. Audit Review Procedures.

24.1 Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by Commission's Chief Financial Officer.

24.2 Not later than 30 days after issuance of the final audit report, Consultant may request a review by Commission's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

24.3 Neither the pendency of a dispute nor its consideration by Commission shall excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

25. Subcontracting.

25.1 Nothing contained in this Agreement or otherwise, shall create any contractual relation between Commission and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to Commission for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from Commission's obligation to make payments to the Consultant.

25.2 Consultant shall perform the Services contemplated with resources available within its own organization and no portion of the Services pertinent to this Agreement shall be subcontracted without written authorization by Commission's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

25.3 Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by Commission.

25.4 Any subcontract in excess of \$25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

25.5 Any substitution of subconsultant(s) must be approved in writing by Commission's Contract Administrator prior to the start of work by the subconsultant(s).

25.6 Exhibit "B" may set forth the rates at which each subconsultant shall bill the Consultant for Services and that are subject to reimbursement by the Commission to Consultant. Additional Direct Costs, as defined in Exhibit "B" shall be the same for both the Consultant and all subconsultants, unless otherwise identified in Exhibit "B" or

in a Task Order. The subconsultant rate schedules and cost proposals contained herein are for accounting purposes only.

26. Equipment Purchase.

26.1 Prior authorization, in writing, by Commission's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract for supplies, equipment, or services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

26.2 For purchase of any item, service or consulting work not covered in the Cost Proposal and exceeding \$5,000 prior authorization, in writing, by Commission's Contract Administrator is required. Three competitive quotations must be submitted with the request for such purchase, or the absence of bidding must be adequately justified.

26.3 Any equipment purchased as a result of this Agreement is subject to the following: Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, Commission shall receive a proper refund or credit at the conclusion of this Agreement, or if this Agreement is terminated, Consultant may either keep the equipment and credit Commission in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established Commission procedures; and credit Commission in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by Commission and Consultant. If Consultant determines to sell the equipment, the terms and conditions of such sale must be approved in advance by Commission. 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the Project.

26.4 All subcontracts in excess \$25,000 shall contain the above provisions.

27. Labor Code Requirements.

27.1 Prevailing Wages.

(a) Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the Services.

(b) Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.

(c) When prevailing wages apply to the Services described in the Scope of Services, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

(d) Copies of the prevailing rate of per diem wages in effect at commencement of this Agreement are on file at the Commission's offices. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Commission, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

27.2 DIR Registration. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

27.3 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Consultant or the Services are not subject to the Eight-Hour Law. Consultant shall forfeit to Commission as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any sub-consultant under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Consultant or the Services are not subject to the Eight-Hour Law.

27.4 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Consultant

28. Ownership of Materials/Confidentiality.

28.1 Documents & Data. This Agreement creates an exclusive and perpetual license for Commission to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”).

Consultant shall require all subcontractors to agree in writing that Commission is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Commission.

Commission shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Commission’s sole risk.

28.2 Intellectual Property. In addition, Commission shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media (“Intellectual Property”) prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

The Commission shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for wholly or in part by Commission, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Commission.

Consultant shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the Commission.

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

Commission further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

28.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Commission, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Commission's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Commission.

28.4 Infringement Indemnification. Consultant shall defend, indemnify and hold the Commission, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by Commission of the Documents & Data, including any method, process, product, or concept specified or depicted.



29. Indemnification. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold Commission, Caltrans and their directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, inverse condemnation, and any claims related to property acquisition and relocation rules or failure to detect or abate hazardous materials, which are brought by a third party, and which , in any manner arise out of or are incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, Caltrans, and their directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission, Caltrans or their directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Commission, Caltrans and their directors, officials, officers, employees, consultants, agents, and/or volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission, Caltrans or their directors, officials officers, employees, consultants, agents, or volunteers.

If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Consultant's obligations as set forth in this Section shall survive expiration or termination of this Agreement.

30. Insurance.

30.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the Commission that it has secured all insurance required under this Section, in a form and with insurance companies acceptable to the Commission. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this Section.

30.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(a) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(b) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of \$1,000,000 per accident.

30.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. For Consultant, such insurance shall be in an amount not less than \$1,000,000 per claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. Subconsultants of Consultant shall obtain such insurance in an amount not less than \$2,000,000 per claim. Notwithstanding the foregoing, the Commission may consider written requests to lower or dispense with the errors and omissions liability insurance requirement contained in this Section for certain subconsultants of Consultant, on a case-by-case basis, depending on the nature and scope of the Services to be provided by the subconsultant. Approval of such request shall be in writing, signed by the Commission's Contract Administrator.

30.4 Aircraft Liability Insurance. Prior to conducting any Services requiring use of aircraft, Consultant shall procure and maintain, or cause to be procured and maintained, aircraft liability insurance or equivalent form, with a single limit as shall be required by the Commission. Such insurance shall include coverage for owned, hired and non-owned aircraft and passengers, and shall name, or be endorsed to name, the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant.

30.5 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the Commission to add the following provisions to the insurance policies:

(a) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) bodily Injury and property damage; (2) personal Injury/advertising Injury; (3) premises/operations liability; (4) products/completed operations liability; (5) aggregate limits that apply per Project; (6) explosion, collapse and underground (UCX) exclusion deleted; (7) contractual liability with respect to this Agreement; (8) broad form property damage; and (9) independent consultants coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to this Agreement.

(iii) The policy shall give the Commission, its directors, officials, officers, employees, and agents insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be "primary and non-contributory" and will not seek contribution from the Commission's or Caltrans' insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(b) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Commission, Caltrans and their directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the Commission, Caltrans and their directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the Commission, Caltrans and their directors, officials, officers, employees and agents shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(c) Workers' Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against the Commission, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(d) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Commission (if agreed to in a written contract or agreement) before the Commission's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide the Commission at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Commission at least ten (10) days prior to the effective date of cancellation or expiration.

(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Commission, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Commission has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Commission will be promptly reimbursed by Consultant or Commission will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Commission may cancel this Agreement. The Commission may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither the Commission nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

30.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Commission. If the Commission does not approve the deductibles or self-insured retentions as presented, Consultant shall guarantee that, at the option of the Commission, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Commission, its directors, officials, officers, employees and agents; or, (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expense.

30.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Commission.

30.8 Verification of Coverage. Consultant shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Commission before work commences. The Commission reserves the right to require complete, certified copies of all required insurance policies, at any time.

30.9 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all insurance required under this Section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

30.10 Other Insurance. At its option, the Commission may require such additional coverage(s), limits and/or the reduction of deductibles or retentions it considers reasonable and prudent based upon risk factors that may directly or indirectly impact the Project. In retaining this option Commission does not warrant Consultant's insurance program to be adequate. Consultant shall have the right to purchase insurance in addition to the insurance required in this Section.

31. Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the Commission has determined that the Project will contain areas that are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

32. Additional Work. Any work or activities that are in addition to, or otherwise outside of, the Services to be performed pursuant to this Agreement shall only be performed pursuant to a separate agreement between the parties. Notwithstanding the foregoing, the Commission's Executive Director may make a change to the Agreement, other than a Cardinal Change. For purposes of this Agreement, a Cardinal Change is a change which is "outside the scope" of the Agreement; in other words, work which should not be regarded as having been fairly and reasonably within the contemplation of the parties when the Agreement was entered into. An example of a change which is not a Cardinal Change would be where, in a contract to construct a building there are many changes in the materials used, but the size and layout of the building remains the same.

Cardinal Changes are not within the authority of this provision to order, and shall be processed by the Commission as “sole source” procurements according to applicable law, including the requirements of FTA Circular 4220.1D, paragraph 9(f).

(a) In addition to the changes authorized above, a modification which is signed by Consultant and the Commission’s Executive Director, other than a Cardinal Change, may be made in order to: (1) make a negotiated equitable adjustment to the Agreement price, delivery schedule and other terms resulting from the issuance of a Change Order, (2) reflect definitive letter contracts, and (3) reflect other agreements of the parties modifying the terms of this Agreement (“Bilateral Contract Modification”).

(b) Consultant shall not perform, nor be compensated for any change, without written authorization from the Commission’s Executive Director as set forth herein. In the event such a change authorization is not issued and signed by the Commission’s Executive Director, Consultant shall not provide such change.

### 33. Prohibited Interests.

33.1 Solicitation. Consultant warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to rescind this Agreement without liability.

### 33.2 Consultant Conflict of Interest.

(a) Consultant shall disclose any financial, business, or other relationship with Commission that may have an impact upon the outcome of this Agreement, or any ensuing Commission construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing Commission construction project, which will follow.

(b) Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

(c) Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

(d) Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within the construction contract. Additionally, Consultant certifies that no person working under

this Agreement is also employed by the construction contractor for any project included within this Agreement.

33.3 Commission Conflict of Interest. For the term of this Agreement, no member, officer or employee of the Commission, during the term of his or her service with the Commission, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

33.4 Conflict of Employment. Employment by the Consultant of personnel currently on the payroll of the Commission shall not be permitted in the performance of this Agreement, even though such employment may occur outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, the employment by the Consultant of personnel who have been on the Commission payroll within one year prior to the date of execution of this Agreement, where this employment is caused by and or dependent upon the Consultant securing this or related Agreements with the Commission, is prohibited.

33.5 Covenant Against Contingent Fees. As required in connection with federal funding, the Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the Commission shall have the right to terminate this Agreement without liability pursuant to the terms herein, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

33.6 Rebates, Kickbacks or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any Commission employee. For breach or violation of this warranty, Commission shall have the right in its discretion; to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

33.7 Covenant Against Expenditure of Commission, State or Federal Funds for Lobbying. The Consultant certifies that to the best of his/ her knowledge and belief no state, federal or local agency appropriated funds have been paid, or will be paid by or on behalf of the Consultant to any person for the purpose of influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the award of any state or federal contract, grant, loan, or cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.



(a) If any funds other than federal appropriated funds have been paid, or will be paid to any person for the purpose of influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this Agreement, the Consultant shall complete and submit the attached Exhibit "F", Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with the attached instructions.

(b) The Consultant's certification provided in this Section is a material representation of fact upon which reliance was placed when this Agreement was entered into, and is a prerequisite for entering into this Agreement pursuant to Section 1352, Title 31, US. Code. Failure to comply with the restrictions on expenditures, or the disclosure and certification requirements set forth in Section 1352, Title 31, US. Code may result in a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(c) The Consultant also agrees by signing this Agreement that he/she shall require that the language set forth in this Section 3.23.5 be included in all Consultant subcontracts which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

33.8 Employment Adverse to the Commission. Consultant shall notify the Commission, and shall obtain the Commission's written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against the Commission during the term of this Agreement.

34. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

35. Right to Employ Other Consultants. Commission reserves the right to employ other consultants in connection with the Project.

36. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California. Venue shall be in Riverside County.

37. Disputes; Attorneys' Fees.

37.1 Prior to commencing any action hereunder, the Parties shall attempt in good faith to resolve any dispute arising between them. The pendency of a dispute shall not excuse Consultant from full and timely performance of the Services.

37.2. If the Parties are unable to resolve a dispute after attempting in good faith to do so, the Parties may seek any other available remedy to resolve the dispute. If

either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and, all other costs of such actions.

38. Time of Essence. Time is of the essence for each and every provision of this Agreement.

39. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

40. Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**CONSULTANT:**  
WSP USA Inc.  
One Penn Plaza, 4<sup>th</sup> Floor  
New York, NY 10119  
  
Attn: Christopher Lee

**COMMISSION:**  
Riverside County  
Transportation Commission  
4080 Lemon Street, 3<sup>rd</sup> Floor  
Riverside, CA 92501  
Attn: Executive Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. mail, first class postage prepaid, and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

41. Conflicting Provisions. In the event that provisions of any attached exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the performance of the Services.

42. Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

43. Entire Agreement. This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.

44. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

45. Provisions Applicable When State Funds or Federal Funds Are Involved. When funding for the Services under a Task Order is provided, in whole or in part, from

Caltrans, Consultant shall also fully and adequately comply with the provisions included in Exhibit "C" (California Department of Transportation requirements) attached hereto and incorporated herein by reference. When funding for the Services under a Task Order is provided, in whole or in part, from the FTA, Consultant shall also fully and adequately comply with the provisions included in Exhibit "D" (FTA Requirements) attached hereto and incorporated herein by reference.

46. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

47. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

48. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

49. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

50. Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to the Commission. Consultant shall not respond to any such subpoena or court order until notice to the Commission is provided as required herein, and shall cooperate with the Commission in responding to the subpoena or court order.

51. Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein, without the prior written consent of the Commission. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

52. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, and shall not be assigned by Consultant without the prior written consent of Commission.

53. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

54. No Waiver. Failure of Commission to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any

rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

**[Signatures on following page]**

**SIGNATURE PAGE  
TO  
PROFESSIONAL SERVICES AGREEMENT  
WITH FTA AND PROPOSITION 1B FUNDING/ASSISTANCE**

**IN WITNESS WHEREOF**, this Agreement was executed on the date first written above.

<p><b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b></p> <p>By: _____                Aaron Hake                Executive Director</p> <p><i>Approved as to Form:</i></p> <p>By: _____                Best, Best &amp; Krieger LLP                General Counsel</p>	<p><b>CONSULTANT WSP USA INC.</b></p> <p>By: _____                Signature</p> <p>_____</p> <p>      Name</p> <p>_____</p> <p>      Title</p> <p><b>ATTEST:</b></p> <p>By: _____</p> <p>Its: _____</p>
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\* A corporation requires the signatures of two corporate officers.

One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to RCTC.

**TO BE INSERTED FROM RFP:**

**EXHIBIT "A" - SCOPE OF SERVICES**

**EXHIBIT "D" - FTA PROVISIONS**

**EXHIBIT "F" – LOBBYING ACTIVITIES DISCLOSURE**

**TO BE INSERTED FROM CONSULTANT PROPOSAL:**

**EXHIBIT "B"- COMPENSATION AND PAYMENT**

## **EXHIBIT "C"**

### **CALTRANS REQUIREMENTS/ PROP 1 B PROVISIONS**

#### **1. STATEMENT OF COMPLIANCE**

A. Consultant's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. During the performance of this Agreement, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

#### **2. DEBARMENT AND SUSPENSION CERTIFICATION**

A. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to Commission.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

### **3. PROMPT PAYMENT**

Consultant agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 10 days from the receipt of each payment the Consultant receives from the Commission. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Commission.

### **4. RELEASE OF RETAINAGE**

No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to Consultant and its subconsultants.

### **5. LEGAL REMEDIES**

In addition to those contract remedies set forth under relevant provisions of California law, either Party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or "whistleblower" actions, as well as any and all other applicable federal and state provisions of law.

The Consultant shall include a provision to this effect in each of its agreements with its subcontractors.

### **6. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Consultant certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with



an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

## **7. INVENTIONS**

Rights to Inventions and Data Made Under a Contract or Agreement — Consultant shall comply with Federal requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under the Contract, and shall be in compliance with 10 CFR 600.325 and Appendix A—Patent and Data Rights to Subpart D, Part 600.

## **8. ENVIRONMENTAL COMPLIANCE**

A. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

B. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

C. Energy Policy and Conservation Act (Pub. L. 94—163, 89 Stat. 871.) — Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871), which are incorporated by reference in this Contract. (10 CFR 600.236(i)(13).)

**EXHIBIT "E"**

**CERTIFICATE OF CONSULTANT**

I HEREBY CERTIFY that I am the \_\_\_\_\_ and duly authorized representative of the firm of \_\_\_\_\_ whose address is \_\_\_\_\_, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor
- (b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_

# **AGENDA ITEM 8F**



<b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b>	
<b>DATE:</b>	October 9, 2024
<b>TO:</b>	Riverside County Transportation Commission
<b>FROM:</b>	Western Riverside County Programs and Projects Committee Gary Ratliff, Facilities Administrator Erik Galloway, Project Delivery Director
<b>THROUGH:</b>	Aaron Hake, Executive Director
<b>SUBJECT:</b>	Agreement for Closed Circuit Television System Maintenance/Repair and Installation Services for RCTC Rail Stations

**WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE AND STAFF RECOMMENDATION:**

This item is for the Commission to:

- 1) Approve Agreement No. 24-24-097-00 with American System Integrators, Inc. to provide closed circuit television (CCTV) system maintenance/repair and installation services for a three-year base period plus two, one-year options to extend the agreement for a total period of performance of up to five years for a total amount not to exceed \$4,953,600; and
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement, on behalf of the Commission.

**BACKGROUND INFORMATION:**

The Commission owns and operates nine commuter rail stations and one operations control center: Corona-North Main, Corona-West, Jurupa Valley-Pedley, Moreno Valley-March Field, Perris-Downtown, Perris-South, Riverside-Downtown, Riverside-Hunter Park, Riverside-La Sierra, and the Riverside Downtown Operations Control Center. Each location is equipped with an upgraded digital CCTV security system featuring advanced AI-driven technology for 24-hour monitoring. This system enhances public safety, reduces vandalism, and helps prevent crime by alerting security staff and supporting law enforcement with tools to identify and apprehend suspects.

The system includes a total of 198 cameras distributed across the various stations. As security incidents continue to be a major concern for commuters and are on the rise, it is crucial to ensure that our camera system remains as advanced as possible.

Routine maintenance and repair services are vital to maintaining public safety and preserving the Commission's property. Quarterly maintenance involves cleaning, adjusting, and focusing

cameras, housings, and lenses; inspecting and cleaning monitors, matrix controllers, VCR/DVR units, broadband video equipment, transmission equipment, and fiber lines; and configuring system hardware, software, and architecture. These services will be conducted at each station under Commission supervision for a fixed price throughout the agreement term. On-call repairs will be based on the contractor’s proposed fixed labor rates, material costs, and associated markups.

Staff is recommending Commission approval of \$1,453,600 for CCTV routine maintenance services, callout services, repairs, and materials over a five-year period.

**Procurement Process**

Staff determined the weighted factor method of source selection to be the most appropriate for this procurement, as it allows the Commission to identify the most advantageous proposal with price and other factors considered. Non-price factors include elements such as qualifications of firm and personnel and understanding and approach for closed circuit television system maintenance/repair and installation services as set forth under the terms of Request for Proposals (RFP) No. 24-24-098-00.

RFP No. 24-24-098-00 for Closed Circuit Television (CCTV) System Maintenance/Repair and Installation Services was released by staff on June 6, 2024. The RFP was posted on the Commission’s PlanetBids website, which is accessible through the Commission’s website. Utilizing PlanetBids, emails were sent to 339 firms, one (1) of which is in Riverside County. Through the PlanetBids site, 26 firms downloaded the RFP. Staff responded to all questions submitted by potential proposers by July 1, 2024. American System Integrators, Inc. (Mission Viejo, CA) and Convergent Technologies LLC (Schaumburg, IL) - submitted responsive proposals prior to the 2:00 p.m. submittal deadline on July 16, 2024. Utilizing the evaluation criteria set forth in the RFP, all firms were evaluated and scored by an evaluation committee comprised of Commission staff.

As a result of the completion of the evaluation process, the evaluation committee recommends contract award to American System Integrators, Inc. to provide closed circuit television system maintenance/repair and installation services for a three-year base period and two, one-year extension options, as this firm earned the highest total evaluation score. A summary of the proposed costs submitted with the written proposals and the total evaluation score rankings following the final evaluation are summarized below:

Firm	Price	Overall Ranking
American System Integrators, Inc.	\$1,453,600.00	1
Convergent Technologies LLC	\$2,405,946.00	2

Accordingly, staff recommends awarding a contract to American System Integrators, Inc. for CCTV system maintenance, repair, and installation services. This agreement includes a three-year base period with two one-year extension options, totaling \$1,453,600.

## **Potential Future Upgrades**

In addition to the routine CCTV maintenance, RCTC has recently conducted a thorough analysis of station security, prioritizing improvements in camera technology and notification systems to better predict, detect, and address potential incidents. It is proposed that this new contract incorporate improvements to the CCTV system for upgrading equipment to the latest versions including support for artificial intelligence (AI), alerting staff of suspicious activity, updating video storage system, and incorporating future technologies as they are released.

Therefore, staff is recommending an additional \$3,500,000 be approved by the Commission for contract authority for CCTV system upgrades along with the respective necessary equipment and software installations. The CCTV system upgrades will be executed under task order authority and contract pricing. Staff will utilize State of Good Repair and Federal Transit Administration Section 5307 grant funds to pay for these upgrades and AI technologies as these funds become or are available. The CCTV upgrades will be billed at fixed on-call rates as specified in the contractor's proposal, including material markup.

Anticipated CCTV System upgrades include:

1. Video Storage Update and Expansion: Estimated \$800,000
2. Perimeter Area Cameras for Train Layover Areas: Estimated \$500,000
3. License Plate Reader Cameras per Station: Estimated \$750,000
4. Facial Recognition and Voice Systems per Platform: Estimated \$1,000,000
5. Software Updates including AI expansion and Hardware: Estimated \$450,000

By selecting American System Integrators, RCTC will leverage their in-depth knowledge of RCTC's existing system, ensuring compatibility of upgrades and facilitating future expansion. This strategy eliminates the need to hire a separate contractor, resulting in cost savings and reduced duplication of efforts. Given the uncertainty surrounding grant funding, incorporating these services into the contract will allow for a quick response when funds become available, leading to additional time and cost efficiencies.

The total contract authority requested is \$4,953,600.

The Commission's standard form professional services agreement will be entered into with American System Integrators, Inc. subject to any changes approved by the Executive Director, pursuant to legal counsel review. Staff also recommends authorization for the Chair or Executive Director to finalize and execute the agreement.

Financial Information					
In Fiscal Year Budget:	Yes	Year:	FY 2024/25 FY 2025/26+	Amount:	\$550,000.00 \$4,403,600.00
Source of Funds:	2009 Measure A Western Rail Toll Revenues State of Good Repair; Federal Transit Administration; and Section 5307 grant Federal and State grants		Budget Adjustment:	No	
GL/Project Accounting No.:	244001-733XX-00000-0000 265-24-73301 244002-733XX-00000-0000 265-24-73301 244003-733XX-00000-0000 265-24-73301 244004-733XX-00000-0000 265-24-73301 244006-733XX-00000-0000 265-24-73301 244010-733XX-00000-0000 265-24-73301 244021-733XX-00000-0000 265-24-73301 244022-733XX-00000-0000 265-24-73301 244024-733XX-00000-0000 265-24-73301 004011-90701-00000-0000 265-33-73301 001599-733XX-00000-0000 515-31-73301 009199-733XX-00000-0000 515-31-73301				
Fiscal Procedures Approved:				Date:	

Attachment: Draft Agreement No. 24-24-098-00 with American System Integrators, Inc.

<i>Approved by the Western Riverside County Programs and Projects Committee on September 23, 2024</i>					
In Favor:	9	Abstain:	0	No:	0



**Agreement 24-24-098-00****RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
CLOSED CIRCUIT TELEVISION (CCTV) SYSTEM MAINTENANCE/REPAIR AND  
INSTALLATION SERVICES FOR THE RIVERSIDE COUNTY TRANSPORTATION  
COMMISSION OWNED COMMUTER RAIL STATIONS****1. PARTIES AND DATE.**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by and between the Riverside County Transportation Commission (“Commission”) and American System Integrators, Inc., a Corporation, with its principal place of business at 26060 Acero, Ste. 8, Mission Viejo, CA 92691 (“Contractor”). Commission and Contractor are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

**2. RECITALS.**

2.1 Commission is the Transportation Commission for the County of Riverside and organized under the laws of the State of California with the power to contract for services necessary to achieve its purpose.

2.2 Commission owns and operates nine (9) commuter rail stations, one (1) security command center, one (1) transit center, and five (5) toll facilities serving Riverside County, the addresses and descriptions of which are set forth in Exhibit “A”, attached hereto and incorporated herein by reference (“Commuter Rail Stations and Toll Facilities”).

2.3 On or about June 4, 2024, Commission issued a Request for Proposals No. 24-24-098-00 (“RFP”), pursuant to which Commission sought proposals for Closed Circuit Television (CCTV) System Maintenance/Repair and Installation Services for the Riverside County Transportation Commission Owned Commuter Rail Stations.

2.4 Contractor desires to perform and assume responsibility for the provision of CCTV system maintenance/repair and installation services required by Commission on the terms and conditions set forth in this Agreement and in the task order(s) to be solicited, awarded and authorized by Commission Purchase Orders as further described in this Agreement (“Task Order”).

2.5 The work generally includes the CCTV system maintenance/repair and installation services. Contractor represents that it is a professional Contractor, experienced in providing system maintenance/repair and installation services to public clients, and is familiar with the plans of Commission.

2.6 Commission desires to engage Contractor to render system maintenance/repair and installation services for the Riverside County Transportation

Commission owned commuter rail stations. CCTV system maintenance/repair and installation services shall be generally as set forth in Exhibit "A", attached hereto and incorporated herein by reference. CCTV system maintenance/repair and installation services shall be ordered by Task Order(s) to be issued pursuant to this Agreement for future projects as set forth herein. The services set forth in Exhibit "A" and each individual project ordered under a Task Order shall be referred to, herein, collectively, as the "Project".

2.7 Services procured under a Task Order may be funded, in whole or in part, with state and/or federal funds. Contractor shall comply with all applicable funding requirements.

### **3. TERMS.**

#### **3.1 Scope of Services and Term.**

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to Commission all labor materials, tools, equipment, services, and incidental and customary work, as necessary, to fully and adequately provide the CCTV system maintenance/repair and installation services for the Commission owned commuter rail stations required by Commission, as shall be generally described in Exhibit "A" and as more specifically described in each Task Order, collectively referred to herein as the "Services". On-call Services shall be more particularly described in the individual Task Orders issued by the Commission's Executive Director or designee.

No Services shall be performed unless authorized by a Commission Purchase Order for Task Order Services, as further detailed herein. All Services shall be subject to, and performed in accordance with, this Agreement, the relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations

3.1.2 Term. The term of this Agreement shall be from \_\_\_\_\_ to \_\_\_\_\_, 2027, unless earlier terminated as provided herein. Contractor shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

#### **3.2 Responsibilities of Contractor.**

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Contractor on an independent contractor basis and not as an employee. Contractor retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Contractor shall also not be employees of Commission and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages,

salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

### 3.2.2 Task Orders; Commencement and Schedule of Services.

Services under this Agreement shall be competitively solicited amongst Contractor and the other firms identified in Section 3.3.2 of this Agreement pursuant to a Task Order request for bid process. If Contractor's Task Order bid is selected for a Project, the Commission shall issue a Purchase Order for the Services. Contractor's agreement to the final terms of a proposed Task Order, Commission's issuance of a Purchase Order and Contractor's commencement of the Services following issuance of the Purchase Order shall indicate the Parties' agreement to the terms of the relevant Task Order.

Contractor shall commence Services under a Task Order within five (5) days of receiving a Purchase Order for the Task Order Services from the Commission. Each request for Task Order bids shall identify the funding source(s) to be used to fund the Services under the relevant Task Order, and Contractor shall comply with the requirements specified herein, and in the attached exhibits, applicable to the identified funding source(s).

Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor's conformance with each Schedule, the Commission shall respond to Contractor's submittals in a timely manner. Upon the Commission's request, Contractor shall provide a more detailed schedule of anticipated performance to meet the relevant Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of Commission.

3.2.4 Commission's Representative. The Commission hereby designates the Executive Director, or his or her designee, to act as its representative for the performance of this Agreement ("Commission's Representative"). Commission's Representative shall have the power to act on behalf of the Commission for all purposes under this Agreement. Contractor shall not accept direction or orders from any person other than the Commission's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates Oliver Noval, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with Commission staff in the performance of Services and shall be available to Commission's staff, consultants and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Contractor shall perform, at its own cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Period of Performance. Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in each Task Order. Contractor agrees that if the Services are not completed within the aforementioned performance time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement and included in any Task Order, it is understood, acknowledged and agreed that the Commission will suffer damage.

3.2.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do, or respecting the size of any payment to Contractor during the performance of this Contract, Contractor shall continue to perform the Work while said dispute is decided by the Commission. If Contractor disputes the Commission's decision, Contractor shall have such remedies as may be provided by law.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Contractor shall be solely responsible for all costs arising therefrom. Commission is a public entity of the State of California subject to, among other rules and regulations, the Public Utilities Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public

contracts of a county transportation commissions are a part of this Agreement to the same extent as though set forth herein and will be complied with. These include but are not limited to the payment of prevailing wages, the stipulation that eight (8) hours' labor shall constitute a legal day's work and that no worker shall be permitted to work in excess of eight (8) hours during any one calendar day except as permitted by law. Contractor shall defend, indemnify and hold Commission, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10.1 Employment Eligibility; Contractor. By executing this Agreement, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement. Contractor shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the Commission or its representatives for inspection and copy at any time during normal business hours. The Commission shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for in Section 3.2.10 or any of its sub-sections.

3.2.10.2 Employment Eligibility; Subcontractors, Sub-subcontractors and consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any work relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.2.10.1.

3.2.10.3 Employment Eligibility; Failure to Comply. Each person executing this Agreement on behalf of Contractor verifies that they are a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the Commission to terminate the Agreement for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in Sections 3.2.10.1 or 3.2.10.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Contractor under Section 3.2.10.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

3.2.10.4 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.2.10.5 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall also comply with all relevant provisions of Commission's Disadvantaged Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.6 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify Commission against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.7 Water Quality.

(A) Management and Compliance. To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency and the State Water Resources Control Board; the Commission's rules regarding discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State.

(B) Liability for Non-Compliance. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor or Commission to penalties, fines, or additional regulatory requirements. Contractor shall defend, indemnify and hold the Commission, its officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from and against any and all fines, penalties, claims or other regulatory requirements imposed as a result of Contractor's non-compliance with the laws, regulations and policies described in this Section, unless such non-compliance is the result of the sole established negligence, willful misconduct or active negligence of the Commission, its officials, officers, agents, employees or authorized volunteers.

(C) Training. In addition to any other standard of care requirements set forth in this Agreement, Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them without impacting water quality in violation of the laws, regulations and policies described in this Section. Contractor further warrants that it, its employees and subcontractors will receive adequate training, as determined by Commission, regarding the requirements of the laws, regulations and policies described in this Section as they may relate to the Services provided under this Agreement. Upon request, Commission will provide Contractor with a list of training programs that meet the requirements of this paragraph.

### 3.2.11 Insurance.

3.2.11.1 Time for Compliance. Contractor shall not commence work under this Agreement until it has provided evidence satisfactory to the Commission that it has secured all insurance required under this section, in a form and with insurance companies acceptable to the Commission. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

3.2.11.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *if Contractor has an employees, Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of \$1,000,000 per accident.

3.2.11.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms approved by the Commission to add the following provisions to the insurance policies:

(A) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) bodily Injury and property damage; (2) personal Injury/advertising Injury; (3) premises/operations liability; (4) products/completed operations liability; (5) aggregate limits that apply per Project; (6) explosion, collapse and underground (UCX) exclusion deleted; (7) contractual liability with respect to this Agreement; (8) broad form property damage; and (9) independent contractors coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to this Agreement.

(iii) The policy shall give the Commission, its directors, officials, officers, employees, and agents insured status using ISO endorsement forms 20 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be “primary and non-contributory” and will not seek contribution from the Commission’s insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(v) The policy shall not include any restrictions related to indemnity for work performed within fifty (50) feet of Commission’s railroad right-of-way/tracks.

(B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Commission, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible; and (2) the insurance coverage shall be primary insurance as respects the Commission, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor’s scheduled underlying coverage. Any insurance or self-insurance maintained by the Commission, its directors, officials, officers, employees and agents shall be excess of the Contractor’s insurance and shall not be called upon to contribute with it in any way.



(C) Workers' Compensation and Employers Liability Coverage.

(i) Contractor certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against the Commission, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Contractor.

(D) Railroad Protective Liability. In addition to the policies specified above, prior to commencing any Task Order work within (50) feet of Commission's railroad right-of-way/tracks, Contractor shall acquire and keep in force during the period of such work \$2,000,000 (combined single limit)/ \$6,000,000 (aggregate limit) of railroad protective liability insurance naming only Commission as the insured.

(E) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to the Commission, its directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Commission (if agreed to in a written contract or agreement) before the Commission's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Contractor shall provide the Commission at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement,

except that the Contractor shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Contractor shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Commission at least ten (10) days prior to the effective date of cancellation or expiration.

(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Contractor shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Contractor shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Contractor, and any approval of said insurance by the Commission, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Commission has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Commission will be promptly reimbursed by Contractor or Commission will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, Commission may cancel this Agreement. The Commission may require the Contractor to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither the Commission nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

Each insurance policy required by this Agreement shall be endorsed to state that:

3.2.11.4 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Commission. If the Commission does not approve the deductibles or self-insured retentions as presented, Contractor shall guarantee that, at the option of the Commission, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Commission, its directors, officials, officers, employees and agents; or, (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.11.5 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Commission.

3.2.11.6 Verification of Coverage. Contractor shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Commission before work commences. The Commission reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.11.7 Subcontractor Insurance Requirements. Contractor shall not allow any subcontractors or subcontractors to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subcontractors shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Contractor, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subcontractors.

3.2.12 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of Commission during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

### **3.3 Fees and Payments; Labor Code Requirements; Bonds**

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "B" attached hereto and incorporated herein by reference, or at the lump sum set forth in a Task Order, in accordance with the terms of the relevant Task Order. The total compensation per Task Order shall be set forth in the relevant Task Order, and shall not exceed said amount without the written approval of the Commissioner's Executive Director. The total value each Task Order shall be set forth in the relevant Task Order. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 NTE Sum. Commission has or will enter into one (1) task order contracts for the Services generally identified in Exhibit "A" ("On-Call Maintenance and Repair Services Task Order Contracts"). The total amount payable by Commission for the On-Call Maintenance and Repair Services Task Order Contracts shall not exceed a cumulative maximum total value of \$XXXXXX ("NTE Sum"). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under the On-Call Maintenance and Repair Services Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the On-Call Maintenance and Repair Services Task Order Contracts, the Commission shall send written notification to Contractor. The notice shall identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Contractor acknowledges and agrees that Commission shall not pay any amount under this Agreement that would exceed the NTE Sum, and Contractor shall not knowingly enter into a Task Order that exceeds the NTE Sum.

3.3.3 Payment of Compensation. Contractor shall submit to Commission a monthly itemized statement which indicates work completed and hours of Services rendered by Contractor. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. Commission shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.4 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by Commission.

3.3.5 Extra Work. At any time during the term of this Agreement, Commission may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by Commission to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from Commission's Representative.

3.3.6 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and

“maintenance” projects. Since the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$15,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Commission shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor’s principal place of business and at the project site. Contractor shall defend, indemnify and hold the Commission, its officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.3.6 Payroll Records. In accordance with the requirements of California Labor Code Section 1776, Contractor shall keep accurate payroll records which are either on forms provided by the Division of Labor Standards Enforcement or which contain the same information required by such forms. Responsibility for compliance with California Labor Code Section 1776 shall rest solely with Contractor, and Contractor shall make all such records available for inspection at all reasonable hours.

3.3.7 Registration. Since the Services are being performed as part of an applicable “public works” or “maintenance” project, pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractor. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor’s sole responsibility to comply with all applicable registration and labor compliance requirements.

3.3.8 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Contractor and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Contractor or any sub-contractor for the employment and training of apprentices. Upon issuance of this certificate, Contractor and any sub-contractor shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Contractor.

3.3.9 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Contractor or the Services are not subject to the Eight-Hour Law. Contractor shall forfeit to Commission as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any sub-contractor under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Contractor or the Services are not subject to the Eight-Hour Law.

### 3.3.10 Bonds.

3.3.10.1 Payment Bond. If requested by the Commission as part of a Task Order proposal request, Contractor shall execute and provide to the Commission concurrently with the executed Task Order a payment bond in an amount required by the Commission and in a form provided or approved by the Commission. If such bond is required, no payment will be made to Contractor until the bond has been received and approved by the Commission.

3.3.10.2 Bond Provisions. Should, in the Commission's sole opinion, any bond become insufficient or any surety be found to be unsatisfactory, Contractor shall renew or replace the affected bond within (ten) 10 days of receiving notice from Commission. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the Commission, and Contractor shall post an acceptable replacement bond at least ten (10) days prior to expiration of the original bond. No further payments shall be deemed due or will be made under the relevant Task Order until any replacement bond required by this section are accepted by the Commission. To the extent, if any, that the total price under a Task Order requiring a bond is increased in accordance with this Agreement, the Contractor shall, upon request of the Commission, cause the amount of the bond to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the Commission.

3.3.10.3 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in California Code of Civil Procedure Section 995.120, shall be accepted. The surety must be a California-admitted surety and satisfactory to the Commission. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the Commission.

## 3.4 **Termination of Agreement.**

3.4.1 Grounds for Termination. Commission may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof,

at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those services which have been adequately rendered to Commission, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.4.2 Effect of Termination. If this Agreement is terminated as provided herein, Commission may require Contractor to provide all finished or unfinished Documents and Data and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, Commission may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

### **3.5 General Provisions.**

3.5.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**CONSULTANT:**

American System Integrators, Inc.  
26060 Acero, Ste. 8  
Mission Viejo, CA 92691

Attn: Oliver Noval

**COMMISSION:**

Riverside County  
Transportation Commission  
4080 Lemon Street, 3<sup>rd</sup> Floor  
Riverside, CA 92501

Attn: Executive Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

### **3.5.2 Indemnification.**

3.5.2.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the Commission, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions of Contractor, its officials, officers, employees, subcontractors, contractors or agents in connection with the performance of the Services, the Project, this Agreement or any Task Order, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. The only limitations on this provision shall be those imposed by Civil Code Section 2782.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with Counsel of Commission's choosing and at Contractor's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by Section 3.5.2.1 that may be brought or instituted against Commission or its officials, officers, employees, volunteers and agents. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against Commission or its officials, officers, employees, volunteers and agents as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse Commission for the cost of any settlement paid by Commission or its officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for Commission's attorneys' fees and costs, including expert witness fees. Contractor shall reimburse Commission and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the Commission, its officials officers, employees, agents, or volunteers.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the Commission. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the Commission.

3.5.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.5 Commission's Right to Employ Other Contractors. Commission reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.7 Assignment or Transfer. Contractor shall not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the Commission. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.



3.5.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to Commission include its officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

3.5.9 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.11 No Third Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.13 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the Commission's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, Commission shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of Commission, during the term of his or her service with Commission, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.15 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party

warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.16 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.17 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.18 Federal Provisions. Funding for Services under a Task Order may be provided, in whole or in part, by the Federal Transportation Administration (“FTA”), by the California Department of Transportation (Caltrans), or by the South Coast Air Quality Management District (“SCAQMD”). Contractor shall also fully and adequately comply with the FTA, Caltrans and SCAQMD provisions included in Exhibit “C” (Funding Agency Requirements) attached hereto and incorporated herein by reference (“Funding Agency Requirements”), as applicable based on the funding source for the relevant Task Order. With respect to any conflict between such Funding Agency Requirements and the terms of this Agreement and/or the provisions of state law, the more stringent requirement shall control.

**SIGNATURE PAGE FOR CCTV SYSTEM MAINTENANCE/REPAIR AND  
INSTALLATION SERVICES FOR THE RIVERSIDE COUNTY TRANSPORTATION  
COMMISSION OWNED COMMUTER RAIL STATIONS AGREEMENT  
BETWEEN THE RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
AND AMERICAN SYSTEM INTEGRATORS, INC.**

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first set forth above.

**RIVERSIDE COUNTY  
TRANSPORTATION COMMISSION**

**AMERICAN SYSTEM INTEGRATORS,  
INC.**

\_\_\_\_\_  
Aaron Hake  
Executive Director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

*Approved as to form:*

**ATTEST:**

Best Best & Krieger LLP

\_\_\_\_\_  
Signature

\_\_\_\_\_  
General Counsel

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

A corporation requires the signatures of two corporate officers. One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above referenced persons are not the intended signators, evidence of signature authority shall be provided to Commission.

DRAFT

**EXHIBIT "A" - SCOPE OF SERVICES**

DRAFT

## **CCTV MAINTENANCE SERVICES**

### **1.0 GENERAL INFORMATION**

#### **1.1 BACKGROUND**

1.1.1 CONTRACTOR shall enhance availability, ease, and accessibility for the RIVERSIDE COUNTY TRANSPORTATION COMMISSION (Commission).

1.1.2 CONTRACTOR shall provide all personnel, tools, equipment, transportation, and supplies necessary to successfully perform the closed-circuit television (CCTV) system maintenance and repair services described herein.

1.1.3 CONTRACTOR holds a valid C-7 (low voltage), C-10 (electrical), or General B (building contractor) license issued by the California State Contractors License Board at the time the bid is submitted and throughout the full term of this contract.

1.1.4 CONTRACTOR is or shall be Panasonic I-Pro Video Insight (VI) Certified and have a deep knowledge of Milestone XProtect Corporate by the start date of the contract and throughout its full term.

#### **1.2 DEFINITIONS**

- **OCC:** Operations Control Center
- **SIP:** Session Initiation Protocol
- **SD:** Secure Digital (storage media)
- **VI:** Video Insight

### **2.0 DESCRIPTION OF WORK**

CONTRACTOR shall document the CCTV camera inventory, listing camera numbers, location descriptions, recorder assignments, camera model numbers, installation dates, camera types (e.g., wireless, analog/digital), and purpose/remarks. CONTRACTOR shall periodically design, install, inspect, and maintain the Commission's CCTV systems, including but not limited to:

#### **2.1 MAINTENANCE SERVICES (Quarterly and as needed)**

2.1.1 Perform regular maintenance at each location every ninety (90) days, including but not limited to:

- **Backup and Storage Maintenance:**
  - Perform backup configuration of Milestone XProtect Corporate and Panasonic I-Pro Video Insight (VI) servers. Update to the latest version following the manufacturer's recommended preventative maintenance and service guidelines.
  - Archive storage monitoring and firmware/OS updates of EMC Isilon and other network storage servers/equipment following the manufacturer's preventative maintenance and service guidelines.
  - Monitor local recorder storage using Windows or other third-party utilities.
  - Monitor cameras' SD local storage using a browser or utilities per the manufacturer's preventative maintenance and service guidelines.
  - Maintain SQL Express, device plug-ins, smart clients, VI clients, Milestone, and I-Pro Video Insights (VI) servers according to the manufacturer's guidelines.

- **System Software and Security:**
  - Install and maintain antivirus and other security hardware/software for the guard's workstations, wall workstations, and servers.
  - Update Microsoft Windows Server and service packs per the manufacturer's guidelines.
  - Organize files using network shared files, including manufacturer manuals, firmware, schematics, revisions, IP addresses, VLANs, device drivers, installation software, backups, equipment credentials, and more.
  - Test and update VOIP phones' firmware at the Command Center following the manufacturer's preventative maintenance and service guidelines.
  - Synchronize time and date on all workstations, servers, cameras, and other network appliances.
- **Hardware Maintenance:**
  - Secure all loose wiring.
  - Service and maintain Luxul, Meraki, Cisco, Lantronix, UBNT wireless, and other network equipment, including firmware/OS updates following the manufacturer's preventative maintenance guidelines.
  - Clean and inspect all CCTV communication wall/pole-mounted junction boxes, communication buildings, data racks, and air ventilation filters.
  - Clean and check all backup batteries according to the manufacturer's guidelines.
  - Test all emergency phones, including backup battery and visual light indicators.
  - Vacuum all workstations and servers, including the keyboard and mouse.
  - Secure cabinets, junction boxes, and other CCTV and network equipment/splices.
  - Maintain/service CCTV printers and scanners, multifunction printers/scanners, and DVD burners.
  - Evaluate and maintain SIP-enabled CCTV speakers and workstation devices (microphone or SIP master station).
- **Coordination and Network Management:**
  - Coordinate with Caltrans and other fiber optic providers to maintain the lines from the dispatch center to each station.
  - Maintain all ISP connections to all stations, such as solar, parking, environmental, and remote monitoring.
  - Coordinate with other vendors to connect and maintain network equipment.
  - Maintain a list of network local IP, WAN, Subnet, DNS, and Gateway addresses.

- **Access and Emergency Systems:**
  - Maintain and repair the access control system in the command center. Perform firmware updates, card/fob maintenance, database backups, battery testing (panel and door power supply), sync time/date, and more per the manufacturer's maintenance guidelines.
  - Install and maintain existing emergency elevators and parking lot/structure phones.
  - Maintain and perform functional tests on the fire system in the command center and North Main stations.
  - Maintain, perform, and coordinate with elevator company service providers for functional tests of fire recall systems.
- **Special Capabilities:**
  - Provide, Install, and maintain AI applications and capabilities, including planning, designing, and implementing AI analytics like vehicle detection, face detection, people counting, and license plate recognition.
  - Install and maintain IP audio speakers using SIP or other services. Evaluate functionality and train users while maintaining the SIP server.
- **Reporting:**
  - Provide daily, weekly, monthly, and yearly maintenance reports, including system performance reports.

## **2.2 ON-CALL REPAIR SERVICES**

2.2.1 Perform on-call services for each station, including but not limited to:

2.2.1.1 Replace defective connections, cameras, or equipment, as necessary.

2.2.1.2 Relocate equipment as directed.

2.2.1.3 CONTRACTOR shall maintain a trouble ticket tracking system. Each trouble report shall be logged with the originator's name, date and time reported, problem description, action taken, and the date/time the report was cleared.

2.2.1.4 Provide cost proposals/recommendations for any defective equipment or parts requiring replacement.

2.2.2 Unless otherwise specified by the Commission:

a. Replace defective connections, cameras, or equipment within 48 hours of notification.

b. Complete all work during "non-rush hours" (8:30 a.m.-3:30 p.m.) or on weekends (8 p.m. Friday - 5 a.m. Monday).

## **2.3 CONSULTATION AND DESIGN SERVICES**

2.3.1 Provide recommendations and consultation for any additions to, relocation of, and reconfiguration of the CCTV Operations Control Center (OCC).

2.3.2 Revise and maintain documentation of existing and future architecture according to industry standards.

2.3.3 Maintain and master CCTV schematic diagrams, as-builts, and system matrices.

2.3.4 Transition from the existing two-system fiber/digital/analog configuration to a single



integrated system.

2.3.5 Coordinate with all telecommunications service providers as necessary.

2.3.6 Provide user training for staff and guards.

2.3.7 Provide fiber optic integration consultation and support.

## **2.4 SYSTEM IMPROVEMENTS**

2.4.1 Identify and recommend system improvements based on technological advancements, changing security needs, and user feedback.

2.4.2 Evaluate new features or enhancements that would provide better security coverage, scalability, or operational efficiency.

2.4.3 Develop a phased implementation plan to integrate these improvements with minimal disruption to existing operations. Submit to RCTC for review and concurrence.

## **2.5 NEW EQUIPMENT**

2.5.1 Integrate the system with existing and future security, emergency response (e.g., call boxes, first responder video feeds), and public address systems.

2.5.2 Provide cost proposals, installation, and design recommendations for new equipment, technology, or parts for new facilities and/or lifecycle replacements.

2.5.3 Provide the Commission with all warranty documents and manuals for all future software and hardware.

## **2.6 ESCALATION PROCEDURES AND QUALITY STANDARDS**

### **2.6.1 Escalation Procedures:**

If CONTRACTOR cannot resolve issues within standard or priority response times, the matter will be escalated to a senior technician or project manager within 24 hours. In emergencies, escalation occurs immediately.

### **2.6.2 Quality Standards:**

All repairs and maintenance must adhere to manufacturer guidelines, state building codes, and relevant industry standards. Regular quality checks will be conducted using a checklist, with deficiencies to be addressed within 48 hours.

## **3.0 CONTRACTOR OBLIGATIONS**

### **3.1 PERSONNEL AND USE OF SITE(S)**

3.1.1 CONTRACTOR shall provide a competent and sufficient supervisory workforce to maintain efficient performance of the work. Supervision shall have full authority to represent CONTRACTOR in making decisions and executing the work professionally.

3.1.2 CONTRACTOR shall not employ unfit or unskilled personnel and must keep the work site, including storage areas, free from waste materials, trash, or rubbish. All material shall be removed by the end of each workday. Neither new nor used materials shall be stored on-site, and replaced materials shall be properly disposed of by CONTRACTOR according to environmental requirements. Commission dumpsters shall not be used.

3.1.3 CONTRACTOR shall confine materials storage and worker operations to limits prescribed by law, ordinances, permits, and the Commission's project manager. Upon completion of the work, CONTRACTOR shall leave the premises in satisfactory condition.

3.1.4 CONTRACTOR shall preserve and protect all existing monuments, utilities, structures, and hardscapes from damage and shall be responsible for any damage caused. Repair costs shall be borne by CONTRACTOR.

3.1.5 Any concerns expressed by CONTRACTOR, adjacent property owners, or government

officials regarding conditions or procedures on Commission property will be resolved in consultation with the project manager before work begins.

### **3.2 SAFETY**

3.2.1 All contractors and subcontractors performing services for the Commission shall comply with OSHA, state and county safety standards, and any other applicable rules and regulations. They are responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage within the work area.

3.2.2 Maintenance activities shall be performed safely and efficiently following local, state, and federal requirements. CONTRACTOR shall initiate, maintain, and supervise all safety precautions and programs related to the work. Employees should wear safety equipment and follow all safety rules and guidelines.

#### **3.2.3 Health and Safety Guidelines:**

- **Railroad Safety Orientation:** Maintain Metrolink, BNSF and UP Railway certification for contractors.
- **Personal Protective Equipment (PPE):** Technicians must wear high-visibility vests, safety goggles, hard hats, and insulated gloves where required.
- **Hazard Identification:** Before starting tasks, technicians should conduct a hazard assessment, identify risks like exposed wiring, and establish safe access paths.

### **3.3 LABOR AND MATERIALS**

3.3.1 CONTRACTOR shall provide all labor, materials, and tools required to repair or replace all closed-circuit television equipment as necessary.

3.3.2 Provide the necessary equipment (e.g., ladders, ladder trucks, aerial lifts, scaffolding) required for the work, including tools and equipment required for repairing/replacing equipment regardless of height.

3.3.3 CONTRACTOR shall provide off-site storage for the materials required to perform this work. Commission facilities shall not be used for storage.

3.3.4 All replaced material shall be made available to the Commission upon request.

3.3.5 Unless otherwise specified, CONTRACTOR shall provide and pay for all labor, materials, equipment, tools, utilities not provided by the Commission, transportation, and services needed for the proper execution and completion of the work.

3.3.6 All materials shall be new, high-grade (commercial grade), defect-free, suitable for the intended purpose, and subject to the review and approval of the Contract Administrator or designee.

3.3.7 Materials being replaced shall be replaced with the same make and model or an approved equal. All "or equals" must be approved by the Contracts Administrator or designee.

3.3.8 Damaged or defective materials shall be replaced by CONTRACTOR at no additional cost to the Commission.

3.3.9 If CONTRACTOR fails to comply promptly with any order to replace or repair damaged or defective material, equipment, or work, the project manager may deduct the cost of such replacements or repairs from any compensation due.

3.3.10 Small parts like wire, nuts, bolts, screws, tape, and other consumables shall be included as overhead in the labor cost quoted for the project.

3.3.11 All guarantees and warranties obtained by CONTRACTOR from manufacturers and vendors of equipment shall be extended to the Commission to the full extent of their terms.

### **3.4 KEY PERSONNEL AND QUALIFICATIONS**

3.4.1 Key personnel will be available to the extent proposed for the project's duration. Key personnel cannot be removed or replaced without prior written concurrence from the Commission. This applies to subcontractors essential to the project's success.

3.4.2 Qualifications for all positions:

3.4.2.1 All vehicle equipment operators must have and maintain appropriate licenses.

3.4.2.2 Workers must be able to work outdoors in all weather conditions, climb irregular embankments and ladders, and lift objects not exceeding OSHA weight regulations.

## **4.0 TASK ORDER PROCEDURES**

### **4.1 DEFINITIONS**

4.1.1 Terms like bid and proposal, bidder and proposer, scope of work and statement of work are interchangeable. The term CONTRACTOR refers to the firm awarded the service contract.

4.1.2 A Task Order establishes, outlines, and authorizes a particular job or task.

### **4.2 INITIATING TASK ORDERS**

4.2.1 The Commission's project manager will issue task orders to CONTRACTOR as needed.

4.2.2 **Request for Task Order Submittals:** Upon a request for a Task Order Proposal, CONTRACTOR shall develop a plan and submit a Task Order proposal. The Task Order shall include a schedule, labor hours, and labor classifications required to provide the requested services.

4.2.3 **Review and Award of Task Orders:** The project manager will review the Task Order (TO) to ensure it's consistent with the request for services, the assigned personnel and schedule are acceptable, costs are appropriate, and all contractual requirements are met. The TO will be awarded if it is fair and reasonable. If required, the project manager will negotiate exceptions and clarify costs. The fully executed TO will record negotiations.

4.2.4 **Completion Schedule:** Services shall commence under each TO only upon written authorization by the project manager.

4.2.5 CONTRACTOR shall complete services within the time specified in the TO. The TO duration may not exceed 12 months unless approved in writing.

4.2.6 All work shall be inspected and approved by the Commission before payment.

### **4.3 NOTIFICATIONS AND RESPONSE TIMES**

4.3.1 Unless otherwise directed by the project manager, CONTRACTOR must respond as follows:

- **Standard Service Call:** For cameras not on the platform or near the ticket vending machine, repair within 24 hours of receiving an authorized repair request.
- **Priority Service Call:** For platform cameras and cameras near the ticket vending machine, repair within 12 hours of receiving an authorized repair request.
- **Submit Task Order Proposal:** Provide a TO Proposal within 48 hours of receiving a request.
- **Perform/Complete Task Order Work:** Complete the TO work within 2 weeks of receiving the approved proposal.

- **Emergency Service Call:** In emergencies, CONTRACTOR shall respond immediately (including weekends).

4.3.2 CONTRACTOR and subcontractors must provide 24-hour contact numbers for key personnel and an emergency "on-call" communication system for the project manager.

4.3.3 CONTRACTOR offices must have voice, fax, and email capabilities.

4.3.4 The project manager must be notified when employees are on Commission property at times other than regular work hours.

4.3.5 Immediately notify the Property Administrator of any unsafe or questionable conditions. The project manager will notify the necessary parties.

4.3.6 Notify the project manager of work completion within 24 hours of completing each TO.

## **5.0 WORKMANSHIP**

5.1 CONTRACTOR agrees to provide adequate supervision and ensure all work is completed in a skillful manner by qualified, careful, and efficient workers. In case of substandard workmanship or defective materials as determined by inspection, the Commission may require CONTRACTOR to remedy such failures or defects at no cost.

5.2 Workmanship may be considered substandard if the work is incomplete, inadequately installed or supported, poorly fitted or sealed, damaged, improperly finished, or installed in a way that impairs operation or maintainability.

5.3 Poor performance will be determined if workers fail to install work within the allocated time. Emergency work must be performed quickly with an appropriately sized crew.

5.4 Claims of defective materials, inadequate workmanship, or deficient performance will be made to CONTRACTOR's supervisor. If not resolved on-site, a written claim will be made to the home office. Claims will be settled through negotiation between CONTRACTOR and the Commission, with credits issued for poor work.

5.5 CONTRACTOR shall employ only competent, careful, and orderly employees. If an employee is detrimental to the work, the Commission may request their removal.

5.6 Services shall not relieve CONTRACTOR from correcting incomplete, inaccurate, or defective work at no further cost to the Commission if caused by CONTRACTOR's acts or omissions.

## **5.7 Performance Review Procedures:**

### **5.7.1 Quarterly Reviews:**

Quarterly reviews will evaluate CONTRACTOR compliance with service level agreement, quality of repairs, and adherence to budget constraints. Both the Commission and CONTRACTOR will meet to discuss gaps or improvements.

## **5.8 Dispute Resolution:**

Disputes will first be addressed by both parties in writing. If unresolved after 15 business days, the matter will proceed to mediation. If mediation fails, the issue will be managed via binding arbitration.

## **6.0 DIRECT COSTS AND MATERIAL MARK-UP**

6.1 CONTRACTOR shall be compensated based on the Proposal Pricing Form (Appendix H) and substantiated by invoices for materials.

6.2 The material mark-up shall be fixed for the agreement term and not exceed five percent (5%). It may be negotiated based on task order materials.

6.3 Receipts are required and shall be provided by CONTRACTOR to verify material costs included in each invoice.

#### **STATION LOCATIONS**

- **West Corona Metrolink Station:** 155 S. Auto Center Dr, Corona, CA
- **La Sierra Station:** 10901 Indiana Ave, Riverside, CA
- **Pedley/Jurupa Valley Station:** 6001 Pedley Road, Riverside, CA
- **Riverside Hunter Park:** 1101 Marlborough Ave, Riverside, CA
- **Moreno Valley/March Field:** 14160 Meridian Parkway, Riverside, CA
- **South Perris:** 1304 Case Road, Perris, CA
- **North Main Corona Station:** 250 E. Blaine Street, Corona, CA
- **Riverside Downtown:** 4066 Vine Street, Riverside, CA
- **Perris Downtown:** 121 S. C Street, Perris, CA
- **Operations Control Center:** 4344 Vine Street, Riverside, CA

**EXHIBIT "B" –COMPENSATION RATES**

DRAFT

**EXHIBIT "B"**

**COMPENSATION SUMMARY<sup>1</sup>**

<b>FISCAL YEAR</b>	<b>PROJECT</b>	<b>COST</b>
FY 2024/25	CCTV Service and System Upgrades/Improvements	\$ 1,005,400.00
FY 2025/26	CCTV Service and System Upgrades/Improvements	1,005,400.00
FY 2026/27	CCTV Service and System Upgrades/Improvements	1,005,400.00
FY 2027/28	CCTV Service and System Upgrades/Improvements	1,005,400.00
FY 2028/29	CCTV Service and System Upgrades/Improvements	1,030,400.00
<b>SUBTOTAL</b>		<b>5,052,000.00</b>
<b>OTHER DIRECT COSTS</b>		-
<b>TOTAL COSTS</b>		<b>\$ 5,052,000.00</b>

<sup>1</sup> Commission authorization pertains to total contract award amount. Compensation adjustments between consultants may occur; however, the maximum total compensation authorized may not be exceeded.

**EXHIBIT “C”- FUNDING AGENCY REQUIREMENTS**

DRAFT



**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD)  
AND  
STATE (CALTRANS)  
FUNDING REQUIREMENTS**

The following additional funding requirements apply depending on the funding source identified as applicable for a Task Order.

**I. SCAQMD REQUIREMENTS**

**Non-Discrimination** - In the performance of this Contract, CONTRACTOR shall not discriminate in recruiting, hiring, promotion, demotion, or termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, or physical handicap and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900, *et seq.*), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, Executive Order No. 11246 (30 Federal Register 12319), and all administrative rules and regulations issued pursuant to said Acts and Order. CONTRACTOR shall likewise require each subcontractor to comply with this clause and shall include in each such subcontract language similar to this clause.

**II. CALTRANS REQUIREMENTS**

\* **Section 2 below is also applicable to FTA Funded Task Orders.**

1. Invoices & Payments.

Invoices shall be mailed to Commission's Contract Administrator at the following address:

Riverside County Transportation Commission  
Attention: Accounts Payable  
P.O. 12008  
Riverside, CA 92502

Payment shall be made for costs incurred by Contractor in performance of the Services. No advance payment or payment for work not actually performed shall be made under this Agreement or any Task Order.

2. Cost Principles and Administrative Requirements.

Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

Contractor also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Contractor to Commission.

All subcontracts in excess of \$25,000 shall contain the above provisions.

3. Retention of Records/Audit. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this Agreement pursuant to Government Code 8546.7; Contractor, subcontractors, and Commission shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under this Agreement. The State, State Auditor, Commission, or any duly authorized representative of the State Government shall have access to any books, records, and documents of Contractor and its certified public accountants (CPA) work papers that are pertinent to this Agreement for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

4. Accounting System. Contractor and its subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate expenditures by line item for the Services. The accounting system of Contractor and its subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.

5. Travel & Subsistence. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Task Order, as may be applicable. In addition, any payments to Contractor for travel and subsistence expenses claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid exempt non-represented State employees under current State Department of Personnel Administration (DPA) rules, unless otherwise authorized by Commission. If the rates invoiced are in excess of those authorized DPA rates, and Commission has not otherwise approved said rates, then Contractor is responsible for the cost difference and any overpayments shall be reimbursed to the Commission on demand.

## 6. Equipment Purchase

Prior authorization, in writing, by Commission's Contract Administrator shall be required before Contractor enters into any unbudgeted purchase order, or subcontract for supplies, equipment, or services. Contractor shall provide an evaluation of the necessity or desirability of incurring such costs.

For purchase of any item, service or consulting work not covered in the Cost Proposal and exceeding \$5,000 prior authorization, in writing, by Commission's Contract Administrator is required. Three competitive quotations must be submitted with the request for such purchase, or the absence of bidding must be adequately justified.

Any equipment purchased as a result of this Agreement is subject to the following: Contractor shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, Commission shall receive a proper refund or credit at the conclusion of this Agreement, or if this Agreement is terminated, Contractor may either keep the equipment and credit Commission in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established Commission procedures; and credit Commission in an amount equal to the sales price. If Contractor elects to keep the equipment, fair market value shall be determined at Contractor's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by Commission and Contractor. If Contractor determines to sell the equipment, the terms and conditions of such sale must be approved in advance by Commission. 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the Project.

All subcontracts in excess \$25,000 shall contain the above provisions.

## 7. National Labor Relations Board Certification.

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Contractor certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period, because of Contractor's failure to comply with an order of a federal court that orders Contractor to comply with an order of the National Labor Relations Board.

## 8. Nondiscrimination; Statement of Compliance.

Contractor's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that Contractor has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

During the performance of this Agreement, Contractor and its subcontractors shall not

unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

## **FTA FUNDING REQUIREMENTS (Non-construction/maintenance work)**

As used herein, “RCTC” shall have the same meaning as the “Commission.” The term “contract” or “Contract” shall have the same meaning as the “Agreement.”

### **1. No Obligation by the Federal Government**

a. RCTC and Consultant acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Consultant, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

b. The Consultant agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subconsultant who will be subject to its provisions.

### **2. Program Fraud and False or Fraudulent Statements or Related Acts**

a. The Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consultant to the extent the Federal Government deems appropriate.

b. The Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Consultant, to the extent the Federal Government deems appropriate.

c. The Consultant agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subconsultant who will be subject to the provisions.

### **3. Access to Records**

The Consultant agrees to the following access to records requirements:

- a. To provide RCTC, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Consultant which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Consultant also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Consultant access to Consultant's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- b. To make available in the case of a contract for a capital project or improvement, as defined above and awarded by other than competitive bidding in accordance with 49 U.S.C. 5325(a), records related to the contract to RCTC, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- c. To maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Consultant agrees to maintain same until RCTC, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
- d. To permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

#### **4. Federal Changes**

The Consultant shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between RCTC and FTA, as they may be amended or promulgated from time to time during the term of this contract. Consultant's failure to so comply shall constitute a material breach of this contract.

#### **5. Civil Rights**

The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332 and 49 CFR part 21, the Consultant agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Consultant agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Consultant agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Consultant agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623, Federal transit law at 49 U.S.C. § 5332, the Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, the Consultant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Consultant agrees that it will not discriminate against individuals on the basis of disability, and that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

(3) The Consultant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

## 6. FTA Disadvantaged Business Enterprise (DBE) Requirements

A. General DBE Requirements: In accordance with Federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), Commission has adopted a Disadvantaged Business Enterprise (DBE) Policy and Program, in conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs" (the "Regulations"). This RFP is subject to these stipulated regulations. In order to ensure that Commission achieves its overall DBE Program goals and objectives, Commission encourages the participation of DBEs as defined in 49 CFR 26 in the performance of contracts financed in whole or in part with U.S. DOT funds.

It is the policy of the Commission to:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

B. Discrimination: Consultant shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts. Any terms used herein that are defined in 49 CFR Part 26, or elsewhere in the Regulations, shall have the meaning set forth in the Regulations.

C. Commission's Race-Neutral DBE Program: A Race-Neutral DBE Program is one that, while benefiting DBEs, is not solely focused on DBE firms. Therefore, under a Race-Neutral DBE Program, Commission does not establish numeric race-conscious DBE participation goals on its DOT-assisted contracts. There is no FTA DBE goal on this Project.

Consultant shall not be required to achieve a specific level of DBE participation as a condition of contract compliance in the performance of this DOT-assisted contract. However, Consultant shall adhere to race-neutral DBE participation commitment(s) made at the time of award.

D. Race-Neutral DBE Submissions and Ongoing Reporting Requirements (Post-Award): At termination of the Contract, the successful Consultant shall complete and submit to



Commission a “DBE Race-Neutral Participation Listing” in the form provided by Commission. In the event DBE(s) are utilized in the performance of the Agreement, Consultant shall comply with applicable reporting requirements.

E. Performance of DBE Subconsultants: DBE subconsultants listed by Consultant in its “DBE Race-Neutral Participation Listing” submitted at the time of proposal shall perform the work and supply the materials for which they are listed, unless Consultant has received prior written authorization from Commission to perform the work with other forces or to obtain the materials from other sources. Consultant shall provide written notification to Commission in a timely manner of any changes to its anticipated DBE participation. This notice should be provided prior to the commencement of that portion of the work.

F. DBE Certification Status: If a listed DBE subconsultant is decertified during the life of this Agreement, the decertified subconsultant shall notify Consultant in writing with the date of decertification. If a non-DBE subconsultant becomes a certified DBE during the life of this Agreement, the DBE subconsultant shall notify Consultant in writing with the date of certification. Consultant shall furnish the written documentation to Commission in a timely manner. Consultant shall include this requirement in all subcontracts.

G. Consultant’s Assurance Clause Regarding Non-Discrimination: In compliance with State and Federal anti-discrimination laws, Consultant shall affirm that it will not exclude or discriminate on the basis of race, color, national origin, or sex in consideration of contract award opportunities. Further, Consultant shall affirm that they will consider, and utilize subconsultants and vendors, in a manner consistent with non-discrimination objectives.

H. Violations: Failure by the selected Consultant(s) to carry out these requirements shall be a material breach of the contract to be awarded pursuant to this RFP, which may result in the termination of the contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the Consultant from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

I. Prompt Payment: Consultant shall pay its subconsultants for satisfactory performance of their contracts no later than 30 days from receipt of each payment Commission makes to the Consultant. 49 C.F.R. § 26.29(a), unless a shorter period is provided in the contract.

J. Compliance with DBE Requirements Contained in FTA Provisions: Consultant shall comply with all DBE reporting and other requirements contained in this Agreement.

## **7. Incorporation of Federal Transit Administration (FTA) Terms**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Consultant shall not perform any act, fail to perform any act, or refuse to comply with any RCTC requests which would cause RCTC to be in violation of the FTA terms and conditions.

## **8. Debarment and Suspension.**

The Consultant agrees to the following:

(1) It will comply with the following requirements of 2 CFR Part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR Part 1200.

(2) It will not enter into any “covered transaction” (as that phrase is defined at 2 CFR §§ 180.220 and 1200.220) with any subconsultant whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions, except as authorized by— (i) U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR Part 1200; (ii) U.S. OMB regulatory guidance, “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR Part 180; and (iii) Other applicable federal laws, regulations, or requirements regarding participation with debarred or suspended recipients or third party participants.

(3) It will review the U.S. GSA “System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by U.S. DOT regulations, 2 CFR Part 1200.

## **9. ADA Access Requirements**

The Consultant shall comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC Section 12101 et seq; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC Section 794; 49 USC Section 5301(d).

## **10. Fly America**

To the extent applicable to the Services, the Consultant agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and sub recipients of Federal funds and their consultants are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Consultant shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of

compliance with the Fly America requirements. The Consultant agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

### **11. Cargo Preference - Use of United States-Flag Vessels**

To the extent applicable to the Services, the Consultant agrees:

1. To use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
2. To furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the Consultant in the case of a subconsultant's bill-of-lading.)
3. To include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

**11. Buy America – Not applicable.**

### **12. Employment Provisions**

To the extent applicable to the Services, Consultant shall comply with the following:

- A. Equal Employment Opportunity — Not applicable.
- B. Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c) — Not applicable.
- C. Contact Work Hours and Safety Standards Act (40 U.S.C. 327–333) —Not applicable.

#### **D. Release of Retainage**

No retainage will be withheld by the RCTC from progress payments due Consultant. Retainage by Consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating Consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to Consultant or subconsultant in the event of a dispute involving late payment or

nonpayment by Consultant or deficient subconsultant performance, or noncompliance by a subconsultant.

### **13. Termination for Convenience**

RCTC may terminate the Agreement for convenience in accordance with the terms of the Agreement.

After such termination, the Consultant shall submit a final termination settlement proposal to RCTC as directed. If the Consultant fails to submit a proposal within the time allowed, RCTC may determine, on the basis of information available, the amount, if any due the Consultant because of the termination and shall pay the amount determined. After the Consultant's proposal is received, RCTC and Consultant shall negotiate a fair and equitable settlement and the contract will be modified to reflect the negotiated agreement. If agreement cannot be reached, RCTC may issue a final determination and pay the amount determined. If the Consultant does not agree with this final determination or the determination resulting from the lack of timely submission of a proposal, the Consultant may appeal under the Disputes clause.

### **14. Administrative and Contractual Remedies on Breach; Termination for Cause**

a. The Consultant may be declared in breach of this Agreement ("Breach") if the Consultant fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or if the Consultant fails to perform any of the other provisions of the contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms. In case of any of the foregoing, RCTC shall notify the Consultant of the Breach, and the Consultant shall have a period of ten (10) days (or such longer period as RCTC may authorize in writing) after receipt of notice from RCTC to cure the Breach.

b. RCTC may, by written notice of termination to the Consultant specifying the effective date thereof, terminate the whole or any part of this contract, in the case of a Breach that is not cured within the timeframe set forth in (a) above ("Uncured Breach").

c. If the contract is terminated in whole or in part for an Uncured Breach, RCTC may procure upon such terms and in such manner as RCTC may deem appropriate, supplies or services similar to those so terminated, or may complete the services with its own forces. The Consultant shall be liable to RCTC for any excess costs for such similar supplies or services, and for any other costs incurred by RCTC as a result of the Uncured Breach. The Consultant shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

d. Except with respect to defaults of Subconsultants, the Consultant shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Consultant. If the failure to perform is caused by the default of a Subconsultant, and if such default arises out of causes beyond the control of both the Consultant and the Subconsultant, and without the fault or negligence of either of them, the Consultant shall not be liable for any excess costs for failure to perform, unless the supplies or

services to be furnished by the Subconsultant were obtainable from other sources in sufficient time to permit the Consultant to meet the required project completion schedule.

e. Payment for completed services or supplies delivered to and accepted by RCTC shall be at the contract price. RCTC may withhold from amounts otherwise due the Consultant for such completed services or supplies such sum as RCTC determines to be necessary to protect RCTC against loss because of outstanding liens of claims of former lien holders, or to reimburse RCTC for any other costs related to the Uncured Breach.

f. If, after notice of termination of this contract for cause, it is determined for any reason that an Uncured Breach did not exist, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the provisions for termination for convenience of RCTC.

g. The rights and remedies of RCTC provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this contract including, but not limited to, the right to specific performance.

h. Notwithstanding the above, RCTC may, without providing an opportunity to cure, terminate the contract in accordance with the timeframe set forth in Section 17 of the contract, if RCTC determines such action is in its best interest based on the nature of the Breach. Such actions shall not limit any of RCTC's remedies set forth above.

## **16. Disputes**

a. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by supplemental agreement shall be decided by RCTC's Deputy Executive Director, who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Consultant. The decision of the RCTC Deputy Executive Director shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, Consultant mails or otherwise furnishes to the RCTC Deputy Executive Director a written appeal addressed to RCTC's Executive Director. The decision of RCTC Executive Director or duly authorized representative for the determination of such appeals shall be final and conclusive.

b. The provisions of this Paragraph shall not be pleaded in any suit involving a question of fact arising under this Agreement as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged, provided, however, that any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this Paragraph, the Consultant shall be afforded an opportunity to be heard and to offer evidence in support of its appeal.

c. Pending final decision of a dispute hereunder, Consultant shall proceed diligently with the performance of this Agreement and in accordance with the decision of RCTC's Deputy Executive Director. This "Disputes" clause does not preclude consideration of questions of law in connection

with decisions provided for above. Nothing in this Agreement, however, shall be construed as making final the decision of any RCTC official or representative on a question of law, which questions shall be settled in accordance with the laws of the State of California.

### **17. Lobbying**

See the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Consultants who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. The Offeror shall complete and submit with its bid/proposal the attached Certification Regarding Lobbying, and if applicable, the Standard Form-LLL, "Disclosure Form to Report Lobbying."

### **18. Energy Conservation**

The Consultant agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

### **19. Clean Water**

a. The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Consultant agrees to report each violation to RCTC and understands and agrees that RCTC will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

d. The Consultant further agrees that:

- (1) It will not use any violating facilities;
- (2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
- (3) It will report violations of use of prohibited facilities to FTA; and
- (4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

The Consultant also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

## 20. Clean Air

a. The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Consultant agrees to report each violation to RCTC and understands and agrees that RCTC will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

b. The Consultant further agrees that:

- (1) It will not use any violating facilities;
- (2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;”
- (3) It will report violations of use of prohibited facilities to FTA; and
- (4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

c. The Consultant also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

## 21. Recycled Products

Recovered Materials - The Consultant agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

## 21. SPECIAL PROVISION FOR PROMOTING COVID-19 SAFETY

### **Section 49. Centers for Disease Control and Prevention Order on Requirements for Persons to Wear Masks While on Conveyances and at Transportation Hubs.**

*(a) Compliance with CDC Mask Order.* The Centers for Disease Control and Prevention (“CDC”) Order of January 29, 2021, titled Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs (“CDC Mask Order”), applies to this Agreement. One of the objectives of the CDC Mask Order is “[m]aintaining a safe and operating transportation system.” Consultant agrees that it will comply, and will require all subconsultants to comply, with the CDC Mask Order, to the extent the CDC Mask Order remains in effect.

*(b) Enforcement for non-compliance.* Consultant agrees that FTA and RCTC may take enforcement action for non-compliance with the CDC Mask Order, to the extent the CDC Mask Order remains in effect, including: (1) enforcement actions authorized by 49 U.S.C. § 5329(g); (2) referring Consultant to the CDC or other Federal authority for enforcement action; (3) enforcement actions authorized by 2 CFR §§ 200.339 – .340; and (4) any other enforcement action authorized by Federal law or regulation.

## **22. Safe Operation of Motor Vehicles**

Pursuant to Federal Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third party consultant to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project.

- a. The Consultant is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Consultant or RCTC.
- b. The Consultant agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this contract.

## **23. Notification to FTA.**

- a. If a current or prospective legal matter that may affect the Federal Government emerges, the Consultant must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which this Agreement is being performed. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- b. Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
- c. *Additional Notice to U.S. DOT Inspector General.* The Consultant must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Commission located, if Consultant has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Consultant. In this paragraph, “promptly” means to refer information without delay and without change.



## **24. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

Consultant shall not contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system funded under this Contract. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- b. Telecommunications or video surveillance services provided by such entities or using such equipment.
- c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.



# **AGENDA ITEM 8G**



<b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b>	
<b>DATE:</b>	October 9, 2024
<b>TO:</b>	Riverside County Transportation Commission
<b>FROM:</b>	Sandra Salgado, Management Analyst Lorelle Moe-Luna, Multimodal Services Director
<b>THROUGH:</b>	Aaron Hake, Executive Director
<b>SUBJECT:</b>	Citizens and Specialized Transit Advisory Committee Transit Needs Public Hearing Update

**STAFF RECOMMENDATION:**

This item is for the Commission to:

- 1) Receive and file an update on the Citizens and Specialized Transit Advisory Committee (CSTAC) Transit Needs Public Hearing.

**BACKGROUND INFORMATION:**

The California State Transportation Development Act (TDA) requires that transportation planning agencies ensure the establishment of a citizens’ participation process for each county. This process includes an element in which the California Public Utilities Code (PUC) Section 99238.5(a) states, *“The transportation planning agency shall ensure the establishment and implementation of a citizen participation process appropriate for each county . . . . The process shall include a provision for at least one public hearing in the jurisdiction represented by the social services transportation advisory council.”*

The purpose of the public hearing is to garner public participation and solicit input from transit dependent and transit disadvantaged persons, including the elderly, disabled and persons of limited means. The CSTAC fulfills the citizens advisory council and the social services transportation advisory council TDA requirements. It consists of up to 13 members of the public and two (2) Consolidated Transportation Service Agency members from Riverside Transit Agency and SunLine Transit Agency. The committee assists the Commission in fulfilling TDA regulations by promoting transportation service improvements and enhancements that support the mobility of older adults, persons with disabilities, and persons of limited means. It also establishes an effective communication exchange among Riverside County’s public transit operators, local specialized transit providers, and representatives from diverse transit dependent populations regarding matters of mutual concern.

This year the public hearing was held on August 12, 2024, during the CSTAC regularly scheduled meeting. The public hearing was advertised by transit operators, specialized transit providers,

and other stakeholders on buses, bus stops and facilities, and social media (see copy of flyer in Attachment 1). Staff also published a 30-day hearing notice in *The Press-Enterprise*, *The Desert Sun*, and *The Palo Verde Times* in both English and Spanish. The following methods were made available to the public to submit comments via oral or written testimony:

- 1) Email at [info@rctc.org](mailto:info@rctc.org).
- 2) Postal Mail to:  
Riverside County Transportation Commission  
Attn: Transit Needs Public Hearing Comments  
P. O. Box 12008, Riverside, CA 92502-2208
- 3) Via the website at [www.rctc.org/contact-us/](http://www.rctc.org/contact-us/).
- 4) By phone at (951) 787-7141
- 5) In-person on Monday, August 12, 2023, at the CSTAC meeting at three locations: RCTC Main Office in Riverside, SunLine Transit Agency Office in Thousand Palms, and Palo Verde Valley Transit Agency Office in Blythe. Translation services in American Sign Language and Spanish were made available during the meeting.

There were 22 public comments received, which are provided in Attachment 2. A total of 18 comments were received via the website, one by e-mail, and three in-person. Staff provides the comments to the appropriate transit operator for consideration of future service improvements and follow-up as needed.

A summary of the types of comments received is as follows:

Public Comment Category	No. of Comments*	Geographic Area(s)
Bus Stop Improvements	2	Beaumont, Palm Desert
Customer Service	2	Beaumont, Palm Desert
Frequency	11	Countywide
Funding	1	Idyllwild
New Service	11	Countywide
Other	6	Countywide
Safety	1	Western County

\*Some comments included multiple categories.

**FISCAL IMPACT:**

This is a receive and file item and there is no fiscal impact.

Attachments:

- 1) CSTAC Public Hearing Flyer
- 2) CSTAC Public Hearing Comment Log 2024

## JOIN US!

**Monday, August 12, 2024  
11:00 A.M.**

RCTC is holding a public hearing to gather input on transit needs within Riverside County. RCTC and transit operators will use information provided by the public for future transit improvements.

### IN PERSON AT 3 LOCATIONS:

**RCTC**  
March Field Conf. Room A  
4080 Lemon Street,  
3rd Floor, CA 92502-2208

**SunLine Transit Agency**  
Board Room  
32505 Harry Oliver Trail  
Thousand Palms, CA 92776

**Palo Verde Valley Transit Agency**  
415 N. Main Street, Room A  
Blythe, CA 92225



## ¡ACOMPÁÑENOS!

**Lunes, 12 de agosto de 2024  
11:00 A.M.**

RCTC está organizando una audiencia pública para coleccionar opiniones sobre las necesidades de transporte en el condado de Riverside. RCTC y los operadores de tránsito utilizarán la información recopilada del público para futuras mejoras de tránsito.

### EN PERSONA EN TRES LUGARES:

**RCTC**  
March Field Conf. Room A  
4080 Lemon Street,  
3rd Floor, CA 92502-2208

**SunLine Transit Agency**  
Board Room  
32505 Harry Oliver Trail  
Thousand Palms, CA 92776

**Palo Verde Valley Transit Agency**  
415 N. Main Street, Room A  
Blythe, CA 92225

### HOW TO SUBMIT A COMMENT:

**EMAIL**  
Email comments to [publictransit@rctc.org](mailto:publictransit@rctc.org) with *Transit Needs Public Hearing Comments* in the subject line.

**MAIL**  
Your comments to:  
RCTC  
Attn: Transit Needs  
Public Hearing  
PO Box 12008  
Riverside, CA 92502-2208

Fill out the **ONLINE FORM** at [rctc.org/TransitNeeds](http://rctc.org/TransitNeeds)



**CALL** (951) 787-7141

### ¿CÓMO ENVIAR UN COMENTARIO?

En persona en tres lugares

Por correo electrónico a [info@rctc.org](mailto:info@rctc.org).  
Escriba en la línea de asunto "Comentarios para la Audiencia Pública Sobre Necesidades de Transporte"

Por correo a RCTC  
Attn: Transit Needs  
Public Hearing  
PO Box 12008  
Riverside, CA 92502-2208

Complete el formulario en línea en [rctc.org/TransitNeeds](http://rctc.org/TransitNeeds)



Llamar al (951) 787-7141





**CSTAC Public Hearing Comment Log**

No.	Concern	Public Comment	Name	Community	Date Received	Source
1	New Service	It would great to have a train to and from Palm Springs area to Los Angeles area. Would help to take the stress off the highways in and out	Lydelle Snell	Palm Springs	7/25/2024	Website
2	Frequency	More trains in AM to LA union station and more trains coming back to 91/pv in evenings	Nakul Patel	Western County	7/25/2024	Website
3	Safety	Youth should either REQUIRE a special pass purchased by parent/guardian or be with adult to rode metrolink for free. My son is high functioning autistic with a couple other situational mental health diagnosis and has run away either middle of night or while at work 3 times where he took the metrolink far away. First time ended up a block from skid row. He is 13, he should not be able to ride free and alone at any time of day/night from open to closed. Also learned he was sleeping at or very near to metro.	Melody Newberger	Western County	7/25/2024	Website
4	New Service	I would like to see some regular transportation between the Coachella valley and Los Angeles downtown airport somewhere close to the subway system	Philip Burns	Coachella Valley	7/26/2024	Website
5	New Service	There should transportation via Metrolink from Palm Springs, Coachella Valley area to Riverside..	Jennifer Teeters	Coachella Valley	7/26/2024	Website
6	Other	Where does this train go?	Roger Williams	N/A	7/26/2024	Website
7	Frequency, New Service	We need more trains that run all day into the evening. I commute to downtown LA. I have to drive all the way to San Bernardino station to catch the train. We need a train that stops at cal state LA on the riverside line.	J Mck	Western County	7/27/2024	Website
8	New Service	<p>Here are several compelling reasons to expand public train service to the Palm Springs area:</p> <p>Reduced traffic congestion: A rail connection could potentially eliminate over 107,000 vehicle trips per year on major highways like Interstate 10, significantly reducing traffic congestion.</p> <p>Environmental benefits: Fewer cars on the road would lead to improved air quality and reduced greenhouse gas emissions, contributing to sustainability goals and combating climate change.</p> <p>Economic development: Expanded rail service could boost tourism, create jobs, and stimulate economic growth in the Coachella Valley region.</p> <p>Improved accessibility: The rail service would provide an alternative transportation option for residents, tourists, students, and workers traveling between Los Angeles and the Coachella Valley.</p> <p>Enhanced regional connectivity: A new rail line would connect major population centers, job hubs, and tourist destinations, facilitating easier travel throughout Southern California.</p> <p>Support for local events: The rail service would make it easier for people to attend major events like music festivals, improving accessibility and potentially increasing attendance.</p> <p>Multimodal transportation hub: A new station could serve as a central point for various transportation modes, including local transit, rideshare, and micro-mobility options.</p> <p>Equitable access: The rail service would provide more travel options for disadvantaged communities and those who cannot or prefer not to drive.</p> <p>Future-oriented infrastructure: Expanding rail service aligns with broader goals to reduce reliance on cars and promote sustainable transportation options.</p> <p>Potential federal funding: With the current administration's focus on infrastructure and rail projects, there may be increased opportunities for federal funding to support the expansion.</p> <p>Improved travel times: The proposed rail service could offer a competitive alternative to driving, with an estimated travel time of about 3 hours and 15 minutes between Los Angeles and Coachella.</p> <p>Support for growing population: As the Coachella Valley continues to grow, expanded rail service would help meet the increasing transportation needs of the region</p>	Michelle Hamilton	Coachella Valley	7/29/2024	Website

### CSTAC Public Hearing Comment Log

No.	Concern	Public Comment	Name	Community	Date Received	Source
9	New Service	I live in La Quinta we really need a daily train service between Indio and Las Angeles that comes and goes at normal times.	Sheila Warren	La Quinta	7/30/2024	Website
10	New Service, Frequency	Dear RCTC, Riverside County is in need of commuter transportation such as more and conveniently scheduled trains and express buses between high traffic locations. I can suggest: between Temecula and Escondido or Oceanside, between Riverside and Temecula, between Temecula and the University of California-Riverside, and between Corona and Temecula. Metrolink at Perris-South has Monday-Friday trains with non-existent or inconvenient connections to buses to go to employer locations for those who work Monday-Friday. Riverside Transit Agency (RTA) has an unused Route 206 between Murrieta and Corona while it has discontinued a previous highly busy Route 208 between Temecula and the University of California-Riverside. Please make good use of my tax dollars. Thank you. A long time Riverside County resident and commuter to San Diego and Orange County and the City of Riverside over the years.	X R	Western County	7/31/2024	Website
11	Frequency	I wasn't pleased with the implementation of GoMicro in Hemet. I had to use it earlier this year when I needed to go to the Hemet DMV to get my out-of-state license transferred to CA. I was able to get to the DMV OK (though it took an awfully long time to arrive and to get there), but I couldn't return: it was in the afternoon and they said no GoMicro buses were available until well after 7 PM. Which was NG because the last bus from Jacinto back to Banning was like 6:30. I ended up having to walk from the DMV to the #44 bus. Things were much better when regular bus service ran in Hemet - it may have been every hour and 10 minutes but there was a schedule I could depend on and plan around. This way there's no way to plan.	Stephen Bacher	Hemet	7/31/2024	Website
12	Other	What is the timeline for the Highland Springs improvements to start?	Marisol Lopez	Beaumont	8/1/2024	Website
13*	Frequency, Other	Riverside county needs a significant increase in transit frequency and availability. Buses and trains running at night help prevent drunk driving and reduce congestion from concerts and events. We need holiday availability as well, not everyone gets the day off and not having transit guarantees reduced access to events while increasing traffic. Transit can also be improved by the creation of Bus/Bike only lanes. This will let transit move faster than traffic while increasing incentives to bike. Transit that doesn't get stuck in traffic is faster and more reliable, while the lanes reduce wear and tear on roads reducing infrastructure cost and increasing safety to both cyclists and pedestrians.	Edif Greenmorrow	Countywide	8/4/2024	Website

**CSTAC Public Hearing Comment Log**

No.	Concern	Public Comment	Name	Community	Date Received	Source
14	New Service, Frequency	<p>In region with a population of over 4 million people, it is difficult to ascertain why we have so few options for transit in the Inland Empire. Our RTA bus system serves less than 20k riders per day. Or MetroLink commuter rail system does not even run full-time. We have no light rail, or interurban system. No trams or trolleys in even dense urban areas such as Downtown Riverside.</p> <p>Automobile transportation is the least efficient, most environmentally harmful, and most socially isolating form of transportation available to humanity in the 21st Century. It is becoming even more untenable as the region becomes clogged with semi-truck traffic and smog due to the seemingly non-stop, cancer-like growth of warehouses throughout the region. We must fundamentally rethink transportation in our region. By offering better transit modalities, people will benefit from saving travel time, breathing cleaner air, and even in finding community through public spaces redesigned for human use, rather than completely centered on the automobile.</p> <p>To say this is idealistic is dishonest. As a history teacher and professor, I can tell you that less than two generations ago our region had one of the best public transit systems in the United States via the Pacific Electric Railway Company. I could speak at length about how major cities completely gutted their urban centers, and low-income neighborhoods, predominantly inhabited by communities of color, to rapid construct car-centric road and highway systems in the late-50s and early-60s via the Interstate Highway Act. The question, like most political questions in this country, is not a matter of possibility, but of will. We all should summon the will the make our city and county of Riverside a place for people. For ourselves, for our children and for the future.</p>	Nick Cavaoli	Countywide	8/4/2024	Website
15*	Frequency, Other	<p>Riverside county needs a significant increase in transit frequency and availability. Buses and trains running at night help prevent drunk driving and reduce congestion from concerts and events. We need holiday availability as well, not everyone gets the day off and not having transit guarantees reduced access to events while increasing traffic. Transit can also be improved by the creation of Bus/Bike only lanes. This will let transit move faster than traffic while increasing incentives to bike. Transit that doesn't get stuck in traffic is faster and more reliable, while the lanes reduce wear and tear on roads reducing infrastructure cost and increasing safety to both cyclists and pedestrians.</p>	Salvador Torres	Countywide	8/4/2024	Website

**CSTAC Public Hearing Comment Log**

No.	Concern	Public Comment	Name	Community	Date Received	Source
16	New Service	<p>Hello! My name is David Flores. I've attended public hearings and made comments before regarding the transportation needs of Riverside County. I would like to say that I am strongly in favor of existing plans to expand alternatives to car transportation, and would even go so far as to say that more should be done to better connect our cities without cars. A project among many I would ask to be considered is the following:</p> <p>1. Rail connection to UCR, other schools/campuses.</p> <p>The University of Redlands got their connection by rail just two short years ago, adding another campus now serviced by some of the nation's newest rail. In conjunction with the Metrolink Student Adventure Pass being renewed, making it more accessible and affordable to get to places has undoubtedly had a profound positive effect on bringing public transportation into the spotlight in the IE. I would ask that given the importance of our public institutions and the amount of people they service, it is time for UCR to have its own direct rail connection. As the University continues to admit more students, there should absolutely be plans to make commuting and accessing the campus easier along Metrolink's expanding network and the considerable amount of dense development around the University as well. Parking becomes more scarce every year, all while traffic only gets worse and parking permits eat up thousands of dollars across school years that could have been saved. Expanding rail transit alongside more protected bike lanes and walkways, especially along University Ave, will certainly make our cities more resilient and more attractive to people looking for a home.</p> <p>I would like to finish by saying that this type of development is obviously not exclusive to Riverside and the University; it should be implemented everywhere RCTC has authority. I just happen to be partial to UCR as a student there. That said, more alternatives! We have enough lanes and parking spots as it is. Perfect sites for road diets, dedicated bus and bike lanes, and infill development. Let's make it happen already!</p>	David Flores	Western County	8/5/2024	Website
17	New Service, Frequency	<p>Hi, I ride the bus every day for school. Transit outside of the Riverside area is lacking in frequency and in the consistency to which buses actually come to their stops. I, and a lot of my peers, would take the bus/train a lot more if public transit had priority in public roadways (like bus-only lanes). If buses didn't have to be stuck in traffic, they would be far more reliable.</p>	Gray Valentine	Riverside / Countywide	8/9/2024	Website
18	Other	<p>I've had some trouble submitting the online form so am sending this email instead. Thank you for the opportunity to offer comments. My family has lived on De Portola in Temecula Wine Country for 20 years, and we love being part of this community. I would like to suggest adding a right turn arrow to the signal at the corner of Anza and Highway 79. It would greatly improve the flow of traffic (especially given the recent increased volume with soccer activities and anticipated equestrian events) if vehicles are given the "all clear" to turn right onto 79, when the green arrow is activated for left turns from 79 onto Anza. This right lane (on Anza in front of Tractor Supply) often becomes clogged because drivers don't realize they can turn right on the red, and they just sit there waiting for a green light. Unless there's a vehicle in the left turn lane, that never happens, so cars back up in the right lane. Horn honking is not uncommon. Adding this right turn arrow seems like a very simple and inexpensive fix to an ongoing issue that's been frustrating for many of us who use this route regularly. I've spoken to several folks who live in this area, and they all are in support of this idea. Again, I appreciate you offering this forum for discussion and thank you for your consideration.</p>	Carol Lee Brady	Temecula	8/9/2024	Email

**CSTAC Public Hearing Comment Log**

No.	Concern	Public Comment	Name	Community	Date Received	Source
19	Frequency	There should be more frequent transit service between Downtown Riverside and Palm Springs/Blythe. There should also be more all-day service trips on Riverside Transit line 206 for people who are travelling from Corona to Murrieta/Temecula.	Bill Lam	Countywide	8/12/2024	Website
20	Bus Stop Improvements, Frequency, Customer Service	Sunline Transit service is slow and does not stop in front of shopping centers such as Wal-Mart. Route two buses make stops for extended periods of time at every stop, approximately 20-25 minutes each stop. Negative experience taking a bus in Palm Desert taking the five, going to Cook Street to take the ten. The bus driver did not provide a notification of where the stop was to get on the ten. Passenger missed their stop and had to walk six blocks to Cook Street. Once he arrived he realized that the buses in Palm Desert do not run between 10:26 am to 2:26 pm. There is no service during those times. It took 1.5 hours -2 hours to walk and then he had to wait an additional 2 hours until service resumed.	Robert McCormick	Palm Desert	8/12/2024	In Person
21	Funding, New Service, Other	Wanted to discuss equity and how we can assure that everyone receives their fair share. There are unincorporated and isolated areas that are underserved. Unsure what that formula looks like but there's data to figure that out. Regarding overpasses on the east end of the county, there is alot of trash and graffiti. Although this is handled by Caltrans we can figure that out. There are no trees and we should beautify the area. A bypass through the morongo area is important especially during festivals or for emergency services for areas such as Idyllwild. We need to electify the County of Riverside, we need infrastructure and incentives.	Manuel V. Perez	Idyllwild	8/12/2024	In Person
22	Bus Stop Improvements, Frequency, Customer Service	Wanda Bryant lives in Beumont and rides the Beaumont Transit, the OmniTrans, and RTA. Has to take multiple bus routes to reach her destinations. Also has to deal with multiple wait times at every stop. Routes are very lengthy, inconvenient, and takes a long time to reach destination. The route to Soboba has been discontinued. She is disabled and has a trained service animal but the drivers do not allow the service animal on the buses. Because her service animal is not allowed on the bus that means she would have to walk in the summertime. She is a disabled senior citizen and this would be difficult for her. Sometimes the drivers are not kind to the riders and she encourages others to speak up about it. She is sharing with the committee what is going on so that the committee is doing everything they can do to find a solution.	Wanda Bryant	Beaumont	8/12/2024	In Person

\*Same exact comment received from two different email addresses.



# **AGENDA ITEM 9**





<b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b>	
<b>DATE:</b>	October 9, 2024
<b>TO:</b>	Riverside County Transportation Commission
<b>FROM:</b>	Sergio Vidal, Chief Financial Officer
<b>THROUGH:</b>	Aaron Hake, Executive Director
<b>SUBJECT:</b>	Proposed Pay Off of the 2017 Transportation Infrastructure Finance and Innovation Act Loan for the Interstate 15 Express Lanes

**STAFF RECOMMENDATION:**

This item is for the Commission to:

- 1) Adopt Resolution No. 24-013 authorizing prepayment of the 2017 United States Department of Transportation (US-DOT), Transportation Infrastructure Finance and Innovation (TIFIA) loan (2017 TIFIA Loan) for I-15 Express Lanes Project (I-15 ELP) in the amount of \$173,747,433;
- 2) Approve the Inter-Fund Loan Agreement between Measure A and the I-15 Express Lanes for purposes of repayment of the 2017 TIFIA Loan up to \$48,700,000, and authorize the Executive Director to execute said agreement;
- 3) Approve the Funding Plan for repayment of 2017 TIFIA Loan, utilizing a combination of I-15 Toll Revenue, Measure A Inter-Fund Loan, and Measure A Contribution, and establish a \$5,000,000 operating reserve for a total of \$178,747,433;
- 4) Authorize the Executive Director to execute the Prepayment and Termination Acknowledgement correspondence to TIFIA and US Bank (trustee for the I-15 Express Lanes); and
- 5) Approve budget adjustments to the Fiscal Year 2024-25 Budget in the amounts of up to \$173,747,450 for pay off of the 2017 TIFIA Loan; up to \$35,040,000 for transfer to the I-15 Express Lanes representing the Measure A Contribution; up to \$9,000,000 for extinguishment of Measure A funded reserves required by the 2017 TIFIA Loan; and up to \$1,900,000 for the I-15 Express Lanes to transfer to Measure A for accrued compounded interest owed for its contribution towards a 2017 TIFIA Loan Reserve.

**2017 TIFIA Loan**

In May 2017, the Commission was awarded a \$152.2 million TIFIA Loan by the US-DOT to provide funding for the I-15 ELP. The I-15 ELP was estimated to cost \$473.4 million and 2017 TIFIA Loan was a key component of the funding plan, primarily for funding project construction costs. Without it, the project could not have been delivered.

Not only did the 2017 TIFIA Loan provide the necessary funding to complete the project, it also contained several financial benefits, including reasonable borrowing costs and flexible repayment terms. Repayment of the loan is not required until approximately five years after the commencement of operations for the project (April 2021), currently scheduled for December 2025, or almost eight years after the loan was approved in 2017. The flexible terms allowed the completed I-15 Express Lanes (I-15 EL) to accumulate surplus toll revenues (operating revenues less operating expenditures and reserve funding), while not having to pay down the loan right away or access its established reserves.

Since opening in April 2021, the I-15 EL has exceeded forecasted financial expectations. With this success combined with the accumulation of surplus toll revenues, staff has re-evaluated the debt portfolio for the I-15 EL and is seeking the Commission's approval on paying off the existing 2017 TIFIA Loan before required payment begins and before the 2055 maturity date. Taking this action will allow RCTC to leverage generated surplus toll revenues and remove the 2017 TIFIA Loan administrative requirements, while also saving on future interest expense on the loan.

**BACKGROUND INFORMATION:**

Adding lanes along the I-15 corridor was specifically outlined in the 2009 Measure A Expenditure Plan for Western Riverside County. In order to deliver this project, the Commission decided on the use of express lanes as a mechanism to help fund the project. In 2017, RCTC began construction on the I-15 ELP adding two express lanes in both directions from State Route 60 to Cajalco Road on I-15.

To deliver on the project, RCTC utilized innovative financing, leveraging Measure A and Transportation Uniform Mitigation Fee (TUMF) funding. Also, the project received approximately \$262.2 million in federal funding, including grant funding (\$110.0 million) and the \$152.2 million 2017 TIFIA Loan. The federal funds constituted for over fifty percent of the anticipated project funding.

The I-15 ELP was projected to cost \$473.4 million to complete. However, by the time RCTC delivered the project, actual costs were \$428.2 million as of June 30, 2024. This resulted in approximately \$45.2 million in savings for Measure A and its related debt issuance.

The Measure A savings resulted from a combination of factors, including higher federal reimbursement of approximately \$16.9 million during fiscal year 2023-24 for previously incurred I-15 ELP costs; project savings totaling \$1.1 million; and access to \$12.9 million in TIFIA required reserves (debt service and backstop loan) that will be released to RCTC upon pay off of the 2017 TIFIA Loan. These savings total \$30.9 million.

Measure A Sales tax - funded debt also realized savings during the construction phase of the project. Specifically, \$14.3 million in unspent Measure A bond proceeds occurred due to lower than anticipated project costs. Graph 1 provides a summary of the I-15 ELP funding plan and project savings.

**Graph 1: I-15 ELP Funding Plan and Project Savings (represented in millions)**

	Federal Funding Sources			Local			Total
	STBG	CMAQ	TIFIA	Measure A	Measure A - Sales Tax Debt	TUMF/Other	
Projected	\$ 55.0	55.0	152.2	65.7	144.4	1.1	\$ 473.4
Actuals	(55.0)	(55.0)	(152.2)	(34.8)	(130.1)	(1.1)	\$ (428.2)
Savings	\$ -	\$ -	\$ -	\$ 30.9	* \$ 14.3	** \$ -	\$ 45.2

\*\$30.9M includes \$16.9M in additional Federal funds received and deposited into Measure A Western County Highway funds in April 2024, \$1.1M in project savings, and \$12.9M in reserves funded by Measure A that will become available upon pay off of the TIFIA loan

\*\*Received by and deposited into Measure A Western County Highway account in January 2024

While the 2017 TIFIA Loan contained flexible terms, including a 2.84 percent interest rate, it also included administrative requirements and related debt covenants. Having a TIFIA Loan required RCTC to maintain reserve balances, restricted the use of toll revenue, and required approval from US-DOT TIFIA to construct projects within the I-15 Corridor. Requirements, key loan terms, and debt covenants for the 2017 TIFIA Loan include:

- 2017 TIFIA loan maturity date:
  - 2055
- Establishment of Reserves:
  - Debt Service reserve: \$18.0 million (funded by Measure A and surplus toll revenues)
  - Ramp-up Reserve: \$16.5 million (initial requirement)
  - Back-Stop Loan: \$38.5 million (current balance is \$3.9 million)
- Limited access to surplus toll revenues
  - Commission can access only half of the generated surplus toll revenues
    - Beginning in Fiscal Year 2027-28
    - Two fiscal years after its first debt service payment (December 2025)
- Projects constructed within the I-15 Corridor require TIFIA approval
  - Projects that impact I-15 Express Lanes toll revenue require contribution to make the facility whole
- Repayment (debt service) begins five fiscal years after opening of the Express Lanes
  - Express Lanes commenced service – April 2021
  - Payment date – December 2025

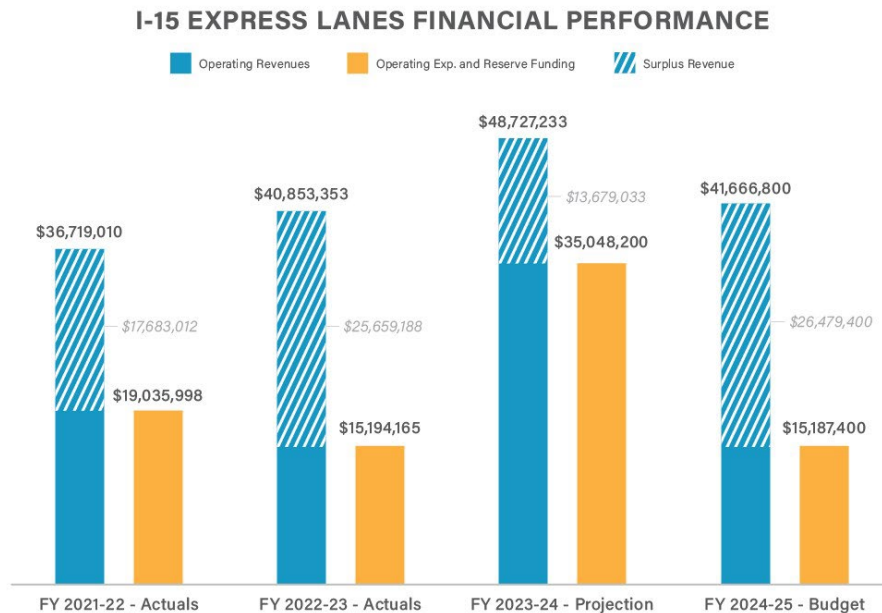
However, after an exhaustive evaluation of the financial terms for the 2017 TIFIA Loan, along with the performance of the I-15 EL, staff and the Commission’s financial consultants agree paying off the 2017 TIFIA Loan decades early, is a sound financial strategy. Benefits for the pay off include but is not limited to lower borrowing costs; restore local control for surplus toll revenue and for project delivery within the corridor; and reduce the I-15 EL’s long-term debt obligations.

**2017 TIFIA Loan Repayment Analysis**

*I-15 EL Financial Performance*

Since its opening in April 2021, the I-15 EL has outperformed financial expectations from a revenue, expenditure/reserve funding perspective. Graph 2 illustrates the I-15 EL’s operating revenues, expenditures, and reserve funding for the period FY 2021-22 through FY 2024-25 (complete fiscal years and current year budget):

**Graph 2: I-15 Express Lanes Operating Revenue, Expenditures and Reserve Funding**

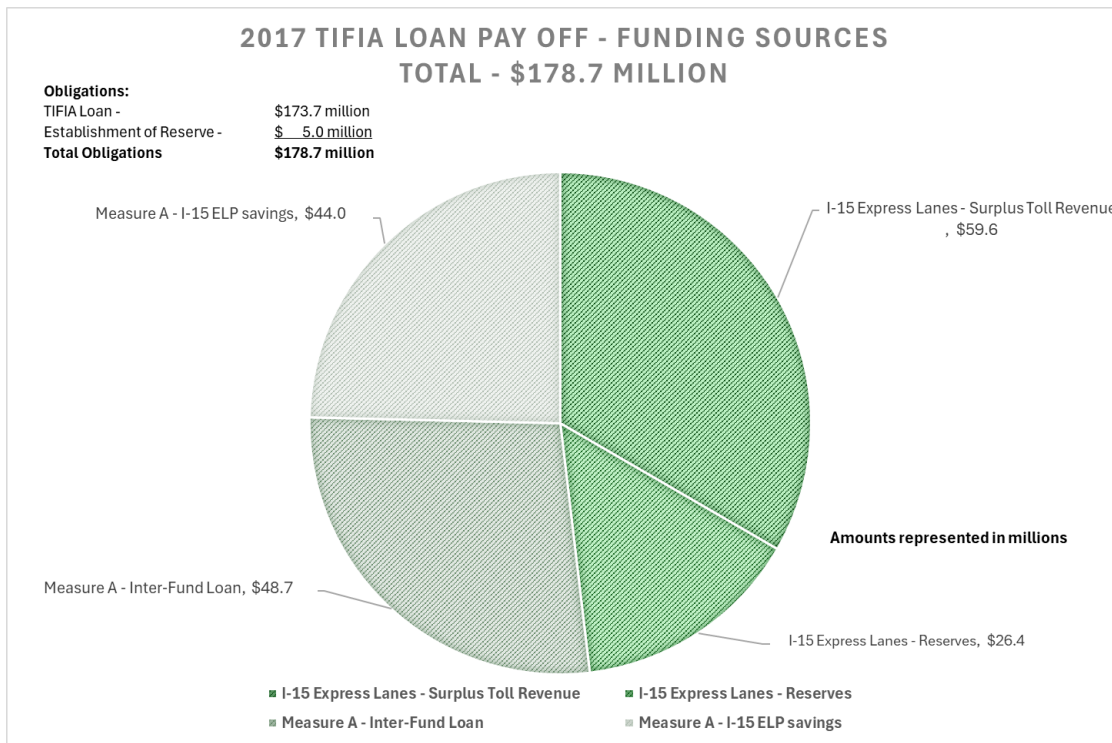


The I-15 EL has been in operation for three full fiscal years. As demonstrated in Graph 2, there is continued growth in operating revenues year-over-year with operating expenditures remaining consistent and well below operating revenues. This strong operating performance has allowed the I-15 EL to generate funding for the majority of its required reserves and accumulate significant available surplus toll revenue (surplus toll revenue). The forecast for the current fiscal year (2024-25) also reflects continued optimism with the Express Lanes performance which is anticipated to generate substantial surplus toll revenue.

**2017 TIFIA Loan Pay Off Funding Plan**

As a result of its strong financial performance, the I-15 EL has capacity to leverage existing available funds and continue meeting its financial commitments including funding for reserves such as operating and required repair and rehabilitation (R&R). Table 1 outlines the proposed funding plan to repay the 2017 TIFIA Loan.

**Table 1: 2017 TIFIA Loan Pay Off Funding Sources**



The funding plan anticipates obligations totaling \$178.7 million which include the 2017 TIFIA Loan balance of \$173.7 million along with funding of a \$5.0 million reserve in the event of anticipated expenditures or reduction in revenue for the I-15 EL.

Sources available to fund the obligations are a combination of funds held by the I-15 EL trustee totaling approximately \$86.0 million generated via the strong operating performance by the facility; Measure A I-15 ELP Savings estimated at \$44.0 million; and an Inter-Fund Measure A Loan funded by existing Bond Financing and Economic Development accounts up to \$48.7 million.

I-15 EL’s contribution towards the payoff of the 2017 TIFIA loan includes \$26.4 million in reserves and \$59.6 million in operating funds. These funding sources were realized due to the strong financial performance of the I-15 EL since its opening.

### *Measure A I-15 ELP Savings*

As noted previously in this staff report, the I-15 ELP when completed, realized project savings totaling \$45.2 million. Of this amount, staff is proposing the use of \$44.0 million as a funding source for the payoff of the 2017 TIFIA Loan.

### *Measure A Inter-Fund Loan*

The Inter-Fund Loan is proposed to be funded by Measure A Western County highway accounts, Bond Financing and Economic Development up to \$48.7 million. The referenced Measure A accounts have been analyzed as of June 30, 2024, and are determined to have sufficient funds and the proposed Inter-Fund Loan will not impact existing project commitments. Specifically, both the Bond Financing and Economic Development accounts combined maintain approximately \$55.6 million in available balance as of June 30, 2024. After funding the proposed Inter-Fund loan, the available balance in both Measure A accounts will total approximately \$6.9 million.

Key terms for the proposed Inter-Fund loan are as follows:

- Repayment period up to four fiscal years
  - Annual repayment
  - Unpaid loan balance (if any) is due by August 30, 2028
- Pay Off source:
  - I-15 Express Lanes available surplus toll revenues, defined as (operating revenues less operating expenses) and after reserve funding. Reserve funding includes funds set aside for operations and maintenance and required repair and rehabilitation.
- Interest Rate
  - Adjustable, indexed to County of Riverside Treasurer-Tax Collector (TTC) annual portfolio rate of return
    - Rate of return was approximately 4 percent during FY 2023-24

The proposed loan will require the I-15 EL to repay the identified Measure A accounts annually. The funding source for the payoff would be available surplus toll revenues. Available funds will be determined after calculating both operating revenues and expenditures along with funding of required reserves for the I-15 EL. Funding of the reserves will ensure the facility is positioned to be maintained at an adequate standard, generating sufficient funds to meet its debt obligation towards Measure A.

Furthermore, the loan is proposed for up to four fiscal years. If available surplus toll revenues are generated, the Inter-Fund loan obligation may be paid off sooner. Also, Measure A will be made whole via assessing an interest charge that is adjusted annually to the rate Measure A funds earns when investing with the County TTC.

### 2017 TIFIA Loan Pay Off Benefits

The proposed payoff is a sound financial strategy for the Commission. Specifically, the early pay off will reduce long-term obligations from \$176.7 million to \$48.7 million (Inter-Fund loan) for the I-15 EL. Lowering of long-term obligations will result in substantial interest expense savings through 2055 (end date for the 2017 TIFIA Loan). Table 2 outlines the estimated benefits for the payoff plan.

**Table 2: 2017 TIFIA Loan Pay Off Benefits (represented in millions)**

<b>Debt Service Savings</b>	
<b>TIFIA Loan - thru 2055</b>	
Principal*	\$ 176.7
Interest**	112.6
<b>TIFIA Loan - debt service total</b>	<b>\$ 289.3</b>
<b>Inter-Fund Loan - 4 years</b>	
Principal	\$ 48.7
Interest***	5.0
<b>Inter-Fund Loan - debt service total</b>	<b>\$ 53.7</b>

\*-TIFIA loan balance projected in FY 25/26 due to no debt service

\*\* - \$112.6M is the maximum total potential interest expense thru maturity (2055)

\*\*\* - illustration only assumes 4% interest rate payable over four fiscal years, payable to Measure A

Additional benefits in connection with the proposed repayment include maintaining local control; leveraging existing available cash; and removing loan restrictions required by the 2017 TIFIA Loan.

With the implementation of this funding plan, the Commission will have complete local control and decision-making over the I-15 EL and projects along the I-15 corridor. Also, the Commission will have authority to access existing surplus toll revenue generated in the previous three fiscal years, well in advance of date the 2017 TIFIA Loan allows (FY 2027-28) and the full amount rather than sharing the required fifty percent with TIFIA. Other loan restrictions, previously outlined in the staff report will also be removed.

**FISCAL IMPACT:**

Below is a summary of the funding sources to facilitate the proposed pay off of the 2017 TIFA Loan and establishment of the operating reserve (represented in millions):

I-15 Contribution	\$86.0M
Proposed Inter-Fund Loan to I-15 Express Lanes from Measure A accounts: Bond Financing Economic Development	\$48.7M
Measure A – I-15 (Identified Fund ELP Savings)	<u>\$44.0M</u>
<b>Total</b>	<b>\$178.7M</b>

To facilitate the payoff of the 2017 TIFIA Loan, the following transactions and related activity is required (rounded):

**Pay Off TIFIA Loan with US-DOT and establish an operating reserve:**

Principal and accumulated interest owed	\$173.7 million
Establish Reserve	<u>\$ 5.0 million</u>
<b>Total</b>	<b>\$ 178.7 million</b>

**Transfer from Measure A (accounts noted below) to I-15 Express Lanes to establish an Inter-Fund loan for the purpose of paying off the 2017 TIFIA Loan:**

Measure A - Bond Financing	\$37.7 million
Measure A – Economic Development	<u>\$11.0 million</u>
<b>Total</b>	<b>\$48.7 million</b>

**Transfer Measure A (Identified Funds, I-15 ELP Savings) to I-15 Express Lanes for the purpose of paying off the 2017 TIFIA Loan:**

Release of established reserves after paying off of the 2017 TIFIA Loan – Debt Service Reserve (\$9.0M) and Commission Backstop Loan (\$3.9M)	\$12.9 million
Reimbursement of I-15 ELP costs	\$16.9 million
Measure A Sales Tax Debt – Unspent bond proceeds	<u>\$14.2 million</u>
<b>Total</b>	<b>\$44.0 million</b>

**Transfer I-15 Express Lanes available balances for the purpose of paying off the 2017 TIFIA Loan:**


Toll Revenue fund	\$59.6 million
Debt Service Reserve	\$ 9.9 million
Ramp-up Fund Reserve	<u>\$16.5 million</u>
<b>Total</b>	<b>\$86.0 million</b>



**Transfer from I-15 Express Lanes (Toll Revenue Fund) to Measure A (Western County Highway) for repayment of accrued interest related to TIFIA Reserve funded by Measure A:**

Toll Revenue Fund

**\$1.9 million**

Financial Information					
In Fiscal Year Budget:	No No No No No	Year:	FY 2024/25	Amount:	<b>\$173,747,450</b> (pay off TIFIA Loan) <b>\$5,000,000</b> (establishment of reserve) <b>\$48,700,000</b> (establishment of Inter-Fund Loan) <b>\$44,040,000</b> (transfer from Measure A contribution, I-15 ELP Identified funds) to I-15 Express Lanes <b>\$1,900,000</b> (transfer I-15 Express Lanes to Measure A-Western County Highway)
Source of Funds:	I-15 Express Lanes, Measure A (Western County Highway, Bond Financing and Economic Development)		Budget Adjustment:	Yes	
GL/Project Accounting No.:	<b>Budget Adjustments:</b> <b>262/307-31-97001/515-31-59001 \$35,040,000</b> Transfers from Measure A and Sales Tax Debt funds to I-15 Express Lanes (Measure A Contribution, Identified Funds-I-15 ELP <b>262-31-98101/515-31-43001 - \$9,000,000</b> (Extinguishment of 2017 TIFIA Loan Debt Service Reserve) <b>515-31-9XXXX \$173,747,450</b> (Pay off of 2017 TIFIA Loan) <b>262-31-49001/515-31-97201 \$1,900,000</b> (Transfer from I-15 Express Lanes to Measure A-Western County Highway to pay off Accrued Interest)				
Fiscal Procedures Approved:			Date:	09/26/2024	

**Attachments:**

- 1) Resolution authorizing Pre-payment of the 2017 TIFIA Loan
- 2) Prepayment and Termination acknowledgement letter for the 2017 TIFIA Loan
- 3) Inter-Fund Loan agreement between the I-15 Express Lanes and Measure A
- 4) 2017 TIFIA Loan Pre-Payment Funding Plan



**RESOLUTION NO. 24-013****RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
RESOLUTION AUTHORIZING PREPAYMENT OF 2017 TIFIA LOAN**

A. WHEREAS, pursuant to its legal authority, the Riverside County Transportation Commission (“Commission”) constructed and operates the Interstate 15 (I-15) Express Lanes in Riverside County.

B. WHEREAS, in order to construct the I-15 Express Lanes, the Commission obtained a loan (“TIFIA Loan”) through the Transportation Infrastructure Finance and Innovation Act (TIFIA) program from the United States Department of Transportation (“TIFIA Lender”), acting by and through the Executive Director of the Build America Bureau (formerly through the Federal Highway Administrator);

C. WHEREAS, pursuant to that certain Master Indenture, dated as of July 1, 2017, as it has been amended and supplemented, including as supplemented by the First Supplemental Indenture, dated as of July 1, 2017, and the Second Supplemental Indenture, dated as of May 1, 2023 (collectively, the “Indenture”), each by and between the Commission and U.S. Bank Trust Company National Association, a national banking association duly established, existing by virtue of the laws of the United States of America, as successor in interest to U.S. Bank National Association, as trustee (the “Trustee”), the Commission previously issued its I-15 Toll Revenue Senior Lien Bond, 2017 TIFIA Series (the “2017 TIFIA Series Bond”), evidencing and securing the Commission’s obligation to repay from toll revenues the 2017 TIFIA Loan made by the TIFIA Lender pursuant to the terms of a TIFIA Loan Agreement, dated as of July 20, 2017 (the “2017 TIFIA Loan Agreement”).

D. WHEREAS, pursuant to that certain Resolution 2017-006, adopted on May 10, 2017, the Commission also previously approved that certain Seventh Supplemental Sales Tax Revenue Bond Indenture, dated as of July 1, 2017 (the “Supplemental Sales Tax Revenue Bond Indenture”) that established an I-15 Trust Fund to collect certain sales tax revenues to be applied to the Commission Backstop Loan, as defined below, to provide additional security for the TIFIA Loan and the 2017 TIFIA Series Bond.

E. WHEREAS, the Commission now desires to prepay and discharge the 2017 TIFIA Loan, terminate the 2017 TIFIA Loan Agreement, and pay off in full and discharge the 2017 TIFIA Series Bond, utilizing the following funding sources: (1) funds held in certain accounts established by Section 5.01 and Section 5.02 of the Indenture, specifically, the Toll Revenue Fund, the Ramp Up Fund and the Senior Lien Obligations Reserve Fund, including amounts on deposit in the Toll Revenue Fund pursuant to Section 5.05(b) of the Indenture (“Commission Backstop Loan”), and (2) an additional contribution by the Commission of funds to be transferred to the Trustee.

F. WHEREAS, to effectuate the foregoing, the Commission now desires to enter into that Prepayment and Termination Acknowledgment amongst the Commission, the TIFIA

Lender and the Trustee in substantially the form attached to this Resolution as Exhibit “A” and incorporated herein by reference, and to authorize the actions specified therein.

G. WHEREAS, the Commission further desires to execute and deliver a minor amendment to its Supplemental Sales Tax Revenue Bond Indenture to close the I-15 Trust Fund following prepayment and discharge of the TIFIA Loan.

H. WHEREAS, in addition, and in furtherance of the foregoing, the Commission desires to enter into that Inter-Fund Loan Agreement in order to loan Measure A funds from the Commission’s Measure A Bond Financing and Economic Development Accounts (“Measure A Accounts”) to its I-15 Express Lanes Account (“I-15 Express Lanes Account”) in order to provide the additional contribution required to prepay and discharge the TIFIA Loan (“Inter-Fund Loan”).

NOW, THEREFORE IT IS RESOLVED AND ORDERED AS FOLLOWS:

Section 1. That the Commission directs and approves utilization of the following funding sources: (1) funds held in certain accounts established by Section 5.01 and 5.02 of the Master Indenture, specifically, the Toll Revenue Fund, the Ramp Up Fund and the Senior Lien Obligations Reserve Fund and the Commission Backstop Loan, and (2) an additional contribution by the Commission of funds to be transferred to the Trustee, in order to prepay and discharge the 2017 TIFIA Loan, and terminate the 2017 TIFIA Loan Agreement.

Section 2. That the Commission directs and approves the Inter-Fund Loan of Measure A sales tax funds from the Measure A Accounts to the I-15 Express Lanes Account in the not to exceed amount of \$48.7 million, and as further detailed in the Inter-Fund Loan Agreement attached to this Resolution as Exhibit “B” and incorporated herein by reference, and use of such funds for prepayment and discharge of the 2017 TIFIA Loan.

Section 3. That the Commission directs and approves execution and delivery of an amendment to its Supplemental Sales Tax Revenue Bond Indenture to close the I-15 Trust Fund, in a form to be prepared by its legal counsel (the “Amendment”).

Section 4. That the Executive Director is authorized to, subject to legal counsel review, execute the Prepayment and Termination Acknowledgment, the Inter-Fund Loan Agreement and the Amendment. The officers and employees of the Commission shall take all action necessary or reasonably required to carry out, give effect to, and consummate the transactions contemplated by the foregoing.

Section 5. That the recitals set forth above are true and correct and incorporated into this Resolution as if fully set forth herein.

Section 6. That if any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution

Section 7. This Resolution shall take effect from and after the date of its passage and adoption.

ADOPTED this 9th day of October, 2024.

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Lloyd White, Chair  
Riverside County Transportation  
Commission

ATTEST:

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Lisa Mobley, Clerk of the Board  
Riverside County Transportation Commission

**EXHIBIT A**

**Prepayment and Termination Acknowledgment**

**[attached behind this page]**

**EXHIBIT B**

**Inter-Fund Loan Agreement**

[attached behind this page]





PREPAYMENT AND TERMINATION ACKNOWLEDGEMENT

by and among the

RIVERSIDE COUNTY TRANSPORTATION COMMISSION,

UNITED STATES DEPARTMENT OF TRANSPORTATION,

AND

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,  
AS TRUSTEE

Relating to the:

Master Indenture,  
dated as of July 1, 2017,  
as amended and supplemented, including as supplemented by the  
First Supplemental Indenture,  
dated as of July 1, 2017, and the  
Second Supplemental Indenture,  
Dated May 1, 2023

and

TIFIA Loan Agreement,  
dated July 20, 2017  
(Interstate 15 Express Lanes Project: TIFIA 2017-1011A)

Dated [\_\_\_\_], 2024

**PREPAYMENT AND TERMINATION ACKNOWLEDGEMENT**

THIS PREPAYMENT AND TERMINATION ACKNOWLEDGEMENT (the “Acknowledgement”), dated [\_\_\_\_], 2024, is made by and among the RIVERSIDE COUNTY TRANSPORTATION COMMISSION (the “Commission”), a public agency in the State of California, the UNITED STATES DEPARTMENT OF TRANSPORTATION, an agency of the United States of America (the “TIFIA Lender”), acting by and through the Executive Director of the Build America Bureau (formerly through the Federal Highway Administrator), and U.S. BANK TRUST COMPANY NATIONAL ASSOCIATION, a national banking association duly established, existing by virtue of the laws of the United States of America, as successor in interest to U.S. Bank National Association, as trustee (the “Trustee”) under that certain Master Indenture, dated as of July 1, 2017 (as it has been amended and supplemented, the “Master Indenture”), between the Commission and the Trustee.

WITNESSETH:

WHEREAS, pursuant to the Master Indenture, as supplemented, including as supplemented by the First Supplemental Indenture, dated as of July 1, 2017, and the Second Supplemental Indenture, dated as of May 1, 2023 (collectively with the Master Indenture, the “Indenture”), by and between the Commission and the Trustee, the Commission has previously issued its I-15 Toll Revenue Senior Lien Bond, 2017 TIFIA Series (the “2017 TIFIA Series Bond”), evidencing and securing the Commission’s obligation to repay from toll revenues a loan (the “2017 TIFIA Loan”) from the TIFIA Lender, pursuant to the terms of a loan agreement, dated as of July 20, 2017 (the “2017 TIFIA Loan Agreement”), by and between the Commission and the Department of Transportation;

WHEREAS, in accordance with the Indenture and Section 10(b) of the 2017 TIFIA Loan Agreement, the Commission desires to optionally prepay the 2017 TIFIA Loan in full on the date hereof (the “Prepayment Date”);

WHEREAS, pursuant to a Resolution of the Commission adopted on [\_\_\_\_], 2024, the Commission has authorized the prepayment of the 2017 TIFIA Loan with (1) funds held in certain accounts established by Section 5.01 and 5.02 of the Indenture, specifically, the Toll Revenue Fund, the Ramp Up Fund and the Senior Lien Obligations Reserve Fund, including amounts on deposit in the Toll Revenue Fund pursuant to Section 5.05 of the Indenture and written direction of the Commission to the Sales Tax Trustee to transfer such funds for application to the prepayment, and (2) an additional contribution by the Commission transferred to the Trustee on or prior to the date hereof;

WHEREAS, the Commission has caused to be delivered to the Trustee, on the date hereof, the amount (the “Payoff Amount”) detailed in that certain Payoff Notice (the “Payoff Notice”), attached hereto as Exhibit A in order to pay off, in full, the financial obligations of the Commission to the TIFIA Lender related to the 2017 TIFIA Series Bond;

WHEREAS, the Commission hereby irrevocably directs the Trustee to apply the Payoff Funds to pay in full and discharge the 2017 TIFIA Series Bond by optionally prepaying the 2017 TIFIA Loan, thereby terminating the rights and duties of the applicable parties under

the 2017 TIFIA Loan Agreement (provided that the indemnification requirements of Section 18 of the 2017 TIFIA Loan Agreement, the reporting and record keeping requirements of Section 21(b) and (c) of the 2017 TIFIA Loan Agreement, and the payment requirements set forth in Section 29 of the 2017 TIFIA Loan Agreement that have arisen prior to the date hereof shall survive such termination of the 2017 TIFIA Loan Agreement as provided therein (collectively, the “Post-Termination Requirements”));

WHEREAS, the Commission hereby irrevocably instructs the Trustee to wire the Payoff Amount as provided in the Payoff Notice, and the Trustee agrees hereunder to immediately so wire the Payoff Amount to the TIFIA Lender as provided in the Payoff Notice; and

WHEREAS, the Trustee has confirmed receipt of, and holds in trust for the sole benefit of the TIFIA Lender, the Payoff Amount, and the Trustee hereby acknowledges and represents that it has no right of offset against such amounts for any fees or other obligations of the Commission or any other Party owing to it, and that all such fees and other obligations have been paid and discharged separately on or prior to the Prepayment Date;

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

**SECTION 1. Definitions and Interpretation.** Capitalized terms used herein shall have the meanings ascribed to them herein, including in the paragraphs of this Acknowledgement that begin with the word “WHEREAS.” Capitalized terms used but not otherwise defined in this Acknowledgement shall have the meanings ascribed thereto in the Indenture, as the context may require. The words “hereof,” “herein,” “hereunder,” and words of similar import refer to this Acknowledgement as a whole. The singular form of any word used herein, including terms defined as provided in this Section 1, shall include the plural, and vice versa. The use of a word of any gender shall include all genders. The word “including” and the like are not limiting, the word “or” is not exclusive, and the words “may not”, “neither ... may”, and the like are prohibitive and not permissive.

**SECTION 2. Representations and Covenants of the Trustee.** The Trustee has received the Payoff Amount of \$[\_\_\_\_\_] in accounts established under the Indenture and holds such amount in trust for the sole benefit of the TIFIA Lender. The Trustee acknowledges and represents that, (a) notwithstanding anything to the contrary in the Indenture or any other agreement among one or more of the parties hereto (the “Parties”), the Trustee shall have no right, and to the extent necessary hereby waives any such right, of offset against such amounts for any fees or other obligations of the Commission or any other Party owing to it, and that all such fees and other obligations have been paid and discharged separately on or prior to the Prepayment Date; (b) the only action the Trustee shall take with respect to the Payoff Amount is to transfer such amount to the TIFIA Lender in accordance with the wire instructions set forth in the Payoff Notice (the Trustee being entitled to conclusively rely upon such wire instructions), and it shall not accept or follow any direction with respect to the Payoff Amount other than the direction of the Commission hereunder to make such transfer to the TIFIA Lender; (c) until the Payoff Amount is transferred to the TIFIA Lender, the Payoff Amount shall be under the sole dominion and control of the Trustee; (d) until the Payoff Amount is received by the TIFIA Lender (as acknowledged in writing by the TIFIA Lender), the Trustee (x) shall be responsible to

the TIFIA Lender for delivery of the Payoff Amount and shall be liable to the TIFIA Lender in the event that any portion of the Payoff Amount is not received by the TIFIA Lender within twenty-four (24) hours after the Prepayment Date (provided that the Trustee shall not be liable if it has properly transferred the Payoff Amount to the TIFIA Lender in accordance with the wire instructions set forth in the Payoff Notices) and (y) shall continue to have the duties and obligations to the TIFIA Lender, in its capacity as a Bondholder, as it had under and pursuant to the Indenture immediately prior to the Prepayment Date (the “Continuing Duties”), which Continuing Duties shall survive the terminations set forth in Section 4 hereof until the Payoff Amount is received and acknowledged by the TIFIA Lender.

**SECTION 3. Irrevocable Instructions to the Trustee.** The Commission hereby irrevocably instructs the Trustee to immediately wire the Payoff Amount on the date hereof to the TIFIA Lender as provided in the Payoff Notice. The Trustee agrees to immediately wire the Payoff Amount to the TIFIA Lender on the date hereof as provided in the Payoff Notice.

**SECTION 4. Acknowledgement of Prepayment and Termination; Consent to Issuance.** Notwithstanding anything to the contrary in the Indenture, the 2017 TIFIA Loan Agreement, the 2017 Series TIFIA Bond, or any other agreement among one or more of the Parties including any rights to additional notices of redemption or prepayment that may exist thereunder, the TIFIA Lender and the Commission hereby acknowledge, consent and agree to the prepayment and discharge of the 2017 Series TIFIA Bond, and to the cessation, termination, voiding and complete discharge and satisfaction of all covenants, agreements and other obligations and all rights and duties of the Commission and the other Parties, as applicable, under the 2017 TIFIA Loan Agreement (provided that the Post-Termination Requirements shall survive such termination of the 2017 TIFIA Loan Agreement as provided therein) and the 2017 TIFIA Series Bond, including the termination and complete satisfaction of all liens, pledges, security interests and other claims on or to revenues, real property or other assets established thereunder and the Commission’s obligation to maintain the I-15 Trust Fund to hold funds for the Commission Backstop Loan; *provided that*, the Trustee’s obligation to hold the Payoff Amount in trust for the sole benefit of the TIFIA Lender and to wire such amount to the TIFIA Lender on the Prepayment Date pursuant to the terms of such agreements and this Acknowledgement shall survive until such amount has been wired and received by the TIFIA Lender.

**SECTION 5. Cancellation of the 2017 TIFIA Series Bond.** In connection with the prepayment and discharge of the 2017 Series TIFIA Bond, the Commission requests that the 2017 Series TIFIA Bond be returned to the Trustee. The TIFIA Lender shall promptly return the cancelled TIFIA Bond to the Borrower by overnight courier or other registered mail to the following address: [Global Corporate Trust Services, U.S. Bank National Association, 111 Fillmore Ave E, St. Paul, Minnesota 55107].

**SECTION 6. Governing Law.** This Agreement shall be governed by the federal laws of the United States if and to the extent such federal laws are applicable and the internal laws of the State of California, if and to the extent such federal laws are not applicable.

**SECTION 7. Severability.** If any provision of this Acknowledgement is for any reason held to be invalid, illegal or unenforceable in any respect, that provision shall not affect the validity, legality or enforceability of any other provision of this Acknowledgement.

**SECTION 8. Electronic Signature.** Each of the parties hereto agrees that the transaction consisting of this Acknowledgement may be conducted by electronic means. Each party agrees, and acknowledges that it is such party's intent, that if such party signs this Acknowledgement using an electronic signature, it is signing, adopting, and accepting this Acknowledgement and that signing this Acknowledgement using an electronic signature is the legal equivalent of having placed its handwritten signature on this Acknowledgement on paper. Each party acknowledges that it is being provided with an electronic or paper copy of this Acknowledgement in a usable format.

**SECTION 9. Execution in Counterparts.** This Acknowledgement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The signature page of any counterpart may be removed therefrom and attached to any other counterpart to evidence execution thereof by all of the Parties without affecting the validity thereof.

IN WITNESS WHEREOF, the Parties have caused this Acknowledgement to be executed by their respective officers thereunto duly authorized, all as of the date first written above.

RIVERSIDE COUNTY TRANSPORTATION  
COMMISSION

By: \_\_\_\_\_  
Name: Aaron Hake  
Title: Executive Director

UNITED STATES DEPARTMENT OF  
TRANSPORTATION, acting by and through the  
Executive Director of the Build America Bureau

By: \_\_\_\_\_  
Name: [Duane Callender]  
Title: [Director of Credit Programs, Build America  
Bureau]

U.S. BANK TRUST COMPANY NATIONAL  
ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Name: [Ashraf Almurdaah]  
Title: [Vice President]

**EXHIBIT A**

[Payoff Notice to be attached prior to remitting funds]





**RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
INTER-FUND LOAN AGREEMENT FOR REPAYMENT OF 2017 TIFIA LOAN**

This INTER-FUND LOAN AGREEMENT FOR REPAYMENT OF 2017 TIFIA LOAN ("Agreement") is made by the Riverside County Transportation Commission ("Commission") as of this \_\_\_ day of \_\_\_\_\_, 2024 ("Effective Date"), with reference to the Commission's Measure A Sales Tax Bond Financing and Economic Development Accounts ("Measure A Accounts") and its Interstate 15 (I-15) Express Lanes Account ("I-15 Express Lanes Account").

**RECITALS**

A. The Commission is a county transportation commission created and existing pursuant to California Public Utilities Code Sections 130053 and 130053.5.

B. Pursuant to its legal authority, the Commission constructed and operates the I-15 Express Lanes in Riverside County.

C. In order to construct the I-15 Express Lanes, the Commission obtained a loan through the Transportation Infrastructure Finance and Innovation Act ("TIFIA") program from the United States Department of Transportation ("TIFIA Lender"), acting by and through the Executive Director of the Build America Bureau (formerly through the Federal Highway Administrator), and U.S. Bank Trust Company National Association, a national banking association duly established, existing by virtue of the laws of the United States of America, as successor in interest to U.S. Bank National Association, as trustee (the "Trustee") under that certain Master Indenture, dated as of July 1, 2017 (as it has been amended and supplemented, the "Master Indenture"), between the Commission and the Trustee.

D. Pursuant to the Master Indenture, the Commission previously issued its Toll Revenue Subordinate Bonds, 2017 TIFIA Series (the "2017 TIFIA Series Bonds"), evidencing and securing the Commission's obligation to repay from toll revenues a loan (the "2017 TIFIA Loan") from the TIFIA Lender, pursuant to the terms of a loan agreement, dated as of July 20, 2017, identified as TIFIA-2017-1011A (the "2017 TIFIA Loan Agreement").

E. The Commission maintains funds generated through operation of the I-15 Express Lanes in a separate I-15 Express Lanes Account held with trustee (US Bank National Association).

F. In 1988 the voters of Riverside County approved Measure A, imposing a one-half (1/2) percent sales tax within Riverside County to fund transportation programs and improvements.

G. In 2002 the voters of Riverside County approved a thirty (30) year extension of the one-half (1/2) percent Measure A sales tax within Riverside County for the continued funding of transportation programs and improvements.

H. The Commission maintains Measure A sales tax revenue funds in various accounts including, but not limited to, the Measure A Sales Tax Bond Financing Account and the Economic Development Account.

I. The Commission now desires to prepay and discharge the 2017 TIFIA Loan and terminate the 2017 TIFIA Loan Agreement.

J. The I-15 Express Lanes Account currently lacks sufficient funding to finance the entire 2017 TIFIA Loan prepayment.

K. The Commission desires to loan funds from available cash in the Measure A Accounts for the purpose of funding the 2017 TIFIA Loan prepayment (the "Inter-Fund Loan").

L. The Inter-Fund Loan serves a public purpose by removing the administrative burdens associated with 2017 TIFIA Loan, promoting local control, saving on long-term borrowing and financing costs, and leveraging existing cash funds generated from I-15 Express Lanes operations, all to the benefit of Riverside County residents.

### **COVENANTS**

Based upon the foregoing Recitals and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Commission covenants as follows:

1. **Recitals Incorporated.**

The Recitals are true and correct and are incorporated into this Agreement by this reference.

2. **Inter-Fund Loan.**

On or after the Effective Date, the Measure A Accounts may provide for the Inter-Fund Loan on the terms specified below to the I-15 Express Lanes Account to finance the 2017 TIFIA Loan prepayment in an amount that is to not exceed \$48.7 million, further detailed as follows:

- a) Inter-Fund Loan from Measure A Bond Financing Account: \$37.7 million
- b) Inter-Fund Loan from Measure A Economic Development Account: \$11.0 million.

This amount is based on the payoff amount detailed in the Payoff Notice provided or to be provided by TIFIA Lender, as representing the full, financial obligations of the Commission to the TIFIA Lender related to the 2017 TIFIA Series Bonds ("Payoff Amount").

The Inter-Fund Loan shall be tracked by the Commission's Finance Department. The Inter-Fund Loan may only be used to fund the Payoff Amount, and for no other purpose. The Inter-Fund Loan will be deposited with the Trustee and used towards payment of the Payoff Amount.

3. Repayment.

The I-15 Express Lanes Account shall repay the Inter-Fund Loan to the Measure A Accounts, with interest accruing as detailed below, over a period of four (4) years from the Effective Date. Repayment shall be made to each Measure A Account, in the amount of the Inter-Fund Loan from such account, in four annual payments, plus interest, funded from I-15 EL Express Lanes available surplus toll revenues, as defined below. The first annual payment shall be made on or before August 30, 2025, with subsequent annual payments due on the same date of each subsequent year.

Available surplus toll revenues are defined as I-15 Express Lanes operating revenues less operating expenditures and reserve funding. Annually, on or before August 15th, the Commission's Finance Department will determine the amount of surplus toll revenues available to repay (principal and interest) the Inter-Fund Loan prior to August 30th.

Four (4) years after the Effective Date, any remaining monies owed shall be immediately due and payable by the I-15 Express Lanes.

4. Interest.

(a) The total outstanding balance of the Inter-Fund Loan from each Measure A Account shall bear interest at a rate matching the average rate of return received by the Commission from the County of Riverside Treasurer Tax Collector. Interest will be accrued quarterly to the total balance of the Inter-Fund Loan from each Measure A Account outstanding on the last day of each quarter during the term of this Agreement, based on Commission's calculation of the average rate of return for the period July thru May of each fiscal year.

(b) The I-15 Express Lanes Account shall be required to make annual interest payments of all interest accrued in the preceding year, for so long as the Inter-Fund Loan, or any portion thereof, remains outstanding. At the end of each fiscal year, the Commission shall calculate the interest owed in accordance with subsection (a) above, which shall be prorated, as applicable. The applicable annual interest payment shall be made to each Measure A Account together with each annual payment of the Inter-Fund Loan.

5. Subordination.

The indebtedness hereunder shall be junior and subordinate to all other direct indebtedness of the I-15 Express Lanes Account; all existing and future financial agreements and other contractual obligations of the I-15 Express Lanes Account; and all operations and maintenance and required repair and rehabilitation costs of the I-15 Express Lanes Account.

6. Additional Debt.

The I-15 Express Lanes Account may incur indebtedness which is superior, on a parity or subordinate to the Inter-Fund Loan. In the absence of an express determination by the Commission's Chief Financial Officer to the contrary, any such indebtedness shall be superior to the Inter-Fund Loan.

7. Prepayment.

The I-15 Express Lanes Account may prepay any portion, or all, of the Inter-Fund Loan without penalty at any time during the term of the Inter-Fund Loan.

8. Entire Agreement; Amendment.

This Agreement shall constitute the entire agreement related to the Inter-Fund Loan. Except as otherwise provided, this Agreement may be modified or amended only by an agreement approved by the Commission.

9. Non-Liability of City Officials, Officers, and Employees.

No officer, official, employee, agent, representative, or volunteer of the Commission shall be personally liable for any amount which may become due to the Measure A Accounts hereunder.

10. Term; Termination of Agreement.

This Agreement shall continue in full force and effect and the obligations of the I-15 Express Lanes Account shall continue until payment in full of the Inter-Fund Loan, including all accrued interest. Upon such payment in full, this Agreement shall terminate.

[Signatures on following page]

**SIGNATURE PAGE  
TO  
RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
INTER-FUND LOAN AGREEMENT FOR REPAYMENT OF 2017 TIFIA LOAN**

IN WITNESS WHEREOF, the Commission executes this Agreement with reference to its Measure A Sales Tax Bond Financing and Economic Development Accounts and its Interstate I-15 Express Lanes Account to evidence the obligations of each such fund under the terms and conditions of this Agreement.

RIVERSIDE COUNTY TRANSPORTATION  
COMMISSION

By: \_\_\_\_\_  
Aaron Hake, Executive Director

APPROVED AS TO FORM:  
BEST BEST & KRIEGER, LLP

By: \_\_\_\_\_  
General Counsel



## Funding Plan for the Pay Off of the 2017 TIFIA Loan

### Obligations

TIFIA Loan - 10/23/24 (projected pay off date)	\$	173,747,433
Establishment of Reserves for unanticipated revenues/expenses		5,000,000
<b>Obligations - Total</b>	<b>\$</b>	<b>178,747,433</b>

### Funding Sources

#### I-15 Express Lanes Contribution

Toll Revenue Fund	59,607,433	
Debt Service Reserve	9,900,000	
Ramp-up Fund	16,500,000	
<b>I-15 Express Lanes contribution - total</b>	<b>\$</b>	<b>86,007,433</b>

#### Measure A Contribution (Identified Funds, I-15 ELP)

##### *Funding of Reserves Released after pay off of the 2017 TIFIA Loan*

Commission Backstop Loan	\$ 3,850,000	
Debt Service Reserve*	9,000,000	
		12,850,000

##### *Reimbursement of I-15 ELP Project Costs*

incurred in the prior year and project savings		16,931,000
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##### *Measure A - Sales Tax Debt*

unspent bond proceeds		14,259,000
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<b>Measure A Contribution (Identified Funds, I-15 ELP) - total</b>	<b>\$</b>	<b>44,040,000</b>
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#### Measure A Inter-Fund Loan to I-15 Express Lanes

Bond Financing account	37,700,000	
Economic Development account	11,000,000	
<b>Measure Inter-Fund Loan to I-15 Express Lanes - total</b>	<b>\$</b>	<b>48,700,000</b>

<b>Funding Sources - total</b>	<b>\$</b>	<b>178,747,433</b>
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### Additional Related Activity

<b>I-15 Express Lanes repayment of accrued interest to Measure A on TIFIA Debt Service Reserve Loan (up to)</b>	<b>\$</b>	<b>1,900,000</b>
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*Note: amounts are rounded and subject to change based on interest earned thru the payoff date, approval of the funding plan also incorporates approval of related budget adjustments in connection with transactions noted above*





# **AGENDA ITEM 10**



<b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b>	
<b>DATE:</b>	October 9, 2024
<b>TO:</b>	Riverside County Transportation Commission
<b>FROM:</b>	David Knudsen, Deputy Executive Director
<b>THROUGH:</b>	Aaron Hake, Executive Director
<b>SUBJECT:</b>	Climate Action Plan for Transportation Infrastructure Update

**STAFF RECOMMENDATION:**

This item is for the Commission to:

- 1) Receive and file an update on the California State Transportation Agency’s (CalSTA’s) Climate Action Plan for Transportation Infrastructure (CAPTI); and
- 2) Discuss and provide direction to staff regarding public education and engagement on CalSTA’s proposed updates to CAPTI and related legislation.

**BACKGROUND INFORMATION:**

**The Origins of the Climate Action Plan for Transportation Infrastructure**

In 2021, the California State Transportation Agency (CalSTA) finalized the Climate Action Plan for Transportation Infrastructure (CAPTI), which are guidelines that build on executive orders signed by Governor Gavin Newsom in 2019 and 2020 to reduce greenhouse gas emissions in the transportation sector. CAPTI outlines key investment strategies for investing \$5 billion of state discretionary transportation dollars annually to combat and adapt to climate change while “supporting public health, safety, and equity.”

According to CalSTA at the time the plan was finalized, CAPTI would not change the “fix-it-first” approach to maintaining the state’s highways, roads, and bridges via the 2017 Road Repair and Accountability Act, Senate Bill (SB) 1 (Beall, 2017). However, where feasible and within existing funding program structures, the state would invest discretionary transportation funds in sustainable infrastructure projects that align with its climate, health, and equity goals. CAPTI calls for increased investments to support zero-emission transit, freight, and rail, as well as projects that expand access to walking, biking, and transit to reduce dependence on driving.

Leading up to the finalization of CAPTI, RCTC staff provided feedback to CalSTA regarding the implementation of CAPTI by submitting comments and participating in meetings to reinforce the local perspective that a “one size fits all” climate action approach will not work. This is especially true for regions like Riverside County already identified as one of the fastest growing counties in

the state and with a significant population required to commute long distances to job-centers. RCTC's public comment on CAPTI, dated May 17, 2021, is attached for reference (Attachment 1).

### ***The Implementation and Impact of CAPTI***

Since CalSTA's adoption of CAPTI, its policy principles are reflected in state policies, programs, and procedures ranging from the guidelines of SB 1-funded programs to the rubric that Caltrans follows to determine whether to provide letters of support for local projects competing for federal funds. While CAPTI was originally intended to inform—rather than dictate—state selection and support of projects for funding, there are growing instances of CAPTI being cited by advocacy groups as justification for denying funding for projects that increase highway and road capacity or supposedly increase vehicle miles traveled (VMT) in any way.

A recent example of this is the California Transportation Commission's (CTC) initial rejection of funding for the San Bernardino County Transportation Authority's Interstate 15 Corridor Freight Improvement Project which includes proposed express lanes. This initial rejection took place despite the CTC previously approving the project for SB 1 Trade Corridor Enhancement Program (TCEP) and competitive Local Partnership Program funds. In their arguments against funding the project, advocates contended that the project would incentivize more vehicle use with added highway capacity, increasing carbon emissions and air pollution. Recognizing both the regional needs of the transportation system and the concerning precedent the CTC's action would set, RCTC joined a coalition of industry, labor, and local transportation agencies to successfully advocate for the CTC to reconsider their action and allocate funding to the project.

While this was a concerning experience, it underscores the importance of preserving the discretion of the CTC and other agencies that administer state funds or otherwise approve projects in a manner that balances state housing goals, the economy, and varying regional needs. Unfortunately, agency discretion to meet the needs of Riverside County residents cannot be taken for granted. Since 2022, RCTC has proactively engaged in the legislative process to advocate against bills that would remove this discretion, including:

- Two efforts by Assemblymember Laura Freidman (Glendale) to codify CAPTI into the guidelines of transportation funding programs – AB 2438 (2022) and AB 7 (2023);
- Two efforts by Assemblymember Friedman to require projects to reduce VMT in order to be programmable through the Regional Transportation Plan/Sustainable Communities Strategy – AB 2237 (2022) and AB 6 (2023);
- An effort by former Assemblymember Cristina Garcia (Bell Gardens) to ban highway expansions in communities impacted by specified levels of air pollution – AB 1778 (2022); and
- A recent effort by Assemblymember Mia Bonta (Oakland) to codify CAPTI into SB 1 TCEP guidelines and require a subset of TCEP funds to be dedicated toward zero-emission freight infrastructure.

Each time RCTC engaged with legislators and stakeholders regarding these bills, staff emphasized that RCTC does not inherently oppose the intentions of CAPTI. Indeed, there is a place for state

policies that address climate change while promoting clean air and equity. However, the state must be thoughtful and practical about how these policies are implemented, and the unintended consequences they will create in rapidly growing, geographically and socioeconomically diverse regions that disproportionately bear the traffic impacts of goods movement and affordable workforce housing. Furthermore, the state must consider how it will provide the multiple billions of dollars and regulatory relief necessary to develop safe, frequent, far-reaching, and reliable passenger rail and bus options for residents of inland regions to switch from car use in a manner that does not jeopardize their jobs, time with family, or their ability to live a healthy, productive life. Without these considerations, these bills and amplification of CAPTI policies will widen state funding inequity in inland regions and inhibit effective transportation solutions by any public agency, resulting in increase of traffic, at which point—some legislators and activists seem to presume—drivers would be forced to either find work closer to home, or find ways to walk, bike, or take a bus or train.

### **DISCUSSION:**

#### ***Update of CAPTI in Progress***

Earlier this year, CalSTA determined it has accomplished the 34 actions spelled out in CAPTI and has since announced its intention to update CAPTI to “include new actions to further implement the existing CAPTI framework.” Listening sessions were held in the spring to receive feedback. From those listening sessions, a short list of potential actions have been developed. CalSTA is expected to release complete draft updates to CAPTI in November 2024.

On September 17, 18, and 19, 2024, CalSTA hosted two virtual and one in-person (Fresno) workshops to provide an overview of CAPTI and the progress the state has made implementing the existing policies, discuss an update to CAPTI and proposed draft actions, and provide information on next steps. The stated objective of the workshops was to, “receive input on draft CAPTI action ideas derived from previous listening sessions.”

The scope of the short-listed actions shared at the workshops was centered around:

- “Awarding and programming of statewide discretionary grants”
- “Statewide planning and coordination efforts that impact these programs”
- “Project development and mitigation of projects that compete for discretionary grants”

The short-listed actions fall under four newly proposed CAPTI strategies:

1. “Transforming the Future of the State Highway System”
2. “Reducing GHG Impacts of Transportation Investments”
3. “Delivering Equitable Outcomes”
4. “Improving Transparency and Accountability”

#### ***Potential Impacts of Newly Proposed CAPTI Strategies***

Notable actions proposed by CalSTA to implement these strategies include:

- Adopting a Caltrans Director’s Policy focused on prioritizing transit on the State Highway System;
- Encouraging managed lanes projects to prioritize surplus toll revenue on transit, active transportation, and zero-emission infrastructure through updates to program guidelines and Caltrans policies;
- Setting multimodal spending goals for the overall portfolio of CAPTI investments;
- Updating TCEP guidelines to state that projects that mitigate their passenger VMT impacts are more competitive for funding;
- Updating Solutions for Congested Corridors Program guidelines to require that all applications demonstrate that they are VMT neutral in order to compete in the program, while continuing existing practice in guidelines to prioritize projects that reduce VMT;
- Codifying CAPTI Guiding Principles in statute to ensure continuation of CAPTI in future administrations; and
- Creating a new standardized benefit-cost methodology that aligns with state goals.

It is important to note that these are as-yet undefined policy concepts, and it remains to be seen if they would be adopted and how they would be implemented. It is apparent from the recent workshops that some advocates are encouraging CalSTA to escalate the state’s effort to discourage the development of highway and roadway projects that increase capacity or VMT.

There are already examples of CAPTI conflicting with other state priorities such as addressing the housing shortage and preserving its status as a supply chain and goods movement leader, and these conflicts could worsen if CalSTA follows the path of these newly proposed CAPTI strategies. Questions to consider include how the state would provide the transportation infrastructure needed to support the addition of 167,000 housing units mandated in Riverside County alone or support the efficient movement of goods from ports to final destinations across the state and country, if highway improvements must reduce or not increase VMT.

Staff is closely monitoring policy concepts that would negatively impact the Commission’s efforts to deliver projects in the Measure A expenditure plan or the 2024 Traffic Relief Plan. Similarly, staff will encourage County and city staff to monitor changes to CAPTI for impacts to their projects and priorities.

***Pending Public Comment Period and Opportunity for Public Education***

The full set of draft CAPTI actions will be unveiled at the November 7, 2024, joint meeting between the California Transportation Commission, California Air Resources Board, and Housing and Community Development Department, and the draft document is anticipated to be released shortly thereafter, at which point a public comment period will commence. RCTC will participate in the public comment process, just as it did when CAPTI was first proposed and just as it engaged whenever legislation tied to CAPTI was introduced. Given the heightened implications of the actions proposed thus far by CalSTA, a concerted public education effort may be warranted to ensure that the voices of Riverside County residents and stakeholders are heard by state policy

decision-makers. There is precedence for such action, including the public education webpage that was developed in response to AB 2438 and AB 2237 by Assemblymember Friedman in 2022.

**FISCAL IMPACT:**

This is a policy and information item. There is no fiscal impact.

Attachments:

- 1) RCTC Comment Letter to CalSTA on CAPTI – Dated May 17, 2021
- 2) CAPTI Public Workshops Slide Deck Prepared by CalSTA







4080 Lemon St. 3rd Fl. Riverside, CA 92501  
Mailing Address: P.O. Box 12008 Riverside, CA 92502-2208  
951.787.7141 • [rctc.org](http://rctc.org)

May 17, 2021

The Honorable David Kim  
Secretary  
California State Transportation Agency  
915 Capitol Mall, Suite 350B  
Sacramento, California 95814

**Re: CAPTI Implementation Public Comment**

Dear Secretary Kim:

The Riverside County Transportation Commission (RCTC), both in its position as the regional transportation planning agency and as the administrator of a local voter-approved sales tax measure dedicated to transportation improvements in Riverside County, has participated in numerous briefings regarding California State Transportation Agency's (CalSTA) development of the Climate Action Plan for Transportation Infrastructure (CAPTI or Plan). As CalSTA developed the Plan's goals and strategies based on Governor Newsom's Executive Orders N-19-19 and N-79-20, RCTC staff provided feedback and comments to ensure the Plan could feasibly and equitably be implemented in growing suburban/rural regions like Riverside County.

RCTC supports CAPTI's efforts to reduce pollution and provide safe walking, biking, and transit access. Indeed, RCTC has led the way in many of these efforts within Riverside County. Our local sales tax measure, Measure A, funds improvements for all transportation modes, including on highways, public transit, rideshare alternatives, local streets, and even habitat preservation. Our residents have invested considerable local tax dollars that have not only provided operational improvement to the state's highway system but extended Metrolink commuter rail service via the 91/Perris Valley Line, the first new Metrolink extension to open since 1994. The 24-mile extension of Metrolink was designed to reduce traffic congestion on Interstate 215 and improve transit options for southwestern Riverside County residents.

RCTC has successfully delivered a diverse portfolio of transportation projects in Riverside County for decades because of the financial investment our residents make to improve the region's transportation system. These funds kept critically needed projects funded when state and federal funds ran dry. Also, these local funds, leveraged with available state and federal resources, ensure our region has the transportation infrastructure that is directly responsive to the needs of our diverse communities.

With the CAPTI, however, the state appears ready to prescribe how and when transportation should be delivered without regard for transportation needs in our region. Likewise, the Plan does not help or incentivize the relocation of job centers to communities doing more than their fair share to address the state's affordable housing shortage. While the state's emphasis has been on bringing in-fill housing to urban centers, equal emphasis should also be placed on bringing "in-fill" jobs to predominantly residential centers. To do so would reduce the need for long commutes outside our region and facilitate a shift in regional transportation planning away from long-distance inter-county highway commutes to more localized transit and active transportation improvements. Commuter traffic is not the only contributor to our region's roadway congestion. The ever-increasing movement of goods through inland southern California takes a substantial toll on our air, roadways, and infrastructure.

According to the Southern California Association of Governments, 32 percent of all containers entering the country come through the San Pedro Bay Ports, and the total container volume is expected to increase by 120 percent to over 34 million containers by 2045. Inland southern California is a thoroughfare for goods and freight movement to the rest of the country via four interstate highways and state routes, three airports, and 11 rail lines and subdivisions with an associated intermodal terminal and three railyards. Warehousing square footage in southern California exceeds 1.2 billion and 50 percent of these warehouses are located within five miles of State Route 60. The majority of new warehousing growth is in inland southern California due to the region having the most developable land zoned for industrial use. As a result, Interstate 10, Interstate 15, State Route 60, and State Route 91 averaged over 25,000 truck trips per day as of 2016.

Goods movement, coastal and urban job-center locations, and population growth due to availability of affordable housing put a substantial strain on our region's transportation network. Local, regional, and state collaboration is necessary before state agencies can implement the CAPTI strategies.

For these reasons, RCTC provides the following comments to the draft Plan:

**One-size does not fit all:** RCTC's concerns with CAPTI are rooted in the potential that CalSTA, Caltrans, the California Transportation Commission (CTC), and other state agencies will implement the Plan in a one-size-fits-all approach that does not consider local issues and needs. Riverside County, for example, is known for its affordable living, vibrant communities, and preserved open spaces. For these reasons, we are among the fastest-growing counties in the state. However, with this level of population growth, our residents also have among the longest daily commutes in California. A report published in 2019 based on U.S. Census data found that two Riverside County cities – Corona and Moreno Valley – are among the top 10 cities in the entire nation for average round-trip commute time (73.4 and 68.6 minutes, respectively). Highway congestion represents one of the top 10 concerns for our residents. The following Implementation Strategies will require ongoing collaboration with agencies like RCTC:

- S5.2 Update SHOPP and SB 1 Competitive Program Guidelines to Incentivize Climate Adaptation and Climate Risk Assessments/Strategies

- S6.1 Explore New Mechanisms to Mitigate Increases in Vehicle Miles Travelled (VMT) from Transportation Projects

**Maintain the State's integrity with the voters by delivering on the Senate Bill 1 promises:** As CTC Commissioners and industry organizations have stated, SB 1 was courageously passed by the legislature in 2017 after decades of inaction to increase transportation funding. SB 1 promised to reinvest in the dilapidated state-owned facilities that our state's residents, visitors, and economy rely on for their livelihoods. The funding from SB 1 promised to propel our state's transportation system forward is solely provided by vehicle owners as they register their vehicles and purchase fuel. The CAPTI indicates a commitment to SB 1's fix-it-first approach. However, we note the following Implementation Strategies that promise significant scrutiny will be placed on future highway project investments while CTC, Caltrans, and CalSTA reconsider guidelines for programs, including SCCP and TCEP that jeopardies the intent of SB 1.

- S1.4 Mainstream Zero-Emission Vehicle Infrastructure within the Trade Corridor Enhancement Program
- S2.4 Increase Funding to Active Transportation Program
- S4.1 Develop and Implement the Caltrans Strategic Investment Strategy to Align Caltrans Project Nominations with the CAPTI Investment Framework
- S4.5 Develop and Implement Caltrans Climate Action Plan
- S4.6 Incorporate Zero-Emission Freight Infrastructure Needs into the California Freight Mobility Plan
- S5.2 Update Transportation Infrastructure Competitive Program Guidelines to Incentivize Climate Adaptation and Climate Risk Assessments/Strategies
- S6.3 Develop Interagency Framework for Project Evaluation Around Advancing Sustainable Communities
- S7.1 Leverage Transportation Investments to Incentivize Infill Housing Production

**Local control, investment, and resources:** Embedded in the CAPTI is a general theme that CalSTA, Caltrans, and CTC will prioritize funding for non-highway projects even when local voter-approved measures seek to make improvements to the state's highway system. The Plan also seeks to create stakeholder workgroups, including one that will evaluate roadway pricing that could impact local toll collection. The state cannot inhibit the implementation of RCTC's voter-approved project portfolio or interfere with toll pricing activities established by local independent authorities, like RCTC, without its approval.

- S6.2 Convene a Roadway Pricing Working Group to Provide State Support for Implementation of Local and Regional Efforts

**Confronting inequities, reducing harms, and increasing benefits:** RCTC joins CalSTA in its sincere efforts to right the wrongs of past transportation decisions that have instituted and perpetuated inequities and disadvantages, particularly to disadvantaged, low-income, and Black, Indigenous, and People of Color (BIPOC) individuals and communities. It is critically important that the CAPTI Investment Framework and Investment Strategies not continue to unintentionally harm the very individuals and communities we seek to uplift. In suburban and rural areas where housing is more available and affordable, social, and racial inequities will be perpetuated by divesting from the state highway system when a disproportionately high number of disadvantaged, low-income,

The Honorable David Kim  
May 17, 2021  
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and BIPOC individuals rely on this system to get to jobs in urban areas. CalSTA should therefore revisit the following Investment Framework Guiding Principles to recognize that social and racial inequities exist all over the state, not just in the urban cores, and that the inequities look different in various parts of the state:

- “Strengthening our commitment to social and racial equity by reducing public health and economic harms and maximizing community benefits”
- “Promoting projects that do not significantly increase passenger vehicle travel”
- “Promoting compact infill development while protecting residents and businesses from displacement”
- “Developing a zero-emission freight transportation system”

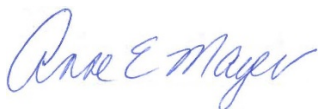
**No transportation-land use connections without including jobs:** As the CAPTI acknowledges, transportation projects are envisioned sometimes decades before they are ever delivered. The significant challenges involved with the environmental phase alone promise transportation improvements are not delivered until well-after they were needed. Acknowledging this unfortunate reality, the notion that “if you build it, they will come” is one of the distant past. Over the last two decades, the exponential population increases seen in Riverside County created a jobs-housing imbalance that leaves RCTC holding the bag. We do not have statutory authority over land-use decisions or job creation efforts. CAPTI Investment Strategy S7 to Strengthen Transportation-Land Use Connections harms areas like Riverside County that are doing their part to address the housing shortage in our state.

In conclusion, we stand ready to work with you on implementing the CAPTI goals, but we request that CalSTA allows for regional variation on the implementation methodology, protects the original intent of SB 1, and ensures the state continues transportation investment, including on highways, in our region.

Many of the goals set forth in CAPTI are commendable and critical to addressing the challenges of the 21<sup>st</sup> century. However, it contains the fatal flaw of infeasibility. The Plan does not recognize the staggering investments the state must make—not just in coastal urban centers, but also in more inland regions—in order to successfully secure an equitable and climate-resilient future for all. With good intent, the Plan instead applies stringent guidelines for existing funding that inland regions will struggle to meet. As a result, CAPTI as currently written would leave the very people it seeks to serve, behind.

I look forward to continuing this very important discussion and working with you towards implementing policies that enhance, not inhibit, transportation in Riverside County.

Sincerely,



Anne Mayer  
Executive Director

# CAPTI Public Workshops

September 17-19, 2024

# Agenda

- Welcome & Opening Remarks
- CAPTI Overview & Implementation progress
- CAPTI Draft Actions Update & Discussion
- Closing Remarks & Next Steps

# Welcome

- **Mark Tollefson**, Undersecretary,  
California State Transportation  
Agency



# Today's Objective:

Receive input on draft CAPTI action ideas derived from previous listening sessions



# Community Agreement

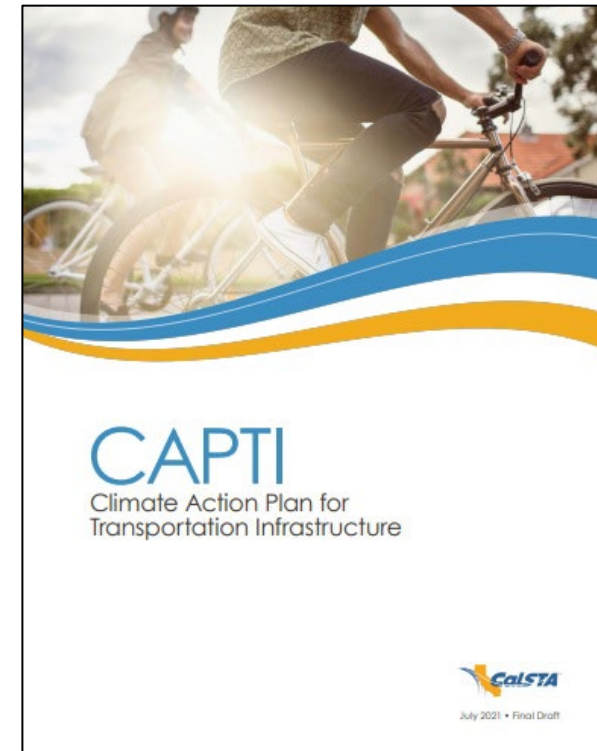
Proposing some ground rules today, asking to commit to a focused, respectful dialogue to kick off a great day with one another:

- Be present
- Listen actively/avoid interruption
- Share the air - make space for others to speak
- Tackle problems, not people - stay focused on our meeting objectives
- Disagree without being disagreeable - express disagreement in constructive ways - ask questions, look for common ground, avoid a personal focus

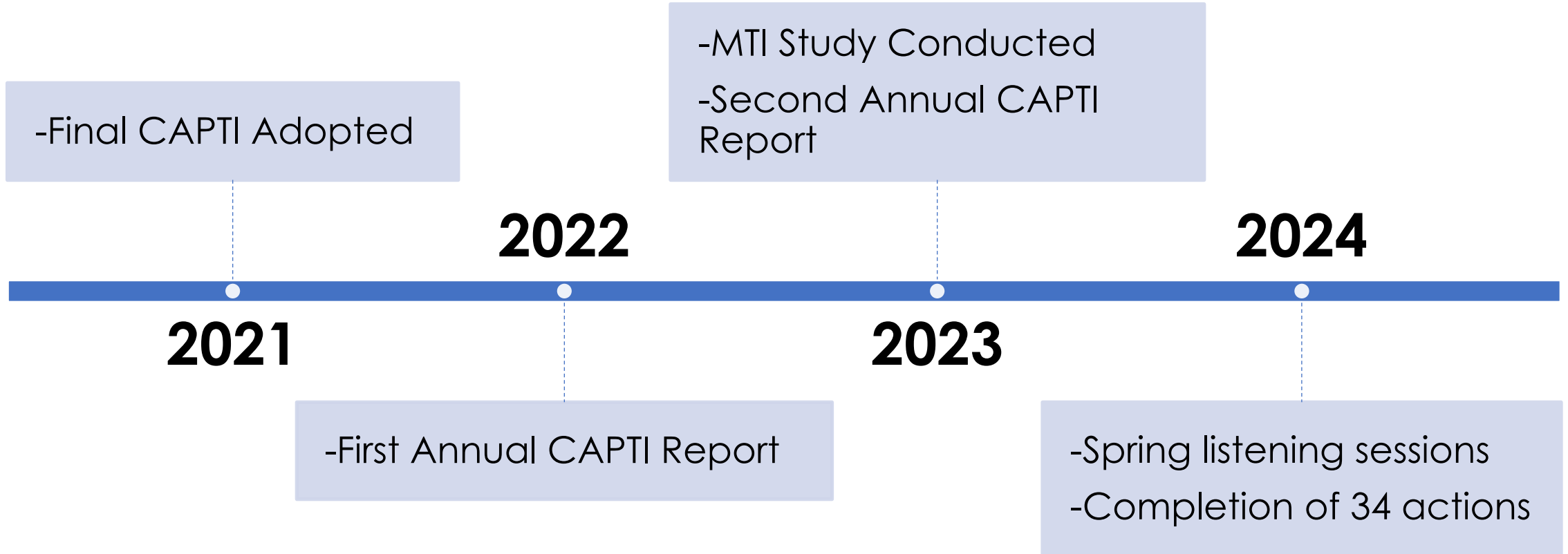
# CAPTI Overview & Implementation Progress

# Climate Action Plan for Transportation Infrastructure (CAPTI)

- CAPTI is a holistic framework for aligning state infrastructure investments with climate, health, and equity goals.
- The plan includes **10 Guiding Principles, 8 Strategies,** and **34 actions** to create a vision and plan for prioritizing state transportation investments.
- Adopted July 2021.



# CAPTI 2021 Implementation Progress



# MTI Study Summary

Reduction of VMT: resulting in GHG reductions across portfolio of programs in the post-CAPTI-adoption timeframe

## Emissions

Increased multi-modal project investments: resulting in improved transportation equity outcomes among disadvantaged communities

## Equity

Jobs maintained in post-CAPTI-adoption timeframe

## Economy

# Other Major Accomplishments

- Formed Statewide Roadway Pricing Working Group
- Launched Reconnecting Communities Highways to Boulevards
- Launched the Interagency Transportation Equity Advisory Committee
- Implemented Quantitative planning and prioritization tools (CSIS, EQI)



# CAPTI Draft Actions Update & Discussion



# What's Next?

## CAPTI Actions Update

- CAPTI update will include new actions to further implement the existing CAPTI framework.
- Spring 2024 listening session feedback has been analyzed to create a short list of potential actions for consideration based on stakeholder input.
- **As such, actions shared today reflect stakeholder feedback and have not been committed to being included in the CAPTI update.**
- Inclusion of these actions is dependent on further feedback received during these workshops.
- CalSTA anticipates sharing a full set of draft CAPTI actions to be included in the upcoming CAPTI update at the Joint CTC-CARB-HCD meeting in November.



# Scope of CAPTI Actions Under Consideration

- Awarding and programming of statewide discretionary grants
- Statewide planning and coordination efforts that impact these programs
- Project development and mitigation of projects that compete for discretionary grants



# New proposed CAPTI Strategies Derived from Listening Sessions

1. Transforming the Future of the State Highway System
2. Reducing GHG Impacts of Transportation Investments
3. Delivering Equitable Outcomes
4. Improving Transparency and Accountability

# Discussion on Draft Action Ideas

- Raise hand to make a comment or ask a question; the moderator will call on you in order of hands raised.
- Given the volume of content covered, we please ask that you keep your remarks brief to allow time for others.
- You can also use the chat to provide input; particularly to echo your support for something that has already been said.

# Strategy 1: Transforming the Future of the State Highway System

1. Adopt a **Caltrans Director's Policy** focused on **prioritizing transit** on the State Highway System.
2. Encourage **priced managed lanes projects** to **prioritize excess toll revenue on transit, active transportation, and Zero-emission Vehicles (ZEV) infrastructure** through updates to program guidelines and Caltrans policies.
3. Create a **Caltrans Statewide Express Mobility Action Plan** that **defines the role of roadway pricing** and includes equity based best practices, in consultation with the Roadway Pricing Working Group and the Equity Advisory Committee.
4. Implement a comprehensive **climate adaptation planning and delivery framework** and corresponding performance targets at Caltrans.
5. Set **multi-modal spending goals** for the overall CAPTI portfolio of investments.
6. Establish a **Central Delivery Team** to support planning and investment in **zero-emission freight**.

# Strategy 2: Reducing Greenhouse Gas Impacts of Transportation Investments

1. Create a **statewide VMT mitigation bank** or exchange program that facilitates mitigation directly and/or **assists regions in creating their own program** to deliver infill housing and other VMT-reducing projects as a mitigation at scale.
2. Improve **VMT analysis and mitigation guidance for rural projects** to better account for the low VMT impact of many rural projects.
3. Update the **Trade Corridor Enhancement Program (TCEP)** guidelines to state that projects that **mitigate their passenger VMT impacts are more competitive for funding**.
4. Update the **Solutions for Congested Corridors Program (SCCP)** guidelines to require that all **applications demonstrate that they are VMT neutral in order to compete in the program**, while continuing existing practice in guidelines to prioritize projects that reduce VMT.

# Strategy 3: Delivering Equitable Outcomes

1. Continue strengthening existing **Senate Bill 1 (SB1) program guidelines** to better **account for environmental justice impacts of projects**.
2. Improve **technical assistance to Tribal governments** by reviewing existing services and programs, consulting with Tribal governments on needs, and revising or expanding existing services on programs through partnerships to address needs.
3. Create a Caltrans Director's **Policy for Direct Displacement** for Highway Capacity Expansion Projects with the intent to **reduce future housing takings**, particularly in disadvantaged communities.

# Strategy 4: Improving Transparency and Accountability

1. Create a **public and searchable database** of **Caltrans projects** under development.
2. Codify CAPTI Guiding Principles in statute to **ensure continuation of CAPTI** in future administrations.
3. Launch another **CAPTI outcomes study** to **continue evaluation** of climate, equity (using the Caltrans Equity Index), and economic outcomes of CAPTI investments.
4. Improve State Highway Operations and Protection Program (**SHOPP**) **public engagement process**, particularly for projects with significant community benefits or impacts, by using existing best practices and consulting with the Equity Advisory Committee.
5. Create a new standardized **benefit-cost methodology** that aligns with state goals.

# Next Steps

- **November 7<sup>th</sup> Joint CARB-CTC-HCD Meeting 2024:** presentation on draft CAPTI actions to be included in draft CAPTI update.
- **November:** Release of draft CAPTI update, followed by public comment period.
- **Early 2025:** Final CAPTI update released.
- Contact us at:  
[capti@calsta.ca.gov](mailto:capti@calsta.ca.gov)

